



STATE OF INDIANA

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May 1, 2015

Ms. Rebekah A. Atkins
Ms. Shirley A. Atkins
Ms. Ruth P. Atkins
5017 E. Tunnel Rd.
Marengo, IN 47140

Re: Formal Complaint 15-FC-104 & 127 (Consolidated); Alleged Violation of the Open Door Law and Access to Public Records Act by the Crawford County Community School Corporation

Dear Ms. Atkins and Ms. Atkins,

This advisory opinion is in response to your formal complaint(s) alleging the Crawford County Community School Corporation, ("School") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et. Seq.* and the Access to Public Records Act ("APRA") Ind. Code § 5-14-3-1 *et. seq.* The School has responded via counsel, Mr. Marcus M. Burgher, IV, Esq. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint(s) received by the Office of the Public Access Counselor on March 20, 2015 and April 6, 2015.

BACKGROUND

Ms. Rebekah A. Atkins' complaint dated March 18, 2015 alleges several violations of the Open Door Law and Access to Public Records Act by the School. The complaint alleges a refusal to hear or address a school employee misconduct issue, refusal to allow the public to speak at a School Board meeting and several other alleged violations.

The first three complaints, all dated April 6, 2015, involve requests for the student records of Ms. Shirley A. Atkins, Ms. Dorothy Lee Mathers and Ms. Ruth P. Atkins. Shirley's requests were for her school records under an unknown name and for her deceased mother's student records. Ruth's request was for her own records. These were all three denied originally in July, 2014.

The School responded on April 3, 2015 denying the allegations and stating the records available to be disclosed were available for your inspection.

ANALYSIS

It is the intent of the Open Door Law (ODL) the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. See Ind. Code § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. See Ind. Code § 5-14-1.5-3(a).

As for Ms. Rebekah Atkins' alleged Open Door Law violation against the school, the complaint does not address any violation of law subject to the review of this Office. Please be advised this Office does not regulate or opine on the manner and order in which a public meeting is held other than it must be open to the public and notice must be given. The Open Door Law (or any other authority) does not address the right to speak at a public meeting. Likewise, the Open Door Law does not address issues of personnel management or enforcement of any other law. Participation in public meetings by constituents is at the discretion of the governing body.

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." See Ind. Code § 5-14-3-1. The Crawford County Community School Corporation is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the School's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

First it should be noted the original denials of public records requests occurred in July 2014. Ind. Code § 5-14-5-7 states a formal complaint must be submitted to the Office of the Public Access Counselor within 30 days of the denial of a request. Your request was filed over six (6) months after the original denial. An identical renewed request does not act to overcome this statute of limitations. Therefore, this Opinion is advisory only and should not be used as persuasive authority by a trier of fact.

That being said, it simply appears as if the records you seek have been made available to you. The School indicates it has provided you with the records responsive to your request. If you feel there are additional records the School is withholding, then you may seek relief in a Court of appropriate jurisdiction, however, this Office cannot compel the School to release records to you. If they exist, they should be provided, however, it cannot make a conclusive determination as to whether they do indeed exist.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Crawford County Community School Corporation has not violated the Open Door Law or the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be 'L. H. Britt', written in a cursive style.

Luke H. Britt
Public Access Counselor

Cc: Mr. Marcus M. Burgher, IV, Esq.