
OPINION OF THE PUBLIC ACCESS COUNSELOR

NATHAN GOTSCH,
Complainant,

v.

NORTHWEST ALLEN COUNTY SCHOOLS,
Respondent.

Formal Complaint No.
23-FC-61

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to the formal complaint alleging Northwest Allen County Schools violated the Access to Public Records Act.¹ Attorney Mark D. Scudder filed an answer on behalf of the agency. 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 July 20, 2023.

¹ Ind. Code § 5-14-3-1-10.

BACKGROUND

In this case we consider whether the Northwest Allen County Schools (NACS) was justified in seeking clarification of a request for email messages.

On July 11, 2023, Nathan Gotsch (Complainant) and several others filed a public records request with NACS seeking emails sent or received by four named individuals regarding the cancelled play *Marian, or the True Tale of Robin Hood* during a five-month period.²

Six days later, NACS denied the request on grounds that it was not reasonably particular for purposes of the Access to Public Records Act (APRA). NACS relied on a prior opinion issued by this office for support.

Gotsch disagreed with NACS and filed a formal complaint on July 20, 2023.

On September 18, 2023, NACS responded to Gotsch's complaint. NACS contends that it followed prior PAC guidance in the initial denial. Nevertheless, NACS provided an associate of Gotsch with 58 pages of material it had provided a reporter. NACS maintains the original request was not reasonably particular under APRA because it did not contain a closed loop of sender and recipient.

ANALYSIS

² For context, Carroll High School cancelled the play after it was determined it may be too divisive. Gotsch independently produced the play in May.

1. The Access to Public Records Act

The Access to Public Records Act (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. Northwest Allen County Schools (NACS) is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the school district’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Indeed, APRA contains mandatory exemptions and discretionary exceptions to the general rule of disclosure. *See* Ind. Code § 5-14-3-4(a) to -(b).

This case involves the applicability of APRA’s reasonable particularity standard to requests for emails.

2. Reasonable particularity

Under APRA, a request for inspection or copying “must identify with reasonable particularity the record being requested.” Ind. Code § 5-14-3-3(a)(1).

Without legislative clarification regarding specificity, requests for emails can be notoriously difficult to evaluate.

This office balances the public’s right to know with versions of guidance that meet reality and practicality for the responding agencies. This is not an easy task.

Some requests are so broad and unwieldy—and some requesters stubbornly unyielding—that rigorous adherence

to a set benchmark is necessary. Typically, this means that a requester should identify a sender and a recipient, a subject matter, and a concise timeframe.

But there is no one-size-fits-all standard that makes sense in all contexts. Here, Gotsch identified four named individuals, the subject matter, and a five-month timeframe.

Practically speaking, it would not be a monumental task for those four individuals to at least search their accounts for emails that might match the parameters. If it yields hundreds of emails, so be it – tailoring the request is in order. But if it only produces a handful, the production of those emails would not be an unreasonable job. Once again, the theme is practicality – not a strict observance to general dicta from this office.

In any case, in this instance, it would have been advisable to at least invite Gotsch to narrow his request rather than deny it outright. Ideally, the four individuals would have run a quick search to see if production of some of the documents would have been feasible.

CONCLUSION

Since NACS provided Gotsch's associate with some of the requested material, I decline to make a determination of noncompliance, however, I do hope that NACS takes heed of these considerations going forward.



Luke H. Britt
Public Access Counselor

Issued: October 3, 2023