



STATE OF INDIANA

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August 4, 2026

Re: Complaint 25-FC-302
Tammy Wendland (Complainant) v.
Lake County Health Department [LCHD] (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed October 24, 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 Trammel Raggs of Raggs Law P.C. on behalf of Respondent, was received by this office on November 26, 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).

A public agency may not deny or interfere with the exercise of the right stated above. If the public agency does not deny the request, within a reasonable time after the request is received by the agency the public agency shall either:

- (1) Provide the requested copies to the person making the request; or*
- (2) Allow the person to make copies:*

- (A) on the agency’s equipment; or*
- (B) on the person’s own equipment.*

IC 5-14-3-3(b).

Complainant filed an Access to Public Records (APRA) request on September 5, 2025, seeking a copy of records pertaining to death certificate records of a specific identified individual as follows:

- 1) Any documents that have been retained that were provided in proof by requestor and furnished for fulfilling the obligation to request a death certificate.
- 2) Any notes or related information maintained concerning who applied for the death certificate (name, address, relationship to deceased etc.)
- 3) Any correspondence or information pertaining to whether the certificates were approved and sent to denied and not sent. If they were approved and sent, the address where they were sent.
- 4) Any other information that you have related to any and all death certificate requests pertaining to the above decedent.

Respondent acknowledged the request on October 6, 2025, and denied the request on the basis that such records did not exist and that Respondent was not required to prepare and produce a list of records. Respondent cited various Opinions of this office in support of the position that Respondent was not required to create a list of records.

Complainant then filed a formal complaint with this office alleging that Respondent failed to supply the records as requested and that its response regarding not having to create list was irrelevant to Complainant's request.

While the Respondent denied the request in a timely fashion, the denial was not a complete response to the APRA request. Complainant contends that her request did not seek lists of documents but rather the documents themselves. It appears from the request that it started out requesting "a list" and any other documents related to the death certificate requests. While we concur with Respondent that a list is not required to be created under APRA, the records request was not simply for a list. It sought records that could have been filed with the agency or filed with or through the agency.

Under APRA, public record means:

any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media,

chemically based media, magnetic or machine-readable media, electronically stored data, or any other material, regardless of form or characteristics.

Ind. Code § 5-14-3-2(r). As a result of this definition, public agencies are in possession of both physical and electronic records. Although the agency may offer to transfer electronic records to physical records and vice versa, they are not required to do so, pursuant to Ind. Code § 5-14-3-3(j):

This subsection applies to a public record that is in an electronic format. This subsection does not apply to a public record recorded in the office of the county recorder. A public agency shall provide an electronic copy or a paper copy of a public record, at the option of the person making the request for the public record. This subsection does not require a public agency to change the format of a public record.

Opinion of the Public Access Counselor 24-FC-49 (emphasis added).

However, Respondent in its formal response stated:

The response stated that, after review, the LCHD did not have any records responsive to her request. Although the LCHD could access some of the relevant information that she was seeking from a state-maintained database and provide a list as requested, it was denied pursuant to Ind. Code § 5-14-3-3(f), as that would require LCHD to create a record that it did not otherwise maintain under statute.

If Respondent's logic is used on all electronic records, it would frustrate the purpose of APRA. Per the definition of public record above, record stored electronically is a record. Printing that electronic record is not creating a record, but simply a way to make it available to the public.

This office understands that applications for death certificates, payment of fees and mailing of death certificates is conducted at the local health department level. These documents are public records and should be maintained as such in accordance with the applicable, mandatory retention schedules. Those records maintained on an electronic system are required to be printed and produced to fulfill a records request, unless an exception applies.

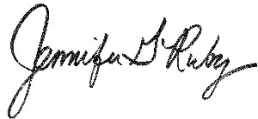
CONCLUSION

This office finds that the Respondent did not violate APRA by failing to create a list of records that it did not have.

However, Respondent may have failed to provide records that were likely

created and maintained on the Respondent's or the State's electronic file system. It appears Respondent has access to the State's electronic file system. In the event such records were available and not produced, the result would be a violation of APRA.

If Respondent could print locally the same records that the State can print, then Respondent should provide access to Complainant of those local records.

A handwritten signature in black ink, appearing to read "Jennifer G. Ruby". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer G. Ruby
Public Access Counselor