



STATE OF INDIANA

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November 7, 2025

Re: Complaint 25-FC-035
William Dittmann (Complainant) v.
Lake County Board of Elections (Respondent)

This advisory opinion is issued in response to the above-referenced complaint dated March 20, 2025.

A Notice of the Complaint, along with a copy of the complaint, was sent to the Respondent on March 21, 2025, requesting a formal response by April 14, 2025. A formal response, submitted by Michael Tolbert on behalf of Respondent, was received in this office on April 14, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act ("APRA") by not providing copies of minutes for meetings of the election board in a timely manner and denied the request for a copy of the draft minutes of the February 18, 2025, meeting.

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.

Accordingly, any person has the right to inspect and copy the public records during regular business hours of the agency.

According to the complaint, the Respondent did provide Complainant with the opportunity to view the draft of the minutes on the public computer, but the computer was not operational at the time Complainant tried to use it. The Respondent did allow the Complainant to view the draft minutes in the election board office immediately prior to the meeting where those minutes were on the agenda for approval.

The response by the Respondent confirms that Complainant requested meeting minutes and was given the January meeting minutes, which had been approved by the election board. The response goes on to state that the regular meeting minutes are recorded by a court reporter and then transcribed during the month for the next meeting and formal approval. It is unclear from the response when draft minutes are made available to the election board or its staff.

Again, Respondent confirmed, election board staff invited Complainant to view the minutes of the February board meeting on the public computer and when that was deemed non-operational, allowed Complainant to view the minutes on the staff computer or by paper copy, which could not leave the election board office. The timing on when the request was made to view the minutes and when it could have been made is a point of contention.

The issue becomes when are minutes to be prepared and when are they available to the public for viewing or copying. The APRA does not provide a guideline for when minutes must be prepared. General government practices provide that minutes are customarily approved at the next regular meeting of the board. The process for how minutes are prepared is also not regulated by APRA. Here, the board made the decision to hire a court reporter and have him or her transcribe the minutes. Respondent stated in their response that transcription of the minutes by the contractual court reporter was time consuming due to the large amounts of interaction during the meeting. This is evidenced by the bill provided to Complainant for the January meeting minutes of \$6.80, indicating that there were 68 pages of minutes.

The court reporter is a contractor, not a public agency, and his or her work product in this instance are meeting minutes. The court reporter usually records a meeting or hearing, both by using stenographer's machine and an audio recording device. The print outs from a "steno" machine cannot be read by a lay person. The court reporter then uses both to type up an accurate, verbatim account of what transpired. There are no decipherable draft minutes available to the public, unless or until the court reporter completes his or her job.

Complainant raises the issue that draft minutes should be made available to be copied and/or viewed prior to the final, approved version. Prior Public Access Counselors have deemed draft minutes as a public record, which every record that comes into, or is created by, a public agency is. However, what is not often re-cited is the full quote from 13-FC-167, which cites 98-FC-8 at 1:

Once created, draft or proposed minutes are public records, and nondisclosure must be based upon one of the exceptions outline in the APRA.

This Public Access Counselor deems draft minutes, by the nature of calling them “draft” as deliberative, exception IC 5-14-3-4(b)(6):

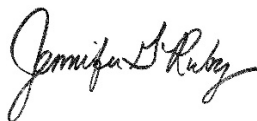
Records that are intra-agency or interagency advisory or deliberative material...that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision-making.

Releasing draft minutes should be at the discretion of the public agency. Some meeting minutes are ready, or in final form, for the board or body to approve, with no changes, at the next meeting, while others are discussed and debated with additions, subtractions, corrections, and other changes for various reasons in the public meeting, before the board or body deems them approved. Releasing different versions of draft meeting minutes, especially if not noted as “draft”, can create confusion, which this office has seen just this year. In most cases, draft minutes are approved at the next, often monthly, meeting, so the wait for “official” minutes should not be unreasonable.

Here, the February draft minutes were made available immediately prior to the meeting in which they would be approved. There appears to be no delay in providing minutes of the meetings in violation of APRA. In addition, APRA does not require the production of records that are not in existence and/or not in possession of the public agency.

CONCLUSION

This office finds that the Lake County Election Board (Respondent) did not violate the Access to Public Records Act (APRA) by denying access to draft minutes or taking an unreasonable time in making those draft minutes available.



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