



# STATE OF INDIANA

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August 7, 2026

Re: Complaint 25-FC-353  
Eileen T. Mark (Complainant) v.  
City of Michigan City (Respondent)

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

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on November 17, 2025, requesting a formal response by December 17, 2025. A formal response, submitted by Amber Lapaich-Stalbrink of Office of Corporation Counsel on behalf of Respondent, was received by this office on December 1, 2025.

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).

Complainant filed two (2) APRA requests on August 27, 2025. the first request sought copies of records pertaining to the Project Maize development of:

- 1) Municipal bond insurance & credit risk analysis.
- 2) Insurance policy exclusions & endorsements.
- 3) Performance bonds & escrow security instruments
- 4) Emergency response & public safety coverage

- 5) Subcontractor and security contractor liability framework/ Internal correspondence & risk assessments.

The request sought records from January 1, 2022, to present.

A second request submitted August 27, 2025, sought the following records regarding the Project Maize development:

- 1) Michigan City Economic Development Corporation (MCEDC) board governance & conflict analysis.
- 2) Non-disclosure agreements & transparency compliance.
- 3) Environmental justice & community impact analysis.
- 4) Municipal fiscal risk & internal correspondence.
- 5) Regulatory compliance & permitting coordination.

The second request sought records from January 1, 2022, to present.

Respondent replied to Complainant that the August 27, 2025, requests had been submitted through a new website portal for record requests. Respondent informed Complainant that it had been unaware that the website portal was functional and asked Complainant to resubmit the two (2) requests on a prescribed form that Respondent supplied to Complainant. On September 19, 2025, Complainant resubmitted the APRA requests as requested by Respondent.

Complainant acknowledges Respondent's responses of September 15 and 19, 2025, which stated that the Department of Water Works and Controller, respectively, had no responsive records. On October 16, 2025, Respondent's Director of Public Works notified Complainant that Respondent had been the victim of a cyberattack, beginning September 23, 2025, which had resulted in a disruption of the City's network.

Respondent states that Complainant was never denied records, but notified that Respondent experienced a computer service disruption and could not provide an update on her request or a timeframe, but would process requests as soon as possible. Complainant filed her complaint on November 10, 2025.

Respondent on November 13, 2025, responded to the first APRA request stating that the project was not Respondent owned, and therefore, to the best of its knowledge, did not have any responsive records.

On November 17, 2025, Respondent submitted a response to Complainant for the second part of the APRA request. Respondent went line by line responding to Complainant's second request, beginning with stating that the MCEDC records were not maintained by the Respondent. Respondent went on to:

- provide to Complainant several records which it did hold,
- referred Complainant to an online source for other records,
- declined some requests because the records did not exist, and
- informed Complainant that certain requests lacked reasonable particularity and could not be fulfilled as requested.

More specifically, Respondent identified the request “Non-Disclosure Agreements & Transparency Compliance – Confidentiality scope limitations and public disclosure triggers.” as lacking reasonable particularity, as well as the requests for “correspondence,” and “emails” and “memos” that were among and between numerous individuals.

APRA provides that a request for inspection or copying of public records must:

- 1) Identify with reasonable particularity the record being requested; and*
- 2) Be, at the discretion of the agency, in writing on or in a form provided by the agency.*

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

APRA does not define the term “reasonable particularity”. The term has been addressed by the courts.

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.”

Generally, the requests for all emails, text messages or correspondence between unnamed individuals will be deemed to lack reasonable particularity. The search for emails, text messages and correspondence can be narrowed down to provide an identification for specific records.

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

- 1) a named sender;
- 2) a named recipient;
- 3) a reasonable time frame (e.g. six months or less) 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.

Respondent, in its response to Complainant, offered to continue the record search if Complainant was able to narrow the request. Respondent did not deny Complainant's request for records but invited her to revise her requests which lacked reasonable particularity.

Complainant alleges that Respondent did not respond to the record requests in a reasonable time frame.

APRA provides that if the public agency does not deny the request, within a reasonable time after the request is received by the agency the agency shall provide the requested copies to the person making the request. 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. *Advisory Opinion of the Public Access Counselor 20-FC-87.*

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 time frame for consideration of timely production of the records begins either on first submission of August 27, 2025, or September 19, 2025, when Respondent received and acknowledged the written APRA request. Respondent replied to Complainant on numerous dates that records did not exist, Respondent was a victim of the cyber attack and subsequently provided records and reasons why certain parts of the APRA requests could not be fulfilled.

Given that the detailed responses were made on November 13, 2025, and November 17, 2025, and records delivered by November 17 after suffering the cyberattack, we do not find even the longest timeframe of less than three (3) months (August 27, 2025 to November 17, 2025) to be unreasonable.

*A public agency shall ... regulate any material interference with the regular discharge of the functions or duties of the public agency or employees.* IC 5-14-3-7(a). APRA does not require a public agency to abandon routine job responsibilities to address APRA requests but does acknowledge that those requests are part of the routine job responsibilities.

## **CONCLUSION**

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

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