



STATE OF INDIANA

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June 8, 2026

Re: Complaint 25-FC-323
Peter V. Colan (Complainant) v.
Baugo Township Trustee (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 31, 2025, requesting a formal response by December 3, 2025. A formal response, submitted by Michael Trippel of Thorne Grodnik LLP on behalf of Respondent, was received in this office on November 4, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide 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 Access to Public Records (APRA) request on August 29, 2025, seeking:

- 1) Bank statements and reconciliation reports for each month from December 2024 thru June 2025.
- 2) A complete list of income and disbursements for each budget line item in the 2025 budget for each month, January thru June 2025 (6 months.)

- 3) A summary of 6/30/25 of each budget line item; on track/overspent/underspent.
- 4) The Townships Capital Improvement Plan as is now required by IC 36-6-9-12 and its associated spreadsheet completed as required by the State.

Complainant states that the record request was ignored and the last item of the request, the Capital Improvement Plan, was not provided to all of the members of the Board of Advisors for Baugo Township (Board) until the Board meeting on September 18, 2025, with no advance opportunity to review the information prior to action by the Board. A second request was made to reaffirm the request for the remaining records on September 30, 2025.

A denial of disclosure by a public agency occurs when a person making the request is physically present in the office of the agency, makes the request, makes the request by telephone or enhanced access to a document and:

- 1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has been made; or*
- 2) twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made;*

whichever occurs first. IC 5-14-3-9(b).

APRA also provides that:

[i]f a person requests by mail or by facsimile a copy or copies of a public record, [without written acknowledgement or denial,] a denial of disclosure does not occur until seven (7) days have elapsed from the date the public agency receives the request.

IC 5-14-3-9(c). It is unclear if the APRA request was in person or in writing.

Respondent failed to respond to the APRA request until September 18, 2025, and October 6, 2025, respectively, when partial production of the records took place. This delay constitutes a constructive denial under the statute with no explanation as to why it was delayed.

Respondent subsequently stated she would provide Complainant with a delegation of authority to access Gateway, an available website maintained at the direction of the State of Indiana, which includes much of the information requested. However, the Respondent withheld access after Complainant

prepared and provided, as directed by Respondent, the necessary paperwork to authorize access.

Respondent states that the Complainant was offered a time and place to view the records on October 24, 2025, which Complainant declined. Respondent also states that she does not have to allow access to the Gateway system under APRA. Both of these responses fail to meet the issues underlying the complaint. Members of the governing body of the public agency shouldn't be required to submit APRA requests to get the information with which to do their statutory duties.

Complainant is a member of the Board. The Board has statutory duties found at IC 36-6-6 and those duties include approval of the annual report. The legislative body (Board) shall:

consider and approve, in whole or in part, the annual report of the executive. IC 36-6-6-9(a).

and

The legislative body may send for persons, books, and papers necessary in the examination of the report. IC 36-6-6-9(b).

The Board "shall fix the compensation of all officers and employees of the township." IC 36-6-6-10(c).

The Board "shall meet annually ... to adopt the township's annual budget". IC 36-6-6-11(a).

The Board "shall consider the estimates of expenditures made by the executive (Respondent)... and may approve or reject all or part of any estimate or item within an estimate." The Board "may require the executive to further itemize an estimate not sufficiently itemized." IC 36-6-6-11(b).

The Board, if it finds an emergency exists and a borrowing is required to meet the Township's current expenses, may take out a temporary loan. IC 36-6-6-15.

The Board does not operate in a vacuum nor is it expected to make the decisions and carry out the statutory duties of the board outlined above without current and supporting records and financial information.

This office opined in *Opinion of the Public Access Counselor 24-FC-62* as follows:

A township trustee is statutorily obligated to keep township records open for inspection under Indiana law. IC 36-6-4-3(3). Notably, subsections (5)

and (6) of that statute also require a trustee to receive and pay out township funds; and to examine and settle all accounts and demands chargeable against the township.

Therefore, there can be no question that the financial, business, and operational records of the township's administrative duties should be open to anyone who cares to inspect them.

This is especially true when an advisory board member seeks to inspect these records. The Board has a statutory interest in these records and should be freely available to them, without the need to send a public records request.... (emphasis added)

This office addressed a similar issue in *Opinion of the Public Access Counselor 20-FC-133* where the dispute was between the township trustee and advisory board member over access to the township's records and financial information:

Ind. Code § 5-14-3-3. While this provision is not absolute – there are slight exceptions to procedure – the disclosure of basic public records such as budgets, invoices, and financial records of a public entity are the mainstays of government transparency.

Plainly enough, the public has the unequivocal right to inspect and copy records it seeks to scrutinize. It is not merely enough for an office holder to open the doors to his office without also providing a means to send a requester away with copies, either on the agencies copier, or their own device.

Opinion 20-FC-133 goes on to say:

Insofar as information sharing between public officials is concerned, a township trustee is not the exclusive record holder for the township. The advisory board is also designated as a statutory record holder and is privy to all the information a trustee has in their possession in order to scrutinize the annual financial report. See Ind. Code § 36-6-6-9. (emphasis added)

It also bears mentioning that any obligation a trustee has to, keep a record or piece of information confidential, transfers to a board member to keep private as well. See Ind. Code § 5-14-3-6.5.

In sum, it would behoove both parties to heed these guidelines and recommendations. A trustee need not be territorial about the information in their office and provide the information to those who seek it, unless an exception applies. At the same time, a township board member should be

mindful of the operational considerations of a trustee and be a good steward of sensitive or unfinalized material.

It is time sensitive for the Board to receive information with which to fulfill their statutory duty to approve documents, reports and budgets, including the financial health of the township. We believe the requests by the Board to the township trustee provided ample time to fulfill the request, without the need to submit an APRA request.

CONCLUSION

This office finds that Respondent violated APRA by failing to provide the records as requested.



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