



STATE OF INDIANA

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May 5, 2016

Ms. Mary Perren
400 West Culver Road
Knox, Indiana 46534

Re: Formal Complaint 16-FC-66; Alleged Violation of the Access to Public Records Act by the North Judson – San Pierre School Board

Dear Ms. Perren:

This advisory opinion is in response to your formal complaint alleging the North Judson – San Pierre School Board (“Board”) and Interim Superintendent Robert Boyd violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 et. seq. The Board has responded via Dr. Boyd. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on March 18, 2016.

BACKGROUND

Your complaint dated March 18, 2016, alleges North Judson – San Pierre School Board violated the Access to Public Records Act by improperly denying your records request.

On March 15, 2016, the Board conducted a meeting wherein a decision was made to either reduce or terminate employment in regard to several individuals. The names of these individuals were not released at the meeting. On March 18, 2016 you requested the names of the individuals affected and were refused. Dr. Boyd informed you the names would be released when the minutes of the meeting were approved, which would have occurred on or about April 19, 2016.

On March 25, 2016 the Board responded. The Board argues it did not refuse your request, because it told you the documents would not be available until the minutes were approved at the next scheduled meeting.

DISCUSSION

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 North Judson –

San Pierre School Board 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 Board'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)*.

A request for records may be oral or written. *See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c)*. If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. *See Ind. Code § 5-14-3-9(b)*. A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

Approval of minutes is not a condition precedent for final action to be binding or to take effect by a governing body. It is simply a ratification of the proceedings of the prior meeting. *See Ind. Code § 5-14-1.5-5*. Neither should it be a condition precedent to release information germane to those proceedings. The employment/contract status of public employees is public record pursuant to Ind. Code § 5-14-3-4(b)(8). As the statute indicates, to a certain extent there is no expectation of privacy when it comes to employment status of personnel when said personnel's salaries are paid for by public monies.

The Access to Public Records Act contemplates a "reasonable time" for the release of public documentation upon request. *See Ind. Code § 5-14-3-3*. Waiting until the next Board meeting to release information responsive to a request – simply for the sake of doing so - is not reasonable in the Opinion of this Office.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the North Judson – San Pierre School Board violated the Access to Public Records Act.

Regards,



Luke H. Britt
Public Access Counselor

Cc: Dr. Robert Boyd, Interim Superintendent