
OPINION OF THE PUBLIC ACCESS COUNSELOR

JOHN P. GRIFFIN,
Complainant,

v.

FRANKLIN TOWNSHIP SCHOOL CORPORATION,
Respondent.

Formal Complaint No.
17-FC-146

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Franklin Township Community School Corporation (“FTCSC” or “School Corporation”) violated the Access to Public Records Act (“APRA”). Ind. Code §§ 5-14-3-1–10. The School Corporation responded to the complaint on July 10, 2017, via Attorney Jonathan L. Mayes. The response is enclosed for review. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on June 26, 2017.

BACKGROUND

On June 8, 2017, John P. Griffin (“Complainant”) submitted a public records request to the School Corporation seeking a copy of all documentation supplied by SCS Construction Services, Inc. showing that the entity had been qualified by either the Indiana Department of Administration or the Indiana Department of Transportation—as required by statute—prior to commencing any work on the Bunker Hill Elementary School construction project.

Five days later, attorney Jonathan L. Mayes—counsel for the School Corporation—responded by letter, stating that if the Complainant’s request is deemed a request under APRA, then it had been received and was being processed accordingly.

On June 26, 2017, Mr. Griffin filed a formal complaint with this office, alleging an APRA violation by the School Corporation because an unreasonable amount of time had elapsed since he submitted the request without acknowledgment or production of the records.

The School Corporation denies that an APRA violation has occurred in this case. In its response on July 10, 2017, the School Corporation offers several arguments disputing Griffin’s allegation of an APRA violation.

First, the School Corporation contends that only twelve business days had passed when Griffin filed a formal complaint with this office. FTCSC also stated that the Complainant never requested a status update on the request prior to filing a formal complaint with this office. Second, the School Corporation argues that the Complainant’s request has not

been made with *reasonable particularity* as required by APRA because the request is too broad and seeks only general information rather than records. Third, the School Corporation contends that fulfilling Griffin's request would require FTCSC to create a document that does not exist, something that is not required under APRA.

Despite these arguments, the School Corporation stated that it provided the Complainant with documents potentially relevant to his request on July 7, 2017.

ANALYSIS

The Access to Public Records Act ("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." Ind. Code § 5-14-3-1. The Franklin Township School Corporation is a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2(n). Therefore, any person has the right to inspect and copy the School Corporation's public records during regular business hours unless the records are exempt from disclosure as confidential or otherwise under the APRA. Ind. Code § 5-14-3-3(a).

In general, if the requested record (1) is a public record from a public agency; (2) is not exempt from disclosure; and (3) is identified with reasonable particularity, the public agency cannot deny access to the record under APRA. If a request

has not been denied in accordance with APRA, then the public agency must provide the records within a *reasonable time* after the request is received.

Reasonable Time

The crux of this complaint is whether the School Corporation violated APRA by failing to provide the Complainant with disclosable public records within a *reasonable time*. This analysis, like others under APRA, is decided on a case-by-case basis. To determine whether a public agency has provided records within a reasonable time, I consider multiple factors including:

- How broad is the request;
- How much time has elapsed;
- The location of the records;
- How much, if any, redaction is necessary;
- At the time of the request, is it a seasonably busy time at the agency;
- Any other relevant factors.

In addition, I recommend open communication between the parties on when these issues arise. For instance, status updates and piecemeal disclosures of records. Indeed, a shrewd requestor should also follow up with the agency or the agency's legal counsel to check the status of the request and encourage a response.

In this case, the Complainant filed a formal complaint with this office *twelve* business days after he submitted a written records request to the School Corporation. Under APRA, a public agency must respond to a written request within

seven days of receiving a written request or the request is denied. *See* Ind. Code § 5-14-3-9(c). The parties agree that the School Corporation responded to the request by letter on June 13, 2017. In that letter, FTCSC’s counsel Jonathan Mayes stated:

“In the event that your request is deemed a request under Indiana’s Access to Public Records Act, your request is received and being processed in accordance with Indiana’s Access to Public Records Act.”

The School Corporation’s initial response here is enough—in this case—for purposes of APRA. The response was timely and indicated the request was being processed. Because the Complainant’s request was not denied under APRA, the School Corporation’s obligation to provide the requested records with a *reasonable time* is triggered.

FTCSC argues that the time frame between its initial response and Mr. Griffin’s formal complaint spanned several vacations and significant staff transition at the School Corporation. This transition included the resignation of FTCSC’s Chief Financial Officer—and main point of contact— Chad Blacklock. It is worth noting that the Complainant submitted the records request at issue in this complaint to Blacklock on June 8, 2017.

Here, the lapse of twelve days does not violate APRA’s reasonable time standard.

As for the issue of reasonable particularity, it appears as if the Complainant identified a set of documents which may or

may not contain the information he seeks. The School indicates it was able to interpret the document and produce some responsive documents. Although not defined in the APRA, the Indiana Court of Appeals addressed the issue of reasonable particularity in the APRA in *Jent v. Fort Wayne Police Dept.*, 973 N.E.2d 30 (Ind. Ct. App. 2012). The Court in *Jent* held:

Whether a request identifies with reasonable particularity the record being requested 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.

By providing responsive documents, it appears as if that standard was indeed met.

CONCLUSION

Based on the foregoing, it is the opinion of the Public Access Counselor that the Franklin Township Community School Corporation did not violate the Access to Public Records Act.



Luke H. Britt
Public Access Counselor