
OPINION OF THE PUBLIC ACCESS COUNSELOR

PETER WADDELL,
Complainant,

v.

PURDUE UNIVERSITY,
Respondent.

Formal Complaint No.
17-FC-240

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging Purdue University (“Purdue”) violated the Access to Public Records Act¹ (“APRA”). Trenten D. Klingerman, assistant legal counsel, responded on behalf of Purdue. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on October 9, 2017.

¹ Ind. Code §§ 5-14-3-1 to -10

BACKGROUND

Dr. Peter Waddell (“Complainant”) filed a formal complaint alleging Purdue violated APRA by wrongfully denying him access to public records.

On October 25, 2012, Dr. Waddell filed a public records request seeking information related to his employment with Purdue. In the request, he outlined 14 categories of records sought. It does not appear as if these specific queries were actually submitted. Based on the information provided, it appears as if the October 25 letter merely requested “information regarding his situation.” Specifically, being designated *Persona non Grata* by Purdue. Waddell did not request specific documents. Similarly, a representative from the American Association of University Professors submitted a statement to Purdue on Dr. Waddell’s behalf citing defects in the due process procedure for the *Persona non Grata* designation, however, it is not conspicuously positioned as a public records request.

On August 31, 2017—nearly five years later—Dr. Waddell followed up by submitting a public records request to Purdue again seeking “copies of public records that related to my employment at Purdue.” He specifically identified the categories of records sought, however, they are all general categories of records and not a specific document or set of documents.

Nevertheless, Purdue responded to the complaint, by addressing 13 categories of records (two were consolidated). Purdue produced some records responsive to Waddell's request and denied disclosure of others. Notably, as it pertains

to the records it withheld from disclosure, Purdue cited statutory authority that it claims authorizes the non-disclosure.

ANALYSIS

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.” Ind. Code § 5-14-3-1.

Therefore, unless an exception applies, any person has the right to inspect and copy Purdue's public records during regular business hours. Ind. Code § 5-14-3-3(a).

Under APRA, *public record* is broadly defined to mean:

[A]ny writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

Ind. Code § 5-14-3-2(r). Here, Purdue does not dispute that the records requested by Dr. Waddell are public records as defined by APRA. The disagreement, at least in part, as it so frequently tends to be, is whether the records are disclosable.

The lone requirement on the part of a public records requestor is that a document or set of documents be identified with reasonable particularity. *See* Ind. Code § 5-14-3-3(a). This is

not a difficult standard to meet, however, it is narrower than many requestors choose to realize. The records requests in both the August 31 demand letter and the subsequent breakdown in the complaint read like a request for production of documents or an interrogatory served in the trial discovery process. The standard of specificity required under APRA is much more concise and succinct. Much to the disappointment of many requestors, a public records request is a poor and inefficient mechanism to litigate a conflict. To be sure, it is an accountability tool, however, it is not a method of trawling for evidence that may or may not exist. Dr. Waddell's frustration appears to be with the manner of separation from his employer—a matter well beyond the scope of this office. While he may request records germane to the separation process, it must be done in a detailed, particular way as required by APRA.

In any case, a request for records should be conspicuously labeled as such. A summarization of the records sought should also be in the request and not in the subsequent complaint filed with this office. I take no exception to the manner in which Purdue responded to his complaint, which in turn also responded to Waddell's clarified record request.

CONCLUSION

Based on the foregoing it is the opinion of the Public Access Counselor that Purdue University did not violate the Access to Public Records Act.

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

Luke H. Britt
Public Access Counselor