



STATE OF INDIANA

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December 8, 2025

Re: Complaint 25-FC-068
Kelly Coleman-Potter (Complainant) v.
Town of Poneto (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed March 28, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 23, 2025, requesting a formal response by November 21, 2025. A formal response, submitted by Michael Hartburg of Hartburg Roth Garrott Halverstadt LLP on behalf of Respondent, was received in this office on November 17, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide a copy of Council President's notes, for statement given at the public meeting, and video clip, discussed at the public 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 it 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. *See* 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. *See* IC 5-14-3-3(a).

Respondent and APRA state the definition of public record in IC 5-14-3-2 as "any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency."

On March 17, 2025, Complainant filed a request for three (3) records: 1) a copy of statement read by the Council President, 2) a copy of the audio recording

from the same Council meeting, and 3) a copy of the video clip discussed at the same Council meeting, held on March 10, 2025. However, the video clip discussed was of the February 10, 2025, Council meeting.

Respondent states that the Complainant was given a copy of the audio files, which Complainant acknowledges.

Respondent also states that it does not have a copy of the statement that was read or the video clip discussed at the meeting in its possession.

As to the Council President's statement notes, speakers often will rely on notes to make oral comments. However, those notes could range from a few words to talking points to a statement read verbatim. If those notes are delivered to the Council during the meeting, then they become a public record. Otherwise, they remain personal notes, excepted from the public record under IC 5-14-3-4(b)(7), a discretionary exception held by the individual, Council President.

Speakers often change their speech to fit their audience or to emphasize the most important points. What was said during the meeting is the public record. Respondent states that Council President's comments from his notes should be in the audio record provided to Complainant.

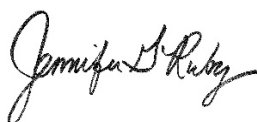
The Council President did not deliver his notes to the Council during the meeting. Therefore, they are not a public record. To receive these notes, he would need to release them, not the Council.

As to the video clip discussed, we understand the Council President did not create the video clip, nor did he play it during the meeting. The video clip was not recorded with, or presented during, the meeting, it was merely referred to. Therefore, it never became a public record subject to APRA.

Respondent noted that it "began videotaping its meetings in July," in accordance with Indiana law.

CONCLUSION

This office finds that Respondent did not violate APRA by failing to provide copies of records, which it did not have in its possession and were not public records.



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