



# STATE OF INDIANA

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August 11, 2015

Mr. Martize J. Sevion-EL #901684  
Pendleton Correctional Facility  
4490 West Reformatory Road  
Pendleton, IN 46064

*Re: Formal Complaint 15-FC-205; Alleged Violation of the Access to Public Records Act by the State of Indiana Election Division*

Dear Mr. Sevion-EL,

This advisory opinion is in response to your formal complaint alleging the Indiana Election Division (“Division”) violated the Access to Public Records Act (“APRA”) Ind. Code § 5-14-3-1 *et. seq.* The Division has responded via J. Bradley King and Ryan Mann. Their response is attached for your review. I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on July 13, 2015.

## BACKGROUND

Your complaint dated July 13, 2015, alleges that the Indiana Election Division violated the Access to Public Records Act by failing to produce the information you requested.

On or about September 15, 2014, you submitted a public records request to the Hon. Connie Lawson, the Indiana Secretary of State, requesting “Oaths of Office or Affirmation” for 25 elected officials. The Indiana Secretary of State’s office responded to you on December 23, 2014 stating that they do not have these particular records and that the Indiana Election Division most likely would. As such, out of courtesy, your request was forwarded to the Indiana Election Division.

On January 8, 2015, the former Co-Director of the Indiana Election Division, acknowledged and responded to your request stating that due to the extensive nature of your request searches would have to be conducted in order to produce the requisite documents and that the Division was working to produce the records. You did not receive a response.

On July 29, 2015, the Division responded via Ryan Mann, Acting Co-Director. His response indicated that the co-director who originally acknowledged your request no longer works for the Division. Additionally, the Division requires a particular form for public records requests. The Division acknowledges that they are ready to fill your request if you were to fill out the correct oath request form and proceed to file it with the Division.

### ANALYSIS

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 Indiana Election Division 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 Division’s 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).

The Election Division raises an issue with your request, that your request was handwritten rather than on the official oath request form, however, your request was acknowledged as received (and presumably adequate) by the former co-director. While the APRA allows a public agency to require a requestor to file requests on a specific form (see Ind. Code § 5-14-3-3(a)(2)), the Division appeared to give you the impression that your request was valid and the records were forthcoming. Notice should have been provided to you on January 8 that a search required a form.

The delay notwithstanding, a formal complaint to my office should have been filed much sooner than July 2015. See Ind. Code § 5-14-5-7. As such, I decline to find a violation on the part of the Division. However, because the form for requests was not provided to you until now, it is my hope that the Division will process your original request as soon as possible.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a large, sweeping flourish at the end.

Luke H. Britt  
Public Access Counselor

Cc:  
J. Bradley King  
Ryan Mann