



STATE OF INDIANA

MIKE BRAUN, Governor

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August 14, 2026

Re: Complaint 25-FC-472
Trevor C. Long (Complainant) v.
Town of Claypool (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed December 30, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on February 26, 2026, requesting a formal response by March 25, 2026. A formal response, submitted by Attorney Rama Sobhani of Rockhill Pinnick, LLP on behalf of Respondent, was received in this office on March 20, 2026.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide or deny records in a reasonable amount of time.

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(s). 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 October 8, 2025, seeking certain meeting minutes from the Respondent. Respondent agrees that it did not respond until March 3, 2026, after this complaint was filed.

When a requestor does not receive an acknowledgement within the appropriate time period, here 7 days, a constructive denial has occurred. IC 5-14-3-4.4(c)(1) and *Opinion of the Public Access Counselor 25-FC-096*.

Complainant then must file a complaint with this office within 30 days of the alleged violation or denial or the complaint is barred. IC 5-14-5-7.

However, Complainant seemed to believe the response from Respondent was merely untimely and filed his complaint on December 30, 2025. When the Notice of Complaint was forwarded to Respondent on February 26, 2026, Respondent reviewed the complaint.

Respondent responded to Complainant on March 3, 2026, “confirming that counsel reviewed the Town’s records and that the specific “vote minutes” requested do not exist because no official vote was ever taken to authorize a marshal contract.” Respondent gave a detailed response explaining events chronologically related to Complainant’s inquiry. However, Respondent’s response discusses the situation from November forward, which may answer Complainant’s ultimate question, but Complainant made his request on October 8, 2025, which seems to indicate Complainant was looking for records dated October 8 or earlier. Whether there were responsive records in this date range is unclear.

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. *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-034.

Respondent's response argues essentially that it cannot violate APRA when responsive documents do not exist. We agree that:

A public agency is not required to create a record that does not exist and is not required to produce a record it does not have.

Opinion of the Public Access Counselor 25-FC-136.

However, both Respondent and Complainant should know when an APRA request has been closed. Complainant opened his APRA request on October 8, 2025, but it was not closed until March 3, 2026, when Respondent notified him, about five (5) months later. *Opinion of the Public Access Counselor 25-FC-380.*

CONCLUSION

This office finds that Respondent violated APRA by not providing a response to Complainant's request within a reasonable period of time.

Respondent's response satisfies Complainant's APRA request.

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