
OPINION OF THE PUBLIC ACCESS COUNSELOR

SARA WALSH,
Complainant,

v.

BROWN TOWNSHIP TRUSTEE – HENDRICKS
COUNTY
Respondent.

Formal Complaint No.
24-FC-82

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to the formal complaint alleging the Brown Township Trustee violated the Access to Public Records Act.¹ Attorney Jeffrey Bellamy filed an answer on behalf of the agency. In accordance with Indiana

¹ Ind. Code § 5-14-3-1-10.

Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on November 11, 2024.

BACKGROUND

This case involves a dispute over access to personnel records of a named former employee.

On September 11, 2024, Complainant Sara Walsh submitted a public records request to the Brown Township Trustee (Trustee) for records of a former employee. She sought records listed in the personnel file statute – Indiana code section 5-14-3-4(b)(8) – as well as financial records such as pay stubs, time sheets and payroll records.

Walsh’s request was timely acknowledged. After a follow-up status request, some records were provided on October 9. She received some, but not all, of the records requested and she filed her complaint dated October 30, 2024.

For its part, the Trustee responded on December 20. The Trustee argues that the Township did not have all of the records responsive to the request, but followed up with additional information. Furthermore, the Township considers financial payroll records to be part of the personnel file and therefore non-disclosable.

ANALYSIS

1. The Access to Public Records Act

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. Brown Township of Hendricks County is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the Township’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Indeed, APRA contains mandatory exemptions and discretionary exceptions to the general rule of disclosure. *See* Ind. Code § 5-14-3-4(a) to -(b).

2. Personnel records

This opinion revisits the personnel file issue and what is disclosable under the law.

Under APRA, a public agency has discretion to withhold from public disclosure an employee’s personnel file. *See* Ind. Code 5-14-3-4(b)(8). At the same time, an agency must publicly disclose certain personnel file information. Ind. Code § 5-14-3-4(b)(8)(A) to -(C).

The first part of Walsh’s request largely mirrors the statute and seeks first and last dates of employment and the

disciplinary records listed in subsection Indiana code section 5-14-3-4(b)(8)(C).

While the APRA does not, in most cases, mandated the creation of records, at minimum, an employee agency should have the following on file:

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

Per the Indiana Supreme Courts ruling in *WTHR-TV v. Hamilton Southeastern Schools*, 178 N.E.3d 1187 (2022), an agency can create a summary document of these items as opposed to cobbling together actual existing documents. In its response, the Township did so.

What remains, however, is the financial documents related to actual payroll. As the Township correctly notes, the Indiana Gateway can be a one-stop shop for total compensation. The Gateway, however, does not offer a breakdown of each pay period and hours worked, something Walsh has sought.

Since 2001, this office has considered those to be financial records and not part of the personnel file². It remains the position of the public access counselor that these records cannot be shielded from disclosure by including them in a

² *Opinion of the Public Access Counselor 01-FC-02.*

personnel file. Payroll records are typically housed in a fiscal agent's office and not in the human resources department.

Therefore, a request for payroll records, if submitted with specificity, can be a legitimate request and is mutually exclusive from a personnel file request. Notably, there is a wealth of information that can be redacted from these records such as, but not limited to: deposit account numbers, withholdings, benefit elections, etc.

Even still, the request must be artfully crafted with reasonable particularity. Here, the request sought four months' worth of payroll records. This snapshot window is likely specific enough to be manageable and reasonable. Much more than that, and a request would become an audit – something the APRA does not contemplate.

All of that stated, some of the records requested may truly not exist. For example, not all agencies require employees to punch a clock or log hours. To the extent it does not, timesheets would not need to be created and only employee time policies provided (which the Township did provide). But to the extent hours are logged, they are fair game and are a common request statewide. Typically they are requested of law enforcement officers who work overtime, but it would follow that any public employee could have them.

CONCLUSION

Based on the foregoing, it is the opinion of this office that payroll records and personnel file records are different categories of documentation. To the extent they exist, I encourage the Township to provide them consistent with this opinion.

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

Luke H. Britt
Public Access Counselor

Issued: January 28, 2025