
OPINION OF THE PUBLIC ACCESS COUNSELOR

KRISTIN HOFFMAN,
Complainant,

v.

KOSCIUSKO COUNTY,
Respondent.

Formal Complaint No.
19-FC-80

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging Kosciusko County violated the Access to Public Records Act.¹ The County responded via Legal Counsel Chad M. Miner. 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 September 3, 2019.

¹ Ind. Code § 5-14-3-1 to 10.

BACKGROUND

This case involves a dispute over access to copies of documents requested by Ms. Hoffman and Kosciusko County's assertion that the request was not reasonably particular.

On August 10, 2019, Ms. Kristin Hoffman ("Complainant"), submitted a public records request to the Kosciusko County (County) attorney seeking the following:

[C]opies of all of the Kosciusko County settlement agreements involving Kosciusko County and/or any Kosciusko County employees from July 1, 2017 – July 1, 2019 (07/01/17 – 07/01/19).

The County responded by inviting Complainant to narrow down the request by defining the term "settlement agreements". The Complainant expressed incredulity that the County would require a particularized description of the documents requested. When the County's position was reiterated, Complainant filed her formal complaint with this office arguing she suspects only 10-15 settlement agreements could possibly exist in a county the size of Kosciusko.

In its response, the County argues the term "settlement agreement" is too vague for the County to initiate a search and could entail any manner or number of "agreements" formal or otherwise.

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.* Kosciusko County 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 County’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

The lone obligation on the part of a requester before the burden shifts to a public agency for a search of its records is that the request itself gives an adequate description of the documents sought. The APRA refers to this as “reasonable particularity.”²

“Reasonable particularity” is not defined by case law or statute and is indeed a subjective case-by-case determination. This office will scrutinize the elements of the request to make that determination.

² Ind. Code § 5-14-3-3(a)(1)

First, the request is for a span of two years. Although not an absolute rule, this is the first indication a requestor may or may not know a specific document exists, but is casting a wide net hoping a responsive record falls into that timeline.

Additionally, the request is not for any specific settlement agreement but “all” settlement agreements untethered to any specific individual, department or subject matter. This office agrees that the request does not qualify what documents it is seeking with a reasonable level of particularity.

If the term was limited to a department, individual or subject matter, the burden would indeed shift to the County for a response.

CONCLUSION

Based on the foregoing, it is the opinion of the Public Access Counselor that Kosciusko County has not violated the Access to Public Records Act.

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the right.

Luke H. Britt
Public Access Counselor