



STATE OF INDIANA

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April 21, 2026

Re: Complaint 25-FC-219
Michael J. Green (Complainant) v.
Town of Winfield (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed September 10, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 28, 2025, requesting a formal response by November 26, 2025. A formal response, submitted by Attorney David Austgen of Austgen Kuiper Jasaitis P.C. on behalf of Respondent, was received in this office on November 25, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide copies of the requested records.

ANALYSIS

The public policy of 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.” Indiana Code (IC) 5-14-3-1. Respondent is a public agency for purposes of APRA; and therefore, subject to the requirements. IC 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy Respondent’s public records during regular business hours. IC 5-14-3-3(a).

Complainant filed an initial six (6) APRA requests, on July 15, 2025, and then filed five (5) additional requests on August 13, 2025.

Respondent acknowledged the requests and on September 10, 2025, provided Complainant with a response which either gave him the records requested, explained that they do not exist so there were no responsive records or the records were subject to statutory exception. We will not go through the requests in detail because this was completed by Respondent in his initial

response to Complainant, and in additional detail in Respondent's response to this complaint.

Complainant's APRA requests seem to fall into four (4) categories: 1) ordinary business records such as minutes which were provided, 2) personnel records: a) disciplinary records which do not exist, b) own employment records which were provided, 3) correspondence about K9 Officer RAK which was deemed deliberative, and 4) equipment and boarding information about K9 Officer RAK, which was deemed overbroad and lacking particularity.

We will not discuss the ordinary business records as they were provided.

Next, we will discuss personnel files. In general, IC 5-14-3-4(b)(8) says:

(b)... the following public records shall be excepted ... at the discretion of a public agency:

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

Personnel files are discretionarily excepted from APRA, except for (A) to (C) above. Complainant requested (B) and (C) and more. However, none of the people Complainant was requesting information on had formal charges brought or a completed disciplinary action. One resigned before any action could take place, while the others simply did not have this information in their files. APRA does not require the public agency to create a record that does not exist and is not required to produce a record it does not have, as this office has previously

opined. *Opinion of the Public Access Counselor 25-FC-136*. The other information requested by Complainant on these individuals fell outside of this exception, and therefore, was not accessible.

Except for the information Complainant requested on himself. As above, all personnel file information may be made available to the employee or his representative. Therefore, Complainant received his personnel file.

Then, Respondent declined to provide the records regarding correspondence re K-9 RAK as deliberative in nature under IC 5-14-3-4(b)(6), which states:

(6) Records that are intra-agency or interagency advisory or deliberative material ... that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

Lastly, Complainant requested equipment and boarding information about K9 Officer RAK, which was deemed overbroad and lacking particularity because names and timeframes were not given.

APRA requires that record requests “must identify with reasonable particularity the records being requested.” IC 5-14-3-3(a)(1). The statutes do not define the term “reasonable particularity”.

The Indiana Court of Appeals addressed the meaning of the phrase, “reasonable particularity” in *Jent v. Fort Wayne Police Dept*, 973 N.E.2d 30 (Ind. Ct. App. 2012) which involved a request for daily incident logs. The court concluded that reasonable particularity in a record request “turns in part, on whether the person making the request provides the agency with information that enables the agency to search for, locate, and retrieve the records.”

From the information provided by Complainant and Respondent, Respondent provided information whenever it could, used allowable discretionary exceptions, and requested clarification to provide records rather than denying.

CONCLUSION

This office finds that the Respondent did not violate APRA as alleged in the complaint.



Jennifer G. Ruby
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