
OPINION OF THE PUBLIC ACCESS COUNSELOR

KYLE A. HURD,
Complainant,

v.

PULASKI COUNTY AUDITOR,
Respondent.

Formal Complaint No.
19-FC-58

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Pulaski County Auditor's Office violated the Access to Public Records Act.¹ Attorney Kevin C. Tankersley filed a response to the complaint on behalf of the agency. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the amended formal complaint received

¹ Ind. Code § 5-14-3-1 to 10.

by the Office of the Public Access Counselor on July 26, 2019.

BACKGROUND

Kyle A. Hurd, editor of the *Francesville Tribune*, filed a formal complaint alleging Pulaski County Auditor Laura Wheeler violated the Access to Public Records Act by failing to provide copies of approved minutes and memoranda from the meetings of the Pulaski County Board of Commissioners and the Pulaski County Council.

Hurd asserts that the auditor has not responded to his requests for these public records at all. Although he did not include any of the requests with his complaint, Hurd contends he sent his most recent request to the auditor on July 10, 2019. Hurd bases his complaint on certain statutes in title 36 of the Indiana Code, which designate the county auditor as the clerk for the county executive and fiscal body.

Pulaski County denies that the auditor violated APRA. Specifically, the county asserts that Hurd failed to complete the appropriate public access request form for the records he wanted and did not appear in person at the auditor's office to inspect the records.

ANALYSIS

1. The Access to Public Records Act ("APRA")

It is the public policy of the State of Indiana that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Ind. Code § 5-14-3-1. 5

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.” *Id.* The Pulaski County Auditor’s office is a public agency for the purposes of APRA; and thus, subject to the act’s requirements. Ind. Code § 5-14-3-2(n). Unless otherwise provided by statute, any person may inspect and copy the auditor’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Further, a request for inspection or copying 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.

Ind. Code § 5-14-3-3(a)(1), -(2). Here, Hurd alleges the Pulaski County Auditor violated APRA by failing to respond his email requests for certain minutes and memoranda from the meetings of the county commissioners and county council.

Pulaski County, by ordinance, requires requests for public records to be on a specific form. The county contends that Hurd never made a request on the requisite form. As a result, Pulaski County contends it did not violate APRA and Hurd’s complaint lacks merit.

Plainly enough, APRA authorizes a public agency to require requests for public records to be “in writing on or in a form provided by the agency.” Ind. Code § 5-14-3-3(a)(2).

Notably, Hurd did not provide this office with copies of his requests for records. He also does not assert that he made his requests on the form required by, and provided by the county.

That ends this matter in favor of Pulaski County.

Although this office will not offer any opinion about the wisdom of ignoring emails or phone calls from a member of the local media, the APRA bestows public agencies with the discretion to require requests for records to be in writing on or in a form provided by the county.

CONCLUSION

Based on the foregoing, it is the opinion of the Public Access Counselor that Pulaski County did not violate the Access to Public Records Act.

A handwritten signature in black ink, appearing to be 'LH Britt', written in a cursive style.

Luke H. Britt
Public Access Counselor