



STATE OF INDIANA

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October 5, 2026

Re: Complaint 26-FC-108
Alicia K. Smith (Complainant) v.
Fairfield Community School Corporation (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed on March 8, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on March 17, 2026, requesting a formal response by April 15, 2026. A formal response, submitted by Nicholas T. Otis of Newby, Lewis, Kaminski & Jones, LLP, on behalf of Respondent, was received in this office on April 15, 2026.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) when it improperly withheld records pursuant to the deliberative exception found at IC 5-14-3-4(b)(6).

ANALYSIS

On December 4, 2025, the Complainant requested information pursuant to both APRA and FERPA regarding her child's educational records and a particular incident at the school. On January 6, 2026, the Respondent replied to the joint APRA and FERPA request by letter. Respondent produced materials pertinent to the FERPA request for material on Complainant's child but no material responsive to the APRA request, invoking IC 5-14-3-5(b)(6) and IC 5-14-3-5(b)(8).

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 initial APRA request asked for the following:

- 1) "All internal emails, texts, or communications among administrators, district employees, the SRO, or staff referencing my child or the November 18 incident.
- 2) Communication between the district and DCS regarding this incident.
- 3) Communication between the district and law enforcement regarding the incident.
- 4) Any non-exempt portions of disciplinary or corrective action documents related to the teacher.
- 5) Any policies applied during the investigation.
- 6) Any video or audio recording from the site, classroom, hallways, buses, or SRO body cam that include my child or the incident (Redaction of other students is acceptable.)"

Request #1: *All internal emails, texts, or communications among administrators, district employees, the SRO, or staff referencing my child or the November 18 incident.*

The Respondent claims that some of the requests in the complaint lacked reasonable particularity pursuant to IC 5-14-3-3(a)(1). Reasonable particularity is not defined within APRA. Indiana Court of Appeals concluded that it "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." *Jent v. Fort Wayne Police Dept.*, 973 N.E.2d 30 (Ind. Ct. App. 2012).

This office has previously given guidance on the four aspects required to identify emails for purposes of reasonably particular record requests. The requirements are:

- a) A named sender;
- b) A named respondent;
- c) A reasonable time frame (e.g. six months or less); and
- d) A subject matter or set of unique and connected words.

Opinion of the Public Access Counselor 25-FC-138; 23-FC-59.

The request does not meet the conditions regarding reasonable particularity.

The Respondent did not violate APRA regarding failure to produce these records.

Request #2: *Communication between the district and DCS regarding this incident.*

The Respondent generally cites APRA regarding DCS communication and indicates that these records need to be requested from DCS.

Indiana Code 5-14-3-9(d) states a request may be denied by a public agency if:

(1) the denial is in writing or by facsimile; and

(2) the denial includes:

(A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public records; and

(B) the name and the title or position of the person responsible for the denial.

Respondent did not provide a statement to the specific exemption it is claiming for not disclosing these records.

Respondent violated APRA by not specifying the relied upon exemption.

Request #3: *Communication between the district and law enforcement regarding the incident.*

The Respondent does not address the request for communication between the District and law enforcement.

The Respondent violated APRA by not giving a reason for withholding communication between itself and law enforcement.

Request #4: *Any non-exempt portions of disciplinary or corrective action documents related to the teacher.*

The Respondent, in its January 6, 2026, reply letter, cited that personnel files are exempt from disclosure pursuant to IC 5-14-3-4(b)(8). In the Respondent's formal response, it elaborates that it did not disclose any disciplinary or corrective action documentations of the employee because employee discipline records are only required to be disclosed if the discipline leads to suspension, demotion, or termination; which it did not in this matter. IC 5-14-3-4(b)(8).

Some personnel records must be released under APRA, including:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

- (B) information relating to the status of any formal charges against the employee; and
- (C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

IC 5-14-3-5(b)(8). The requested record was with regards to “any non-exempt portions of disciplinary or corrective action documents related to the teacher.” Respondent states the employee did not receive a suspension, demotion, or discharge as a result of the conduct displayed in this incident. Therefore, there was no material to provide, and the Respondent properly withheld the employee’s personnel file.

Respondent did not violate APRA regarding failure to produce these records.

Request #5: *Any policies applied during the investigation.*

The Respondent indicates all policies of the District are available online.

Respondent did not violate APRA regarding failure to produce these records.

Request #6: *Any video or audio recording from the site, classroom, hallways, buses, or SRO body cam that includes my child or the incident (Redaction of other students is acceptable.)*

In its January 6, 2026, reply letter, the Respondent supports withholding any video and audio recordings because there were no disciplinary actions taken against the student. The Respondent does not cite to a specific exemption.

Indiana Code 5-14-3-9(d) states a request may be denied by a public agency if:

- (1) the denial is in writing or by facsimile; and
- (2) the denial includes:
 - (A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public records; and
 - (B) the name and the title or position of the person responsible for the denial.

However, in its formal response, the Respondent makes the claim that “since any records created regarding any investigation by the School regarding this incident would be considered deliberative material that can be withheld pursuant to IC 5-14-3-4(b)(6).”

Deliberative material covers “[r]ecords that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of

opinion or are of a speculative nature, and that are communicated for the purpose of decision making.” IC 5-14-34(b)(6).

Our Supreme Court has held for a public agency to invoke the deliberative material exception; it must demonstrate the following three requirements:

- 1) That the records are intra-agency or interagency deliberative or advisory material, including material developed by a private contractor under a contract with a public agency;
- 2) The records contained expressions of opinion or of a speculative nature; and
- 3) The records were communicated for the purpose of decision making.”

Fam. & Soc. Servs. Admin. v. Saint, 258 N.E.3d 972, 983 (Ind. 2025). The Respondent simply states the material is deliberative. Respondent did not demonstrate the three requirements.

Respondent violated APRA by not specifying the exemption for withholding the records and for not properly invoking the deliberative material exception to disclosing these records.

CONCLUSION

This office finds that the Respondent did violate APRA.



Brittney A. Long
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