



STATE OF INDIANA

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October 19, 2026

Re: Complaint 26-FC-028
Logan Foster (Complainant) v.
South Bend Community School Corporation (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed January 13, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on March 3, 2026, requesting a formal response by March 30, 2026. No formal response was received from Respondent.

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

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. IC 5-14-3-2(s). 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).

The complaint states that Complainant filed a request for records on October 9, 2025. The requested records were:

- 1) All payments to Karen White for the years 2019 – 2025
- 2) All receipts and invoices, regarding Karen White.
- 3) All contracts with Karen White.

The APRA request was acknowledged on the same day.

Respondent replied on December 2, 2025, referencing an earlier production of responsive records and worked with Complainant to provide responsive records via email. On January 8, 2026, Respondent confirmed that a search of the School records had been made and did not result in finding the contract(s) in question.

Complainant takes exception to the claim that a contract did not exist and that a copy is not being produced.

This office has long held that a public agency is not required to create or produce records that it does not have. *Opinions of the Public Access Counselor* 03-FC-146, 05-FC-25, 10-FC-086, and 12-FC-328 support Respondent's position that Respondent is not required to produce records that do not exist or create records to fulfill an APRA request. If Respondent provided all the records responsive to Complainant's request, then the records request has been fulfilled. *Opinion of the Public Access Counselor 25-FC-112*.

However, we then review why the School does not have the record. A contract for services with the School is clearly a public record. APRA provides the definition of a "public record" as follows:

(t) "Public record" means 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 5-14-3-1(t).

The School should have executed a contract with the consultant either by paper format or electronic format. APRA requires that such a public record be retained for access by the public.

"A public agency shall protect public records from loss, alteration, mutilation, or destruction, and regulate any material interference with the regular discharge of the functions or duties of the public agency or employees." IC 5-14-3-7(a). APRA does not require a public agency to abandon routine job responsibilities to address APRA requests but does acknowledge that those requests are part of the routine job responsibilities. The Respondent should have retained a copy of the contract as a public record.

CONCLUSION

This office finds that the Respondent did not violate APRA as alleged in the complaint for failing to produce a copy of the record requested, but did violate the APRA for failure to protect and maintain a public record.

A handwritten signature in black ink, appearing to read "Brittney A. Long". The signature is stylized with a large initial "B" and a long, sweeping underline.

Brittney A. Long
Public Access Counselor