



STATE OF INDIANA

MIKE BRAUN, Governor

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December 17, 2025

Re: Complaint 25-FC-002A
Joey D. Kimbrough (Complainant) v.
City of Kokomo (Respondent)

This advisory opinion is issued in response to the above-referenced complaint dated January 11, 2025.

A Notice of the Complaint, along with a copy of the complaint, was sent to the Respondent on January 16, 2025, requesting a formal response by February 7, 2025. A formal response, submitted by City Attorney T.J. Rethlake on behalf of Respondent, was received in this office on January 31, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act ("APRA") by not providing requested records and redacting a record without explanation.

ANALYSIS

The public policy of 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 is to provide the information." Indiana Code (IC) 5-14-3-1.

Respondent is a public agency for purposes of APRA; and therefore, subject to the requirements. IC 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy Respondent's public records during regular business hours. IC 5-14-3-3(a).

Between October and December 2024, Complainant exchanged several emails with Respondent regarding his APRA request. Respondent provided Complainant with a partial production of responsive documents. Complainant followed up with Respondent regarding the oaths of office for county elected officials and bond information. Respondent worked with the county clerk to provide Complainant with the oaths for most of the judges, even though the County, not Respondent, was the proper public agency for that request.

However, Respondent wrote that it did not have an oath for one of the judges or any bond forms. Respondent directed Complainant to the County Recorder's Office, another public agency, for the bond form. Respondent then stated that it had no additional responsive documents.

On January 17, 2025, Complainant received an email from this office noting that Respondent may not have the documents requested and suggesting other potential resources for obtaining the documents. Statutorily, those references could be the county recorder's office or the Indiana State Board of Accounts (SBOA) regarding the required bonding information, and the Indiana Supreme Court for attorney oath records from when the attorney was sworn in. In such cases, the records would not be maintained or in the control of Respondent.

Respondent provided Complainant with all responsive records it maintained and informed Complainant that it did not maintain the remaining requested records. According to previous advisory opinions, APRA does not require a public agency to create a record or conduct research to compile a record to satisfy a request for documentation. If Respondent has no documents responsive to Complainant's request, it did not violate APRA when it did not give Complainant additional documents.

If Respondent does not have a copy of the oaths or bond information in its possession for certain elected officials, Respondent may refer Complainant to other potential resources for obtaining these documents, but such a referral is not required under APRA.

Complainant also took issue with Respondent's redaction of the mayor's personal address in his Oath of Office. Respondent noted that the City uniformly redacts personal information, including home addresses, from disclosures under IC 5-14-3-4(b)(8), which gives public agencies the discretion to except from disclosure the personnel files of public employees, regardless of whether the information is available through other means. As such, Respondent did not violate APRA by redacting the home address of the Mayor from the Oath provided.

However, a public agency that denies a written request for a public record should include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record in its denial. IC 5-14-3-9. Respondent should have included the statutory exemption for redacting of the record in its initial response. If it did not, then Respondent violated APRA. Respondent did explain the redaction and provided the statutory citation for the exemption in its response letter to this formal complaint.

Complainant states that Respondent omitted the second page of the mayor's oath and did so in bad faith. Our office found no record that Complainant contacted Respondent about the missing second page. It is the requester's responsibility to contact the public agency to let them know that they did not provide complete

information. As such, if Complainant has not already done so, Complainant should contact Respondent and ask for the missing page.

This office only has jurisdiction related to the Open Door Law (ODL), which is found in IC 5-14-1.5, or APRA, which is found in IC 5-14-3. The broader issues Complainant notes in his complaint fall outside this office's jurisdiction.

CONCLUSION

This office finds that Respondent did not violate APRA by failing to provide records that it does not maintain. However, Respondent may have violated APRA by failing to state the exemption allowing for the redaction of information in the mayor's oath. However, Respondent corrected this potential deficiency by providing the exemption explanation in its response letter. All other matters fall outside the jurisdiction of this office.

A handwritten signature in black ink, appearing to read "Jennifer G. Ruby". The signature is fluid and cursive, with the first name "Jennifer" being more prominent.

Jennifer G. Ruby
Public Access Counselor