



STATE OF INDIANA

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October 22, 2026

Re: Complaint 26-FC-168
Friends of Porter County Airport, Inc. (Complainant) v.
Porter County Municipal Airport Authority & Porter County Regional
Airport (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed on March 30, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on April 14, 2026, requesting a formal response by May 13, 2026. A formal response, submitted by L. Charles Lukmann III and Julie Paulson of Harris Welsh & Lukmann, on behalf of Respondent, was received in this office on May 13, 2026.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) when it failed to comply with Complainant's APRA request dated January 29, 2026, and the Open Door Law (ODL) by failing to produce required documentation for an executive session held on February 18, 2026, meeting.

ANALYSIS

Access to Public Records Act (APRA)

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).

Open Door Law (ODL)

ODL requires public agencies to conduct and take official actions openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. As a result, ODL requires all meetings of the governing bodies of public agencies to be open at all times to allow members of the public to observe and record the proceedings. IC 5-14-1.5-3(a).

Respondent is a public agency for purposes of ODL, and therefore, subject to the requirements. IC 5-14-1.5-2(a)(1). As a result, unless an exception applies, all meetings of Respondent should be posted by notice and open to the public.

One exception is for executive sessions. An “executive session means a meeting from which the public is excluded, ...” IC 5-14-1.5-2(b)(f).

Background

On January 29, 2026, Complainant filed an APRA request with Respondent, requesting 27 separate records, documents, or other pieces of information. In summary, this request included:

1. FAA and Grant Records concerning Respondent, and any correspondence to or from Respondent or an outside source concerning hanger use, leases, or compliance, from 2018 to present.
2. Records concerning leases and enforcement of hanger use since 2018, and inspection criteria, policies, manuals, and checklists, for all hanger inspections that were referenced in an Airport Authority meeting dated January 20, 2026.
3. All correspondence with any outside law firm, consultants, or advisors concerning lease drafting, airport development, and FAA compliance, as well as the name of the attorney who drafted the lease revisions and any law firm consulted regarding the proposed revisions.
4. Any written memoranda or analyses concerning a public meeting dated January 21, 2026.
5. Records of any meeting minutes, agendas, and notices, for all board meetings dated 2018 through present.
6. Records of any meetings which occurred without notice, as well as private and informal meetings with or without notice.
7. All deeds, acquisition records, and surplus property documentation for airport real estate.
8. All grant requests and expansion proposals from 2018 to present.
9. Records concerning airport budget and projected planned improvement from 2018 to present.

10. All airport financial records from January 2018 to present.
11. All documents and records related to revenue bond issuance, refinancing, re-issuance, receipt, deposit, allocation, transfer, expenditure, or refunding from 2018 to present.
12. Correspondence with bond counsel, underwriters, financial advisors, trustees, or consultants related to the administration of any bond in or around 2019.

On February 4, 2026, Respondent issued a response to Complainant, acknowledging receipt of the APRA request and stating that it was in the process of reviewing the request.

On February 25, 2026, Respondent issued a comprehensive response to Complainant. In this response, Respondent reviewed each of Complainant's requests in turn, and addressed them as follows:

1. **FAA and Grant Records** were either fulfilled and would be issued February 27, 2026, or were not reasonably particular and would need to be narrowed prior to fulfillment under IC 5-14-3-9(d).
2. **Leases and Enforcement** documents would be available to review and inspect during regular business hours, some would be provided February 27, 2026, or Respondent lacked responsive documents.
3. **Lease Drafting** documents were denied pursuant to IC 5-14-3-4(a)(a) & (8) & (b)(2), for either being subject to attorney-client privilege, have been declared confidential by state law, or constitute work product of an attorney.
 - a. Records requesting the name of attorneys or law firms involved in lease revisions were denied as a request for a name and not a public record, under IC 5-14-3-3(f).
4. Records of information concerning a January 21, 2026, meeting were denied as the meeting did not exist and therefore there are no responsive documents.
5. Records concerning board meetings from 2018 to present were previously issued February 16, 2026.
6. **Governance and Meetings** minutes were sent on February 16, 2026 and remaining responsive records would be sent on February 27, 2026. No responsive records existed for meetings occurring without notice, nor records concerning private or informal meetings. Records concerning all published agendas and rules from 2018 to present would be provided February 27, 2026.

7. **Airport Property and Deeds** information requested regarding deeds, acquisitions, and other land records needs to be narrowed for reasonable particularity pursuant to IC 5-14-3-9(d) as there is no date range for the request. Airport expansion records were issued February 20, 2026. Grant requests would be sent February 27, 2026.
8. **Airport Budget and Projected Planned Improvement List** from 2018 to present was produced on February 20, 2026.
9. **Financial Records and Accounting**
- a. Partial financial records from 2018 to present were provided February 20, 2026, and the remainder would be provided February 27, 2026. Additional records requested concerning revenues, expenditures, and the allocation of grants, AIP, and government funds were not reasonably particular and would need to be narrowed prior to fulfillment under IC 5-14-3-9(d).
10. **Revenue Bond Insurance and Use of Proceeds** records requested concerning revenue bond issuance and proceeds were not reasonably particular and would need to be narrowed prior to fulfillment under IC 5-14-3-9(d). Correspondence with bond counsel and others were withheld pursuant to IC 5-14-3-4(a)(a) & (8) & (b)(2), for either being subject to attorney-client privilege, have been declared confidential by state law, or constitute work product of an attorney.

Complainant argues that Respondent violated APRA and ODL when it:

1. Denied records due to a lack of reasonable particularity.
2. Denied records as no responsive record existed.
3. Denied records as privileged work product under IC 5-14-3-4(a)(8) and/or IC 5-4-3-4(b)(2).
4. Denied records as a request for a name, and not a public record.
5. Denied records as no responsive record existed, specifically as no meeting had occurred on February 18, 2026.

Reasonable Particularity

APRA provides:

- (a) Any person may inspect and copy the public records of any public agency during regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:*

- 1) *Identify with reasonable particularity the record being requested;*
and
- 2) *Be at the discretion of the agency, in writing or in a form provided by the agency.*

IC 5-14-3-3(a).

The Indiana Court of Appeals addressed the meaning of the phrase, reasonable particularity, in *Jent v. Fort Wayne Police Dept*, 973 N.E.2d 30 (Ind. Ct. App. 2012) which involved a request for daily incident logs. The court concluded that reasonable particularity in a record request “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.”

This office has opined in *Opinion of the Public Access Counselor 22-FC-71* that “[r]equiring reasonable particularity relieves a public agency from the guesswork of having to anticipate exactly what a requester is seeking.” The Opinion goes on to say, “[a]ll contracts and agreements for multiple years is also not a reasonably particular request.” Here, Complainant has requested a significant volume of records, including complex financial records spanning 8 years, and indefinite land records stretching back to 1949.

Respondent has specifically noted in its February 25, 2026, response, “if you are able to provide more information to clarify your request so that records may be identified, please submit it to [Respondent].” Complainant’s refusal to narrow its request in compliance with IC 5-14-3-3(a) does not constitute a denial on behalf of Respondent. Further, where possible, Respondent has provided partial fulfillment of this APRA request, and only noted a lack of reasonable particularity where necessary. Accordingly, this office does not find that Respondent violated APRA here.

No Responsive Records

This office has on numerous occasions opined that the public agency is not required to provide records that do not exist nor is it required to create such records. *Opinion of the Public Access Counselor 25-FC-112*.

This office recently followed precedent on this matter. In the *Opinion of the Public Access Counselor 26-FC-028*, this office reiterated that it has long followed the reasoning 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*.

As Respondent has searched its records, and determined certain portions of Complainant's request do not return responsive documents, nothing further is required of Respondent. This office notes that remedies exist under IC 5-14-3-9 and if Complainant believes additional records are being withheld improperly, Complainant may pursue action under IC 5-14-3-9.

Work Product Or Privileged

APRA states:

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

IC 5-14-3-4(b).

Further, the Indiana Court of Appeals found in *The Board of Trustees of the Public Employees' Retirement Fund of Indiana v. Morley*, 580 N.E.2d 371 (Ind. Ct. App. 1991) that federal courts have recognized the existence of an attorney-client privilege between government attorneys and the agencies they advise. *Green v. I.R.S.* (N.D.Ind.1982), 556 F.Supp.79 aff'd (7th cir.1984), 734 F.2d 18. The Court in *Board of Trustees* further concludes that discussions between client (PERF) and attorney (Attorney General) are protected by attorney-client privilege and fall within the exception to disclosure under the public records statute.

Here, as noted in Respondent's formal response, the requests directly involve communication with law firms, legal counsel, and/or bond counsel, concerning lease drafting and bonds. By their nature, these communications constitute privileged communication between an attorney and their client, as the communications were for the purposes of obtaining legal advice or aid. *Groth v. Pence*, 67 N.E.3d 1104,1118 (Ind. Ct. App. 2017). Accordingly, this office does

not find that Respondent violated APRA by withholding the privileged documents.

Request For A Name

Two of Complainant's requests specifically request the name and identification of an attorney or law firm.

A public agency is not required to create a list of names and addresses nor publish and disseminate such information. The agency is required to allow a person to inspect such a list, only if it is already created. [IC] 5-14-3-3(f). Public agencies are not required to reprogram a computer system to provide enhanced access. [IC] 5-14- 3-6(d)(1).

Opinion of the Public Access Counselor 26-FC-035, 25-FC-136, and 15-FC-79, & 52

This office has also opined, on numerous occasions, that the public agency is not required to provide records that do not exist nor is it required to create such records. *Opinion of the Public Access Counselor 25-FC-112*. Rather, APRA requires that a public agency make available its current records. *Opinion of the Public Access Counselor 06-FC-196*.

Respondent is not required to provide a list of the names of the attorney(s) or law firm(s) requested, if it does not exist and if releasing it violates other state or federal law. From the information provided to this office, it does not find that Respondent violated APRA by denying this request.

Denied As No Responsive Records Exist Concerning A February 18, 2026, Meeting

Complainant argues that APRA and ODL were violated when Respondent failed to provide proper notice of a meeting occurring February 17, 2026, and when it failed to provide records demonstrating proper notice had been posted.

As noted previously, the public agency is not required to provide records that do not exist nor is it required to create such records. *Opinion of the Public Access Counselor 25-FC-112*. A "meeting" is defined under IC 5-14-1.5-2(c) as "a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business."

On February 18, 2026, a telephone call occurred between less than a majority of Respondent's board and their legal counsel to discuss legal issues. As no meeting occurred, no notice was required. Further, as no notice was posted, no record existed for the purpose of Complainant's request. Accordingly, this office does not find that Respondent violated APRA by denying this request.

CONCLUSION

This office finds that Respondent did not violate APRA as alleged in the complaint.

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

Brittney A. Long
Public Access Counselor