



STATE OF INDIANA

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Re: Complaint 25-FC-345
James E. Totton (Complainant) v.
University of Southern Indiana (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed October 5, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on December 5, 2025, requesting a formal response by January 6, 2026. A formal response, submitted by Partner Mark McAnulty of Kahn, Dees, Donovan & Kahn, LLP, on behalf of Respondent was received on January 6, 2026.

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

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).

APRA contains exceptions-both mandatory and discretionary to the general rule of disclosure. APRA prohibits a public agency from disclosing certain records unless access is specifically required by state or federal statute or is ordered by a court under the rules of discovery. IC 5-14-3-4(a). In addition, APRA lists other types of records that may be excepted from disclosure at the discretion of the public agency. IC 5-14-3-4(b).

Complainant filed an Access to Public Records (APRA) request on September 25, 2025, seeking: *All emails, memoranda, meeting notes and electronic communications created between July 4, 2024 and September 25, 2025[,]* between eight (8) specified individuals and an unknown number of graduate assistants, including fourteen (14) separate search terms.

Complainant filed a separate APRA request on September 30, 2025, seeking: *All emails, notes and internal communications between ...* two (2) specified professors and three (3) specified faculty members of Respondent for the period July 1, 2025 and September 30, 2025.

APRA states that if a person makes a request by phone or in person, the public entity needs to acknowledge the request within 24 hours. However, if a person submits the request by email, fax or postal mail, the public entity has seven (7) days to acknowledge the request. If the request is not acknowledged within these timeframes, it is considered a constructive denial. IC 5 14-3-4.4(c)(1) and (2).

Once the public entity has acknowledged the request, it has additional “reasonable” time to research and produce the documents that have been requested. *Opinion of the Public Access Counselor 25-FC-096.*

While the requests were acknowledged immediately, Complainant had not received any of the requested records at the time of filing the complaint on October 5, 2025, but agreed to revise the records request on October 6, 2025.

Respondent’s initial response to the records request, dated October 2, 2025, was that the requests were not reasonably particular and invited Complainant to refine the request, even suggesting language. Complainant initially accepted the revised format but subsequently withdrew his approval. Subsequent emails between the parties attempted to narrow the request and define the records for a search. On November 7, 2025, a ShareFile link of documents was provided to Complainant by Respondent’s attorney. Further emails from Complainant alleged omissions from the records provided, wherein Respondent produced additional documents.

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.”

The record requests sought copies of all email messages and other communications between multiple individuals regarding multiple terms and

periods of time. This office agrees that the initial requests lacked reasonable particularity.

This office has given guidance on the four (4) aspects of what is required to identify emails for purposes of record requests. The aspects are:

- 1) a named sender;
- 2) a named recipient;
- 3) a reasonable time frame and
- 4) a subject matter or set of unique and connected words.

Opinions of the Public Access Counselor 23-FC-59 and 25-FC-074.

In *Anderson v. Huntington County Bd. Of Commissioners*, 983 N.E.2d 613 (Ind. Ct. App. 2013) the Indiana Court of Appeals held that an identified sender and recipient of an email are necessary for a request to satisfy APRA's reasonable particularity standard. Anderson also referenced the trial court which "stated that allowing requests such as Anderson's would permit a "fishing expedition[.]" quoted again in *Opinion of the Public Access Counselor 13-FC-81*.

Complainant also alleges that the Respondent took an unreasonable time to respond and deliver the records as requested. Noting that the Respondent immediately informed Complainant that its September records request lacked reasonable particularity, it was not until October 6, 2025, that the parties agreed upon a revised records request.

A public agency may not deny or interfere with the exercise of the right to inspect or copy records. If the public agency does not deny the request, within a reasonable time after the request is received by 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).

APRA does not define the term "reasonable time". This office has in the past provided guidance on what would be considered a reasonable time for purposes of compliance with the APRA provisions. An informal benchmark this office observes for a typical response time would be thirty (30) days from the receipt of the request. *Opinions of the Public Access Counselor 20-FC-87 & 25-FC-177.*

However, this office has further observed that many requests cannot be fulfilled within thirty (30) days for a variety of reasons. In those circumstances, this office considers the following factors:

- (1) the size of the public agency;
- (2) the size of the request;
- (3) the number of pending requests;
- (4) the complexity of the request; and
- (5) any other operational considerations or factors that may reasonably affect the public records process.

Opinion of the Public Access Counselor 25-FC-071.

The requests by Complainant were not denied but were identified as not being reasonably particular in order to conduct a search for records. The date of requests did not begin, for purposes of a reasonable time determination, until October 6, 2025, when Respondent had a request that it could practicably search. Records were provided to Complainant on November 7, 2025, as well as follow-up dates for records that were more reasonably defined for production.

CONCLUSION

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



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