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**OPINION OF THE PUBLIC ACCESS COUNSELOR**

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BOB SEGALL,  
*Complainant,*

v.

HAMILTON SOUTHEASTERN SCHOOL DISTRICT,  
*Respondent.*

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Formal Complaint No.  
17-FC-275

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Luke H. Britt  
Public Access Counselor

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BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Hamilton Southeastern School District (“HSE”) violated the Access to Public Records Act<sup>1</sup> (“APRA”). HSE responded to the complaint through attorney Liberty Roberts. 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 December 22, 2017.

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<sup>1</sup> Ind. Code §§ 5-14-3-1 to -10

## BACKGROUND

Bob Segall (“Complainant”), through the Reporters Committee for Freedom of the Press, filed a formal complaint alleging the Hamilton Southeastern School District violated the Access to Public Records Act by failing to produce public records sought under Ind. Code § 5-14-3-4(b)(8).<sup>2</sup>

On or about October 30, 2017, the Complainant sought information from HSE as to a named employee’s personnel file. Specifically, he requested the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment. All of these items must be disclosed pursuant to Ind. Code § 5-14-3-4(b)(8)(A) even though they are part of an employee’s personnel file, which is generally released or withheld at the discretion of the employing public agency.

HSE responded with the information in the form of a summary compilation taken from other public record sources. The Complainant takes exception, arguing that the public records themselves must be released instead of an amalgamation extrapolated from original records.

For its part, HSE argues Ind. Code § 5-14-3-4(b)(8) merely requires the information listed in the statute to be disclosed and makes no mention of disclosing the actual public documents in a personnel file. If the records themselves would

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<sup>2</sup> This Opinion will only address information sought pursuant to Ind. Code § 5-14-3-4(b)(8)(A). The “factual basis” issue has been taken up by this Office on two prior occasions and will not be opined upon further here.

require disclosure, then the documents would require excessive redaction. For example, it argues that because “name” is a required piece of information to be disclosed, then every document with the employee’s name in his or her personnel file would ostensibly need to be released with the remainder of the document potentially redacted.

### **ANALYSIS**

This formal complaint presents an issue of whether a summary document with information provided in Ind. Code § 5-14-3-4(b)(8) is sufficient to meet disclosure requirements or if the actual record would require disclosure with sensitive information redacted.

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 Hamilton Southeastern School Corporation is a public agency for the purposes of the APRA, and subject to its requirements. Ind. Code § 5-14-3-2(n). Therefore, any person has the right to inspect and copy the School’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. Ind. Code § 5-14-3-3(a).

While personnel files of public employees are generally allowed to be kept in-house by an agency, Ind. Code § 5-14-3-

4(b)(8) requires the disclosure of the following information from an employee's personnel file:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

Typically, the Access to Public Records Act does not require the creation of records to satisfy a request, but this Office has held that there are limited circumstances when this is not only convenient, but necessary. This subsection of the Access to Public Records Act does not mention the words "records," "documents" or "work product" as similar subsections do. A reasonable inference can be made that the General Assembly did not intend to require the information listed in Ind. Code § 5-14-3-4(b)(8) to be the records themselves, but rather pulled from other sources and combined to create a new record with the requisite facts.

Make no mistake, the information listed in Ind. Code § 5-14-3-4(b)(8) is required to be maintained in some shape or form by the agency in a personnel file, but it can be disseminated in aggregate form as a new record. The abstract becomes an

entirely new public record but is satisfactory for the purposes of the Access to Public Records Act so long as the underlying information is accurate as to the original.

### **CONCLUSION**

Based on the foregoing, it is the opinion of the Public Access Counselor that the Hamilton Southeastern School Corporation did not violate the Access to Public Records Act by extracting the information listed in Ind. Code § 5-14-3-4(b)(8)(A) from original personnel files and presenting them in summary form.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt  
Public Access Counselor