



STATE OF INDIANA

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July 31, 2026

Re: Complaint 25-FC-386
Stephanie J. Neese (Complainant) v.
Clay Center Elementary School (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed November 24, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on February 8, 2026, requesting a formal response by March 18, 2026. A formal response, submitted by Attorney Andrew Manna of Church Church Hittle + Antrim on behalf of Respondent, was received in this office on March 13, 2026.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide a copy of a video recording.

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 APRA request on November 11, 2025, for a copy of a bus security video involving a group of students engaged in an altercation and alleged assault on November 10, 2025.

On November 12, 2025, Respondent denied access to the video under the Federal Education Rights and Privacy Act (FERPA) because multiple students were involved. In email exchanges between Complainant and Respondent the option of redacting the other student’s images from the video was discussed

but rejected due to the provisions under FERPA. On November 17, 2026, Respondent, after discussion with its counsel, contacted Complainant and offered the opportunity for Complainant to review the video but not obtain a copy.

APRA under IC 5-14-3-4(a) provides:

(a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law....

FERPA is a federal statute that classifies student educational records as confidential, with limited exceptions. Indiana also restricts educational records as confidential. IC 20-33-7-3(b).

Respondent, on November 17, 2025, provided the Complainant an opportunity to review the video as provided by FERPA regulations and school policy. Complainant chose not to do so.

The tension between FERPA and APRA has evolved over the years. This office addressed a very similar issue in *Opinion of the Public Access Counselor 14-FC-272*:

An agency is prohibited from granting access to inspect and copy a public record that is declared confidential pursuant to either state or federal law. See Ind. Code § 5-14-3- 4(a)(1) and (3). The School has provided that FERPA and its state law analog, Ind. Code § 20-33-7, prohibit the School from disclosing the videotapes. The Family Policy Compliance Office (“FPCO”) of the branch of the Department of Justice has been tasked with interpreting FERPA. The FPCO has stated once school video surveillance becomes relevant to a particular student for a particular purpose (i.e. discipline) and it is maintained by the school for that purpose, it becomes a protected “education record” of that student. Initial guidance from the FPCO in Letter re: Berkeley School District (October 31, 2003) states that a parent may only inspect a school videotape showing his or her child engaged in misbehavior if no other students are pictured.

However, consider the following from the U.S. Department of Education's website:

Schools are increasingly using security cameras as a tool to monitor and improve student safety. Images of students captured on security videotapes that are maintained by the school's law enforcement unit are not considered education records under FERPA. Accordingly, these videotapes may be shared with parents of students whose images are on the video and with outside law enforcement authorities, as appropriate.

<http://www2.ed.gov/policy/gen/guid/fpc/brochures/elsec.html>.

The guidance clearly differentiates between video footage captured by a school's 'law enforcement unit' and general school safety video surveillance. The U.S. Department of Education is seemingly recognizing the rights of parents to view this kind of footage if their child is depicted on the video.

But with the FPCO issuing seemingly contradictory guidance, it is difficult to ascertain the intent of FERPA as it relates to school bus video footage. Other jurisdictions have issued rulings on the matter, however, Indiana has yet to do so. FERPA essentially acts as an incentive program. One of the elements is if a school protects student education records, the U. S. Department of Education will continue to provide Federal funding to the school. Naturally, this consideration will motivate a school to be particularly mindful of releasing any record identifying a student. And while I am not aware of an instance where a school has been denied funding for disclosing bus video footage, I understand the stance the School has taken in the immediate case.

I have indeed advised schools that I believe there is a worthy interpretation of FERPA to allow video footage to be viewed by parents. As such, some School corporations choose to allow inspection of such footage. I issue this guidance because the APRA mandates access laws are to be interpreted liberally and its exceptions to disclosure construed conservatively. However, the School's arguments are sound and well-reasoned. They are rooted in law and not unreasonable. Thus, I also find there is a legitimate argument for withholding school bus surveillance video.

Therefore, I make the recommendation that the School allow you to inspect, but not copy the video. But this inspection is at the discretion of the School. It is advisory only and I cannot compel them to do so. I do not believe the

School will run afoul of FERPA privacy considerations if they choose to allow you access.

Additionally, current information disseminated by FERPA allows for the review by a student's parent, of a video dealing with an altercation among more than one student. <https://studentprivacy.ed.gov/faq/faqs-photos-and-videos-under-ferpa>.

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 "Jennifer" being more prominent.

Jennifer G. Ruby
Public Access Counselor