



STATE OF INDIANA

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May 13, 2026

Re: Complaint 25-FC-249
John Peter Warden (Complainant) v.
Metropolitan School District (MSD) of Martinsville (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed September 22, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on November 5, 2025, requesting a formal response by December 8, 2025. A formal response, submitted by Attorney Johnathan Mayes of Bose McKinney & Evans LLP on behalf of Respondent, was received in this office on December 8, 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 submitted a letter to Martinsville Unified School District on March 25, 2024, which appears to have been postal mailed, requesting that they complete a form online to verify his employment to the Arizona State Department of Education. Then Complainant submitted a letter requesting the same via certified mail on May 31, 2024. Next, Complainant filed an APRA request on July 15, 2025, requesting 1) verification of employment (VOE) records relating to his teaching service; 2) a copy of a 1984 Settlement Agreement resolving his termination dispute, including associated payments

records, attorney invoices, or travel reimbursements; and 3) policies and logs governing issuance of VOEs since January 1, 2015. However, Complainant used the wrong email address for Respondent. On September 7, 2025, Complainant made a similar request to the proper email address. In his complaint, Complainant states that he has requested certain records including verification of employment on multiple occasions in 2024 and 2025, including a July 15, 2025, request.

Respondent raised the issue that Complainant previously had filed a complaint with the Indiana Education Employment Relations Board (IEERB) on July 15, 2025, which Respondent considers to be litigation and precludes this office from reviewing this complaint. IC 5-14-4-10(6) states:

“[T]he counselor may not issue an advisory opinion concerning a specific matter with respect to which a lawsuit has been filed under [IC 5-14-1.5](#) or [IC 5-14-3](#).”

The term lawsuit is not defined under APRA. However, Black’s Law Dictionary, Fifth Edition, defines lawsuit as a “vernacular term for a suit, action or cause, instituted or depending between two private persons in the courts of law.”

This office considers the IEERB complaint process to be an administrative review under the executive branch of government. This office is also part of the executive branch.

Further, Complainant confirmed that the IEERB concerns separate labor-related issues, not issues related to IC 5-14-1.5 or IC 5-14-3. Therefore, this office does not consider the IEERB complaint to be a lawsuit for the purposes of IC 5-14-4-10(6).

Complainant submitted a letter to Martinsville Unified School District on March 25, 2024, which appears to have been postal mailed, requesting that they complete a form online to verify his employment to the Arizona State Department of Education. Then Complainant submitted a letter requesting the same via certified mail on May 31, 2024. Next, Complainant filed an APRA request on July 15, 2025, requesting 1) verification of employment (VOE) records relating to his teaching service; 2) a copy of a 1984 Settlement Agreement resolving his termination dispute, including associated payments records, attorney invoices, or travel reimbursements; and 3) policies and logs governing issuance of VOEs since January 1, 2015. However, Complainant used the wrong email address for Respondent. On September 7, 2025, Complainant made a similar request to the proper email address. In his complaint, Complainant states that he has requested certain records including verification of employment on multiple occasions in 2024 and 2025, including a July 15, 2025, request.

On September 7 and 9, 2025, Respondent stated that they had no records that were applicable to him and denied other records that were related to discovery under the pending Indiana Education Employment Relations Board (IEERB) complaint. Further in a September 9, 2025 email Respondent stated:

Most of the people employed in the central office or business office during the time you believe you were employed are long retired or deceased. I know this may disappoint you, but the fact is the District has searched [its] records and not found any pertaining to you.

This office has opined on many occasions that a public agency does not violate APRA for denying a records request because the records do not exist. *Opinion of the Public Access Counselor 25-FC-112*, citing numerous prior holdings. Respondent did not find the employment related records as requested and stated that it did not have and did not create a policy or log for employment verification requests. While we accept Respondent's argument that the records do not exist and is unable to provide responsive records, it does raise the question as to why the records are unavailable.

Complainant provided a copy of a verification of employment letter provided to him by Respondent on May 20, 2004. This office worked with Indiana Archives and Records Administration (IARA) to determine what record retention schedules were applicable and how they changed from 2004 to 2025. But we also needed to consider Complainant's employment period which started in 1969. IARA is governed by IC 5-15-5.1 and works with county commissions of public records, governed by IC 5-15-6.

Currently, County employees and School District employees fall under GEN 10-27 for personnel files and GEN 20-02 for employment logs. GEN 10-27 has a retention schedule that allows the personnel files to be destroyed "ten (10) years after the employee separates from service AND after verifying that the employee name, job title or classification, employment dates, and the rehire eligibility status have been added to a permanent log of former employees under Record Series GEN 20-02."

GEN 20-02 requires the public agency to maintain a "permanent list of previous employees including employee name, job title or classification, employment dates, and rehire eligibility status."

These retention schedules were adopted after 2004. Previous records were not necessarily permanent, but were required to be retained long term, such as 75+ years. The period of time in question is 1969 to 2026, which is less than 75 years.

However, "[i]n 1978 the Indiana General Assembly created the Indiana Commission on Public Records and assigned it the responsibility of records

management for state agencies.” As early as October 30, 2002, under “Records Management – Care of Indiana Public School Records”, personnel records were required to be retained permanently. Therefore, it appears that Respondent should have kept at least a log of Complainant’s personnel records and should have been able to provide the verification of employment requested by Complainant.

In 2016, the Indiana Commission on Public Records was renamed the Indiana Archives and Records Administration (IARA).

IC 5-14-3-7(a):

A public agency shall protect public records from loss, alteration, mutilation, or destruction...

Respondent failed to comply with this provision.

It appears that when Complainant failed to receive the verification of employment requested, he expanded his APRA request to include information related to his 1984 Settlement Agreement, including associated payment records, attorney invoices or travel reimbursements, and policies and logs governing issuance of VOEs since January 1, 2015. Although the 1984 Settlement Agreement is reasonably particular, associated payment records, attorney invoices or travel reimbursements are not. Likewise, policies and logs governing issuance of VOEs seem overly broad.

The record request seeks policies and logs beginning January 1, 2015. Per *Opinion of the Public Access Counselor 22-FC-71*, “All contracts and agreements for multiple years is also not a reasonably particular request.” Therefore, all policies and logs for a particular purpose over a broad term of years is also lacking reasonably particularity.

CONCLUSION

This office finds that the Respondent violated APRA by failing to maintain permanent employee service records.

However, Respondent did not violate APRA when it failed to provide requested records which lacked reasonable particularity.



Jennifer G. Ruby
Public Access Counselor