



STATE OF INDIANA

MIKE BRAUN, Governor

**PUBLIC ACCESS COUNSELOR
JENNIFER RUBY**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317) 234-0906
Email: pac@opac.in.gov
Website: www.IN.gov/pac

January 9, 2025

Re: Complaint 25-FC-077
Alliance Defending Freedom (Complainant) v.
Indiana University (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed April 9, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 14, 2025, requesting a formal response by November 12, 2025. A formal response, submitted by Taylor Struble, Respondent's Assistant General Counsel, was received by this office on November 12, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide copies of requested emails.

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 the public records of a public agency during regular business hours. IC 5-14-3-3(a).

Complainant states that on January 29, 2025, it requested copies from Respondent of emails regarding certain employees and interaction with the federal government and social media companies.

APRA requires that a request for inspection or copying of public records must:

- (1) Identify with reasonable particularity the record being requested; and

- (2) Be, at the discretion of the agency, in writing on or in a form provided by the agency.

Neither Complainant nor Respondent take issue with the facts that: 1) a properly completed request was submitted; 2) request was acknowledged by Respondent; and 3) was followed by various emails regarding clarification of the initial request. Respondent did not deny the request but sought to narrow the scope of the request in order to identify and produce the requested records.

Complainant contends that the emails are public records for purposes of APRA. APRA defines “public record” 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 and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.” IC 5-14-3-2(r).

The Indiana Supreme Court stated, when addressing a different type of record request, that “the Act broadly defines “public record” to include “any writing or other document created by a public agency.” *WTHR-TV*, 178 N.E. 3d 1187, at 1191. This office concurs that an email is a public record for purposes of APRA.

The remaining issue revolved around the definition of “reasonable particularity”, which is not defined in APRA. Respondent did not deny the Complainant’s record request but asked that it be narrowed to a reasonable particularity to allow Respondent to identify the records that were responsive to the record request. Complainant did respond to the first request and narrowed the scope but then filed this complaint when presented with a second request to further narrow the scope.

The Indiana Court of Appeals in *Jent v. Fort Wayne Police Dept.*, concluded that reasonable particularity “turns, in part, on whether the person making the request provides the agency with information that enables the agency to search for, locate, and retrieve the records.” 973 N.E. 2d 30 at 34.

This office in previous advisory opinions has sought to provide guidance as to what constitutes reasonable particularity, when considering emails, by suggesting a four (4) part test or standard. The standard discussed in *Miller v. Indy Parks and Recreation, Opinion of the Public Access Counselor 22-FC-42*, sets forth the reasonable particularity requirements for emails to include in the request:

- 1) Sender;
- 2) Recipient;
- 3) Reasonable timeframe;
- 4) Particularized subject matter or set of search terms.

This office encourages communication to narrow record requests by identifying the above information in such requests rather than have an outright denial by the public agency.

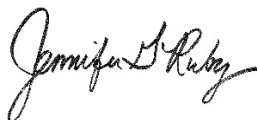
The Indiana Court of Appeals in *Anderson v. Huntington County Bd. of Com'rs*, 983 N.E.2d 613 (Ind. Ct. App. 2013), specifically addressed emails. Anderson argued that the search was reasonable because 9500 emails were identified. However, the court rejected this argument. The court concluded that a records request for emails to and from four (4) county employees lacked reasonable particularity for purposes of the record request but did not set forth a definition or criteria to determine reasonable particularity. Respondent stated that "*Anderson* adds to *Jent's* interpretation by considering whether a request is an overly broad "fishing expedition" that unduly burdens the agency's resources." The phrase "fishing expedition" is in *Anderson*, citing the *Anderson Trial Court*.

Respondent, after trying to reduce the search criteria, again concluded that the search was not defined with enough particularity in order to direct it to the records requested, citing *Anderson*. Complainant suggests that *Anderson* is old law and wants to replace the concept of the means of communication by email with email as a public record. However, *Anderson* remains valid. This office considers emails as both a means of communication (requiring the search) and a public record (the product of the search).

Respondent determined that it did not need to do a search until it had parameters that identified the records it was seeking, which it did not receive. This office concurs.

CONCLUSION

This office finds that Respondent did not violate the APRA by failing to provide the requested records, citing lack of reasonable particularity.



Jennifer G. Ruby
Public Access Counselor