



# STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR  
HEATHER NEAL

Indiana Government District South  
402 West Washington Street, Room W460  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
www.IN.gov/pac

July 24, 2008

Diana Vice  
4398 West County Road 700 North  
Mulberry, Indiana 46058

*Re: Formal Complaint 08-FC-176; Alleged Violation of the Access to Public Records Act by the Rossville Consolidated School District*

Dear Ms. Vice:

This advisory opinion is in response to your formal complaint alleging the Rossville Consolidated School District (“District”) violated the Access to Public Records Act (“APRA”) (Ind. Code 5-14-3) by denying you access to records. The District’s response to the complaint is enclosed for your reference. It is my opinion the District has not violated the APRA.

## BACKGROUND

You allege that you have been denied access to the following records:

1. “Copies of checks payable to Tremco” – you allege that when you requested copies of these records in 2006 you received a letter from the District indicating it does not maintain any records responsive to the request. You further allege that when you made a similar request on June 27, 2008, you received copies of checks from November 2002.
2. “Any correspondence written to any school employee or board member from the Blackmore & Buckner Roofing Co.” -- You contend that this request has been made with reasonable particularity, despite the District’s contention it has not. You allege that “Dr. Hanna knows full well what I am looking for.”
3. “Any correspondence received by any board member and/or employee of the school from Blackmore & Buckner Roofing Co.” – You make the same allegation as listed in Item 2 above.

4. "All documentation, including receipts and reports for any roof repairs done to the school roof since 2004 by any company." -- You make the same allegation as listed in Item 2 above.
5. You allege you made a second request for the following records:
  - a. All correspondence to and from any employee from the Wilson Education Center
  - b. All correspondence to and from the Ice Miller law firm
  - c. All correspondence to and from Weatherproofing Technologies and/or Tremco, Inc.
  - d. Copy of checks made payable to Weatherproofing Technologies
  - e. Any claims and or [sic] invoices submitted to Weatherproofing Technologies and/or Tremco.You allege that the District knows what records you seek but is attempting to deny you access to the records.

You filed this complaint on July 17, 2008, alleging that you require the record for a proceeding before another public agency. Because you have alleged one of the reasons for priority status provided in 62 IAC 1-1-3, priority status was granted.

The District responded to your complaint by letter dated July 17 from Superintendent James Hanna. In response to your complaints identified as items numbered 1 through 5 above, the District contends the following:

1. The District contends that in 2006 you requested records related to Tremco but in 2008 you requested records related to Tremco or Weatherproof Technologies. Since the checks were made payable to Weatherproof Technologies, no records were found in the 2006 search for checks related to Tremco.
2. Regarding your request for any correspondence written to any school employee or board member from the Blackmore & Buckner Roofing Company, the District contends the request did not identify with reasonable particularity the record being requested. The District contends you did not limit the request by time period or by specific employees, and as such the District does not know where to begin searching. As to your allegation that Dr. Hanna knows what you are seeking, Dr. Hanna contends he cannot ascertain from the request what you are seeking.
3. Regarding your request for any correspondence received by any board member and/or employee from Blackmore &

Buckner Roofing Company, the District makes the same contentions provide in response to Item 2.

4. Regarding your request for all documents, including receipts and reports to any roof repairs done to the school since 2004 by any company, the District contends that when you made a similar request in 2005, you narrowed the request by contractor and you made the request shortly after the work had been completed. The District contends that if you limit your request by school in the district and/or by contractor, the District would be better able to search its records.
5. Regarding your requests listed in Items a, b, and c, the District contends the requests were not made with reasonable particularity because they were not limited by date, subject matter, or sender/receiver. Regarding your request listed in Items d and e, the District contends you received those records on July 2, 2008 at 8:00am. The District further contends it has made arrangements with you to review the records which were in storage offsite.

#### ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The District is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the District during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request must identify with reasonable particularity the record being requested. I.C. § 5-14-3-3(a). "Reasonable particularity" is not defined in the APRA. "When interpreting a statute the words and phrases in a statute are to be given their plain, ordinary, and usual meaning unless a contrary purpose is clearly shown by the statute itself." *Journal Gazette v. Board of Trustees of Purdue University*, 698 N.E.2d 826, 828 (Ind. Ct. App. 1998). Statutory provisions cannot be read standing alone; instead, they must be construed in light of the entire act of which they are a part. *Deaton v. City of Greenwood*, 582 N.E.2d 882 (Ind. Ct. App. 1991). "Particularity" as used in the APRA is defined as "the quality or state of being particular as distinguished from universal." *Merriam-Webster Online*, [www.m-w.com](http://www.m-w.com), accessed July 18, 2007.

In my opinion, when a public agency cannot ascertain what records a requester is seeking, the request likely has not been made with reasonable particularity. See *Opinions of the Public Access Counselor 08-FC-135, 07-FC-353*. While you may know which

records you seek, and while you may believe the District knows which records you seek, the request must still identify the records with reasonable particularity, as required by I.C. § 5-14-3-3(a). If a request is not made with reasonable particularity and an agency attempts to provide the records the agency's employee thinks the requester is seeking, it is likely the agency could misinterpret the request and provide too many records, not enough records, or the incorrect records. For instance, I often hear from agencies that a person has requested "all records related to expenses" for a certain amount of time. What the requester generally does not understand is just how many records related to "expenses" an agency might maintain. In this example, an agency might maintain copies of checks, bank statements, ledgers, budget worksheets, approved budgets, claim vouchers, supply orders, internal memoranda related to orders for supplies, and any number of other records. It is my advice to agencies in this situation that the agency ask the requester to identify with reasonable particularity which expense records he or she is seeking.

I use this illustration to show that it is my opinion some of your requests, specifically those addressed in Items 2, 3, 5a, 5b, and 5c, did not identify with reasonable particularity the records being requested, as required by I.C. § 5-14-3-3(a). These requests, which all begin with "any correspondence . . ." do not specifically identify which records you seek. When you do not limit such a request for correspondence by date, sender/receiver, or subject matter, the agency must read the request as a request for any correspondence ever sent or received by any employees. As the District contends, this essentially requires the District to search all of its records for any correspondence ever sent. While you may believe the District knows which records you are seeking, the District has a duty to provide the records you have requested. Here, those records could date back ten, twenty, thirty, or more years. While you may not have intended to request records dated back that far, your request on its face is quite open-ended. As such, it is my opinion your requests listed in Items 2, 3, 5a, 5b, and 5c did not identify with reasonable particularity the records being requested. It is my suggestion you re-word your requests to identify specific records; you might do so by narrowing the requests by sender, receiver, date, and/or subject matter, among others.

Regarding Item 1 of your complaint, it is my understanding your request relates to a response to you received to a March 2, 2006 request. Because complaints related to alleged violations of the APRA must be made within thirty days of the denial (*See* I.C. § 5-14-5-7(a)(1)), the complaint is untimely. I would note, though, that if you requested copies of checks made to Tremco and indeed the checks at issue were made payable to Weatherproof Technologies, the District's response was appropriate.

Regarding Item 4 of your request, this request certainly is more particular than most of your other requests, as it does narrow the records requested by date. Since your request is for records related to "the school roof," it appears you are seeking records related to one school. If that is true, you should indicate to the District which school's records you seek. If you are seeking records related to specific contractors, you should indicate such. If, however, you are seeking records related to all roof repairs for all schools in the district done since 2004, it is my opinion the request identifies with

reasonable particularity that you are seeking records related to roof repairs made since 2004 at all schools in the District. If those are the records you seek, the problematic portion of this request is the beginning, “all documents . . .” While you indicate the request includes receipts and reports, you have requested “all documents.” The question here would be what specific records you seek (e.g. proposals for roofing work, billing statements, contracts, memoranda, school board minutes addressing any roofing issues, etc.). It is my opinion that while the request listed in Item 4 may come close to identifying with reasonable particularity the records being requested, it would be helpful for you to clarify what you are seeking.

Finally, the District contends it has provided you some of the records listed in Items 5d and 5e and has made arrangements for you to inspect or copy the remaining records listed in those two items. If the District has not done so, it has a duty to do so under the APRA.

#### CONCLUSION

For the foregoing reasons, it is my opinion the Rossville Consolidated School District has not violated the APRA.

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: Dr. James Hanna, Superintendent, Rossville Consolidated School District