

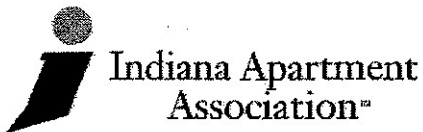
PUBLIC COMMENT AND RESPONSE LOG

LSA Document #26-270

During the public comment window, the agency received written comments to the proposed rule changes from the Indiana Apartment Association on August 31, 2026. Those written comments were subsequently rescinded and withdrawn on September 8, 2026, rendering them moot. No verbal comments were received at the public hearing.

The comments received, ICRC's response, and rescission and withdrawal are as follows:

<u>Rule citation</u>	<u>Public Comment</u>	<u>Response</u>	<u>Final Rule Text Action</u>
910 IAC 1-5-2(b)(5)	Raised concerns RE: email address for subpoena service Comment was formally rescinded and withdrawn	No risks based on existing practices and statutes	No changes to rule
910 IAC 1-2-7; 910 IAC 1-7-1 (incorporation of Trial Rules)	Request clarification on incorporation in the event of amendments Comment was formally rescinded and withdrawn	Risk is inapplicable given existing practice and statute	No changes to rule
910 IAC 1-8-1(b)	Request for clarification RE: added language of attorney-client privileges Comment was formally rescinded and withdrawn	Agreed that confusing and inaccurate; plans to remove proposed sentence	Proposed sentence removed



August 31, 2026

To Scott Kreider
Deputy Director and General Counsel
Civil Rights Commission
100 North Senate Avenue, Room N300
Indianapolis, IN 46240

RE: LSA Document #26-270 Indiana Civil Rights Law

On behalf of the Indiana Apartment Association (IAA), thank you for the opportunity to comment on LSA Document #26-270 and the Indiana Civil Rights Commission's proposed amendments to 910 IAC 1. IAA represents nearly 300,000 professionally managed apartment homes across Indiana and works on behalf of the state's multifamily housing industry. IAA appreciates the Commission's efforts to modernize and streamline its rules and supports changes that provide greater clarity and efficiency for all parties participating in Commission proceedings.

IAA respectfully requests that the Commission consider several targeted revisions or clarifications before adoption of the proposed rule.

First, proposed 910 IAC 1-5-2(b)(5) would permit service of a subpoena by sending an electronic copy "to a valid email address provided by a person or their representative to the commission." IAA supports the use of electronic communication where appropriate but believes the rule should make clear that an email address may be used for service only when the person or an authorized representative has affirmatively designated that address for purposes of electronic service or otherwise consented to electronic service.

During the course of a proceeding, an email address may appear in exhibits, correspondence, or other materials submitted to the Commission without the individual or entity intending to designate that address for formal service. Given the consequences that may follow from failure to respond to a subpoena, the rule should eliminate any uncertainty regarding when electronic service is authorized.

Second, IAA requests clarification regarding the increased incorporation of the Indiana Rules of Trial Procedure into the Commission's procedures. IAA does not object to relying on the Trial Rules where they substantially mirror existing Commission procedures and can simplify the Commission's rules. However, incorporating the Trial Rules may allow subsequent amendments to those rules to alter Commission procedures without separate

consideration through the administrative rulemaking process. IAA therefore encourages the Commission to clarify the extent to which future amendments to the Trial Rules will apply to Commission proceedings and whether those changes will be independently evaluated for their appropriateness in the administrative context.

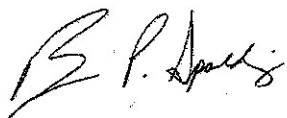
Finally, IAA requests clarification regarding the proposed amendment to 910 IAC 1-8-1 concerning communications between Commission staff attorneys and complainants. The proposed language continues to state that a Commission staff attorney represents the public interest and "does not enter into an attorney-client relationship with a complainant," while simultaneously providing that communications between the staff attorney and complainant are protected by attorney-client privilege.

IAA also encourages the Commission to consider how the proposed privilege language may affect the perception of impartiality within the complaint process. Providing attorney-client privilege to those communications, despite the rule stating that no attorney-client relationship exists, may further the perception that the Commission is acting as both an advocate and a neutral evaluator of the facts. Additional clarity regarding these roles would help provide all parties with greater confidence in the fairness and impartiality of the process.

IAA therefore respectfully requests that the Commission clarify the legal basis, scope, and intended application of this privilege and how it operates where the rule expressly provides that no attorney-client relationship exists.

IAA appreciates the Commission's consideration of these comments and its efforts to update Indiana's civil rights regulations. We believe these targeted clarifications would preserve the benefits of the proposed modernization while providing greater certainty and procedural fairness for all parties appearing before the Commission.

Sincerely,

A handwritten signature in dark ink, appearing to read "B. P. Spaulding", with a stylized flourish at the end.

Brian Spaulding, J.D.
President
Indiana Apartment Association

Follow up on ICRC's proposed rule amendments

From Kreider, Scott <ScKreider@icrc.IN.gov>

Date Wed 9/2/2026 3:35 PM

To Brian@iaaonline.net <brian@iaaonline.net>

Cc Clay, John P <JClay@icrc.IN.gov>

Brian,

Thank you for the discussion yesterday regarding the Indiana Apartment Association's concerns related to the proposed amendments to ICRC's rules set forth in LSA Documents #26-270 and 26-271 that were expressed in your letters dated August 31, 2026. As noted, the changes to ICRC's rules are not being made with the intention of eliminating processes or services. Instead, the primary motivation for those changes is to comply with the Governor's mandate in Executive Order 25-17 to reduce unnecessary wording in our administrative rules.

As discussed, most of the concerns expressed in your letter are covered by existing statutes and practices. We believe that the following explanation and citations should alleviate all of the concerns that have been raised:

1. Subpoenas and email addresses provided to the Commission. While the concern about someone using a random email appearing on any filing or document is understandable, there is no risk of that practice emerging. The intent is that only an email address that has been designated for service may be used. That intention is reinforced by current AOPA statutes and proceedings. Further, 910 IAC 1-4-1 as it currently exists and in the proposed amendments makes clear that enforcement of subpoenas shall be done in the manner set forth in Indiana Code section 4-21.5 (AOPA). The provisions of AOPA ultimately point to the Trial Rules on this issue. Indiana Code section 4-21.5-3-1 provides for service by electronic mail. Indiana Code section 4-21.5-3-22 explains that subpoenas shall be issued in accordance with the rules of procedures for civil actions in the trial courts. Ultimately, Trial Rule 5 reinforces that service may be made by email where a person has consented to such service. Moreover, pursuant to current practices, when the Commission signs a subpoena, it includes the address information for service. As such, there is oversight to ensure that proper service involves only the use of a designated email that a person intends to be used and not some random email that might appear on a document.
2. Incorporation by reference of the Trial Rules and possible amendments. Indiana Code section 4-22-9-5 addresses this issue, as well as LSA's drafting manual. Incorporations by reference are "frozen in time." As such, possible later amendments to an incorporated matter do not automatically make those amendments apply to an administrative rule. The only exceptions where this is not true are for statutes and administrative rules that are incorporated by reference. The Trial Rules promulgated by the Indiana Supreme Court do not fall within the two exceptions. As such, the reference in the proposed amendments is "frozen in time" and any subsequent changes to the Trial Rules will not automatically impact the proposed changes in the language of the administrative rules.

3. Proposed language denoting communications as "attorney-client privileges". Thank you for bringing this concern to our attention. The original intention that was envisioned was to denote the confidentiality of certain information received or exchanged. Upon further review, we agree that is not accurate to designate those communications as "attorney-client privileges." While some of the underlying rationale for protecting the communications is similar, we agree that it would be confusing to use the language that is being added. We will be taking steps to have this sentence removed from the amendments and it will not appear in the final published version.
4. Removal of administrative rule language regarding investigation within 100-days. This requirement is already mandated by statute pursuant to Indiana Code section 22-9-5-6-3. It is further reinforced by Indiana Code section 22-9-5-6-8 which has a 100-day period for making the final determination. The existing administrative rule language is therefore duplicative and unnecessary. The requirement will still remain in the absence of the administrative rule.
5. Removal of language regarding contents of final investigation report. I can assure that the proposed removal of the language regarding the contents of a final investigative report does not mean that the reports are being eliminated or that issues of transparency will arise. Again, language in the rules that is not necessary is being removed. Reports are not being eliminated and will continue to be utilized. The other remaining references actually make that point clear. The determination or notice of finding issued by ICRC must still be based on the report pursuant to proposed 910 IAC 3-6-6(e). Moreover, as proposed, pursuant to 910 IAC 2-6-4(g) the report may still be disclosed to an aggrieved person upon request. These requirements already exist under current practices and will continue to remain after amendment. Moreover, ICRC's practices must mirror or be substantially equivalent to federal standards pursuant to its workshare agreements with HUD. Federal standards under 24 CFR 103.230 regarding investigation reports maintain similar language on the contents for such reports, and arguably include information not specified in the current administrative rule. Accordingly, the proposed removal is not going to result in the elimination of investigation reports, which ICRC must continue to utilize.

I hope that our discussion yesterday and this further explanation with citations will alleviate the concerns that your members shared. Please let us know if we can provide any further information.

Best wishes,

Scott

Scott A. Kreider
Deputy Director and General Counsel
Indiana Civil Rights Commission
100 North Senate Avenue, Room N300
Indianapolis, IN 46204

web: www.in.gov/icrc



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September 8, 2026

To Scott Kreider
Deputy Director and General Counsel
Civil Rights Commission
100 North Senate Avenue, Room N300
Indianapolis, IN 46240

RE: Rescission of Comments on LSA Documents #26-270 and #26-271

On behalf of the Indiana Apartment Association (IAA), I am writing regarding the comment letters submitted by IAA on August 31, 2026, concerning LSA Document #26-270 and LSA Document #26-271.

IAA appreciates the clarification and explanation provided by ICRC's leadership after submission of our original comments. IAA respectfully rescinds and withdraws both comment letters in their entirety.

We appreciate the Commission's consideration and its continued work on these proposed rules. Please let us know if any additional information is needed regarding this withdrawal.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. P. Spaulding', is written over a light blue horizontal line.

Brian Spaulding, J.D.
President
Indiana Apartment Association