

# INDIANA PUBLIC ACCESS LAWS

Presented by

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Public Access Counselor



# LEGISLATIVE INTENT

Indiana Code 5-14-3-1 through 5-14-3-10  
Enacted in 1983 (APRA)



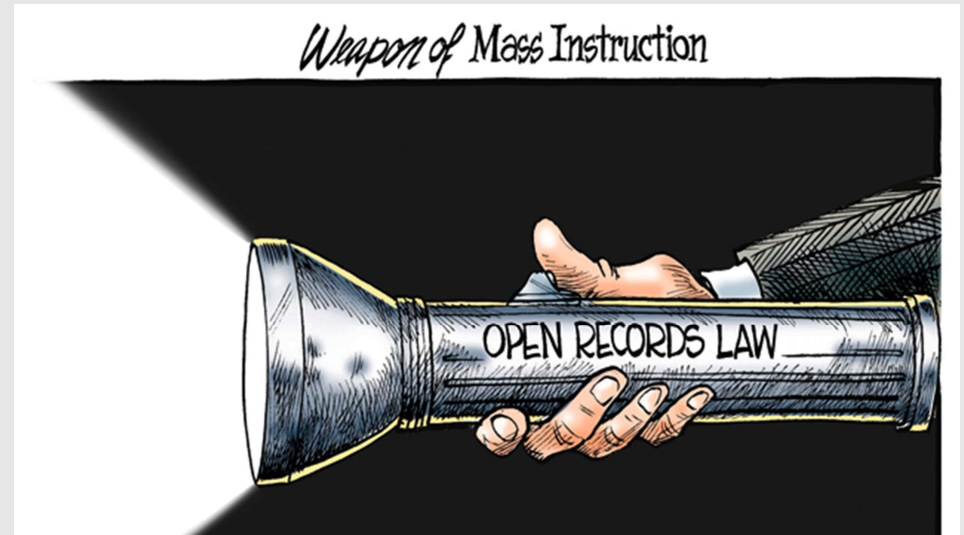
'A fundamental philosophy of the American Constitutional form of representative government is the servant of the people and not their master.



Accordingly, it is the public policy of the state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.



Providing persons with the 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.'



# PUBLIC ACCESS COUNSELOR

The Public Access Counselor provides advise and assistance concerning Indiana's public access laws (the Access to Public Records Act and the Open Door Law) to members of the public, government agencies and its employees.

Conducts research.

Prepares interpretive and educational materials and programs in cooperation with the office of the attorney general.

Distributes educational materials concerning public access laws to newly elected or appointed public officials.

Responds to informal inquiries made by the public and public agencies by telephone, in writing, in person, by facsimile, or by electronic mail concerning public access laws.

Issues advisory opinions to interpret the public access laws upon the request of a person or a public agency.

Makes recommendation to the general assembly concerning ways to improve public access.

# The Office of the Public Access Counselor

- Receives thousands of requests for assistance annually, by:
  - Phone call or voicemail
  - Email
  - Postal mail
  - Hand delivery
- Responds to hundreds of informal and formal complaints annually
- Conducts internal and external educational trainings and presentations across Indiana
- ***It's important for governmental entities as well as citizens who contact the PAC to remember that the PAC is not your lawyer. We cannot give legal advice.***

Opinions & Annual Report found at [www.in.gov/pac](http://www.in.gov/pac)

\*reports filed with General Assembly every July 1

# INDIANA OPEN DOOR LAW (‘ODL’)

“... it is the intent of this chapter that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed...”

IC 5-14-1.5-1





# BASIC RULES TO CONSIDER

- Majority
- Governing Body
- Official Action
- Public Business
- 48 Hours Notice
- Must be open to the public

# July 1, 2025 Live Streaming Began

- *Basically, the executive, legislative or fiscal bodies at the State, County, City, Town or Township levels need to live stream their meetings.*
  - *No one else under these bodies needs to, unless they hold their meetings in one of the executive, legislative or fiscal bodies meeting rooms, where the live streaming is available. If that is the case, then that other governmental body should also live stream the meeting.*
- *If these executive, legislative or fiscal bodies don't have internet access where they meet, then they should record the meetings and post them to their webpage for 90 days.*
- *If the technology fails for any of the meetings, they will not be penalized, but they should try to comply.*
- *All agenda, notice, meeting minutes, etc. requirements still apply at all levels.*
- *The above is for public meetings. Some public hearings and the streaming thereof fall under a different statute.*

*IDOA, IOT & PAC worked on Guidance, which was released on Friday, June 6.*

*See [www.in.gov/pac](http://www.in.gov/pac) - second bubble on the screen.*

IN 90V

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Video Streaming of Public Meetings Guidance

Code Cites for Video Streaming Guidance

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Video Streaming

Home IOT Products Communication Services (Voice as a Service) Video Streaming

Guidance from [Indiana's Public Access Counselor](#) for meeting streaming law requirements. For more information, please visit the Public Access Counsel website at [www.in.gov/pac](http://www.in.gov/pac).


IOT recommends the following streaming options to meet the requirements for public meetings and rulemaking meetings.

### Public Meetings

IOT advises using Microsoft Teams Webinars to host agency public meetings. The requirements for public meetings are detailed in [Indiana code](#).

Instructions on [setting up a Microsoft Teams Webinar](#).

### Rulemaking Meetings



IOT has selected vbrick to meet the [requirements of public access to rulemaking proceedings](#). This solution is flexible and works with Microsoft Teams, Zoom and WebEx.

IOT has created three webpages detailing how to set up your vbrick meeting, how to start the meeting and how to add your post-meeting information.

- [Setting up your vbrick meeting](#)
- [Starting your vbrick meeting](#)
- [Settings after your vbrick meeting](#)



# REQUIRED NOTICE

- 48 BUSINESS Hours
- Date, Time & Place & HEA 1509 – Disclosure of Appointing Authority
- Generally, no requirements to publish in newspaper
  - Public Hearings are different than Public Meetings
- Annual Notices are permitted
- Emergency Meetings are the exception
- Must post at principal location of business or meeting location
  - Website or newspaper notice is insufficient
- Special Meetings of County Executives
  - IC 36-2-2-8 must state specific subject matter
- Prohibition on ‘Serial Meetings’



# 2025 Changes to Notice or Agenda – HEA 1509

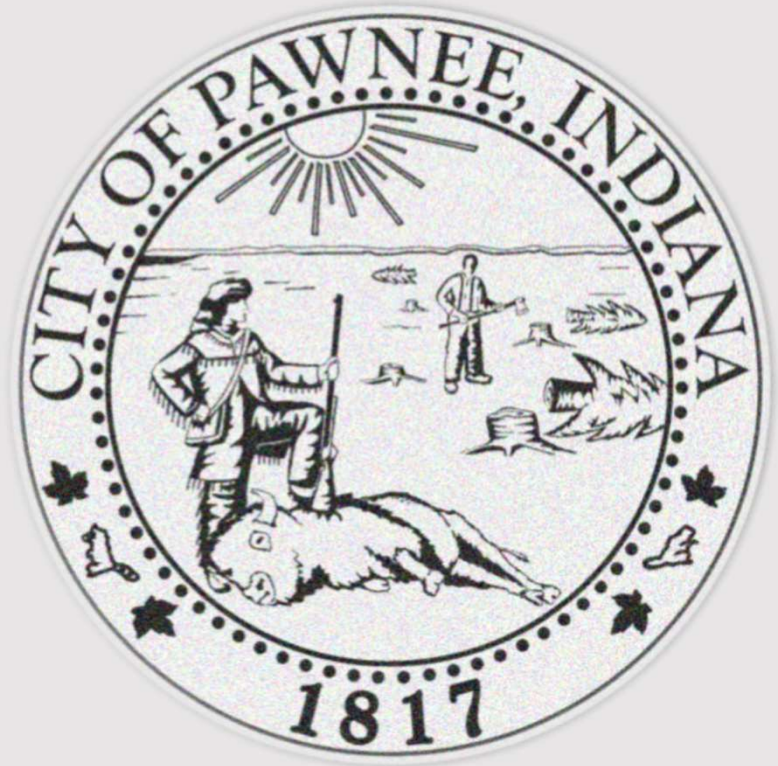
- *IC 5-14-9 is added as a NEW Chapter (Effective July 1, 2025]*
  - *Chapter 9, Sections 1 to 5 define terms.*
  - ***At (6). Any board meeting notice or agenda must provide the following information regarding each appointed officer serving on the board:***
    - (1) The officer's name.***
    - (2) The appointing authority.***
    - (3) The beginning and expiration date of the officer's term of appointment.***
  - ***At (7). The information under section 6 of this chapter regarding a board's appointed officers shall be:***
    - (1) published on: (A) the board's website, if any; or (B) the appointing authority's website, if any; or***
    - (2) published on the Internet through the computer gateway administered by the office of technology established by IC 4-13.1-2-1, if the board or appointing authority does not have a website.***

# EXAMPLE OF A PUBLIC NOTICE

## Notice of Public Meeting:

Pawnee Town Council  
Tuesday, February 24, 2025  
@ 5:30pm  
City Hall, Room 104  
1414 Main Street, Pawnee Indiana

John Doe, President, Elected, 1/15/2022 – 1/14/2026  
Jane Doe, Vice-President, Elected, 1/15/2022 – 1/14/2026  
James Doe, Secretary, Elected, 1/15/2022 – 1/14/2022  
Jill Doe, Treasurer, Elected, 1/15/2022 – 1/14/2026



# EXECUTIVE SESSIONS

- The 'Exception' to meetings that are open to the public.
- Notice **must** include statutory purpose(s) for excluding the public.
- Minutes or Memoranda must include **certification** that only topics permitted under ODL were discussed during session.
- Should be irregular, but were expanded in the most recent Legislative Session
- NO FINAL ACTION

# 2025 Changes to Executive Sessions – HEA 1134

- *Broadens topics to be discussed in Executive Session - IC 5-14-1.5-6.1(b)*
  - *At (9) adds **employee specific compensation or employment matters** and specifies that this subdivision does not apply to a **general** discussion of the salary, compensation or benefits of employees during a budget process.*
  - *At (16) adds to discuss either of the following: (A) **employee health care options with respect to special exceptions for coverage.** (B) **Employee handbook changes.***
  - *At (17) adds to review negotiations on the performance of publicly bid contracts when **public knowledge regarding the review would cause a likelihood of increased costs.***
  - *At (18) adds to discuss soliciting proposals for the purpose of awarding contracts for goods or services, when: (A) **proprietary data, trade secrets, or other information is contained in the bidder's proposal relating to the bidder's unique methods of: (i) conducting business; or (ii) determining prices or premium rates to be charged for services under the terms of the proposal; and (B) public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of the information described in clause (A).***

# EXECUTIVE SESSION NOTICE

## NOTICE OF EXECUTIVE SESSION

Pawnee Town Council Executive Session

Tuesday, August 1, 2025

@ 6:00pm

City Hall, Room 104

1414 Main Street, Pawnee Indiana

**The counsel will meet to discuss job performance of an individual employee as authorized under IC 5-14-1.5-6.1(b)(9)**

John Doe, President, Elected, 1/15/2022 – 1/14/2026

Jane Doe, Vice-President, Elected, 1/15/2022 – 1/14/2026

James Doe, Secretary, Elected, 1/15/2022 – 1/14/2026

Jill Doe, Treasurer, Elected, 1/15/2022 – 1/14/2026





# COMMON EXECUTIVE SESSIONS

- Subject Matter
  - Records classified as confidential by Federal or State statute
  - Alleged misconduct of an employee
  - Strategy with respect to pending litigation or litigation threatened in writing
- To receive information & interview prospective employees
- Various other justifiable executive session subject matters can be found at IC 5-14-1.5-6.1

# VIRTUAL MEETINGS

- When a public health emergency is in effect, IC 5-14-1.5-3.7 applies.
  - Completely virtual meetings are allowed IF there is a roll call.
- If no PHE exists, IC 5-14-1.5-3.6 applies to state and regional governing bodies and charter schools.
  - This is unchanged from pre-pandemic statutes.
  - Remote participation is allowed IF 1/3 of membership is present.
- Boards can craft policies to internally regulate procedures for remote participation.

# SERIAL MEETINGS NOT ALLOWED

(1) One (1) of the gatherings is attended by at least three (3) members but less than a quorum of the members of the governing body and the other gatherings include at least two (2) members of the governing body.

(2) The sum of the number of different members of the governing body attending any of the gatherings at least equals a quorum of the governing body.

(3) All the gatherings concern the same subject matter and are held within a period of not more than seven (7) consecutive days.

(4) The gatherings are held to take official action on public business.



# MISCELLANEOUS ODL CONSIDERATIONS

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No right to speak under ODL unless another statute requires it (i.e., public hearings)

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No right to participate by public

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Minutes/ Memoranda (draft copies)

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Electronic Meetings of State Agencies

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No secret ballots when voting

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# ACCESS TO PUBLIC RECORDS

“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.

Indiana Code § 5-14-3-2





# MAKE SURE IT'S A VALID REQUEST AND NOT PHISHING

*Phishing is the fraudulent practice of sending emails purporting to be from reputable companies in order to induce receipt of information (abbreviated from Oxford online dictionary).*

- Deemed as such, these emailed APRA requests were not acted on and were pulled from State mailboxes over a couple of days. The APRA Phishing email contains several inaccuracies, although it looks like a legitimate APRA request.
- Several internal state agencies and a couple of local governments have emailed the PAC about similar requests.
- The point of the APRA is to receive requested records. The tendency is to start filling them because of the timeframes. This new APRA Phishing email exploits this. We want to make sure that State and local governments know that there is an APRA specific phishing scam so that they don't waste their time and energy trying to fulfill the voluminous records requested or worse click on the embedded link to upload information.
- IOT sent an email on June 12, 2025, through it's [IN-ISAC@subscription.in.gov](mailto:IN-ISAC@subscription.in.gov) account entitled: "Important Notice: Beware of Phishing Emails Impersonating APRA Requests".
- If you receive an APRA request, please do your due diligence as you would with any incoming email. Common things to look for are:
  1. Can you verify the sender by calling him or her back to discuss the request?
  2. Is the company a legitimate company?
  3. Is the URL for the company legitimate?
  4. Does it contain a hyperlink?



**From:** Brandon Max <brandon.m@recordsretrievalsolutions.com>  
**Sent:** Tuesday, May 27, 2025 3:14 AM  
**To:** Public Access Counselor <pac@opac.in.gov>  
**Subject:** Public Records Request: Public Access Counselor Purchase Orders

This is the first time you received an email from this sender (brandon.m@recordsretrievalsolutions.com). Exercise caution when clicking links, opening attachments or taking further action, before validating its authenticity.

**EXTERNAL EMAIL:** This email was sent from outside your organization. Exercise caution when clicking links, opening attachments or taking further action, before validating its authenticity.

Dear Public Records Officer,

I am writing to request access to and copies of records under the Indiana Access to Public Records Act (Ind. Code § 5-14-3).

Specifically, we are requesting electronic records of all purchase orders issued by the Public Access Counselor from January 1, 2020, through March 31, 2025, across all departments.

For each purchase order, please include:

- Contract number or purchase order number (or comparable identifier such as invoice, check number, or internal ID)
- Purchase date
- Vendor details (name, ID, address, contact person, email address)
- Line item description
- Line item quantity
- Line item price/amount
- Contract start and end dates (if applicable)
- Contract signatory (if available)
- Yes / No for competitive process. If not, please indicate reason

Additional clarifications:

- If vendor names are represented by codes, please provide the vendor list matching those codes.
- Providing raw electronic purchase orders without additional compilation is acceptable if more convenient.
- Electronic records are preferred, without copying, scanning, or printing.
- If this request has reached the wrong department, please forward it to the appropriate individual and inform me of their contact information.
- Should you deny any part of this request, please specify your reasoning clearly, citing relevant exemptions under Indiana Access to Public Records Act (Ind. Code § 5-14-3), and release any segregable, non-exempt portions.

For your convenience and security, please upload responsive documents using this unique link:

<https://recordsretrievalsolutions.com/upload/eyJlbmRpdHfaWQlOiI2NzNiYjdIOic2ZDc4YmM0MDA2NTQzZDElCj0aW1lc3RhbnXAIOjE3NDczNDc3MzMzMyODB9>

If we can provide further information or clarification, please contact  
[mike@recordsretrievalsolutions.com](mailto:mike@recordsretrievalsolutions.com).

Sincerely,  
Mike Vichich  
112 South Main Street  
Suite B  
Ann Arbor, MI 48104

ID: PUB0101202003312025-673BB7B976D78BC4006543D1

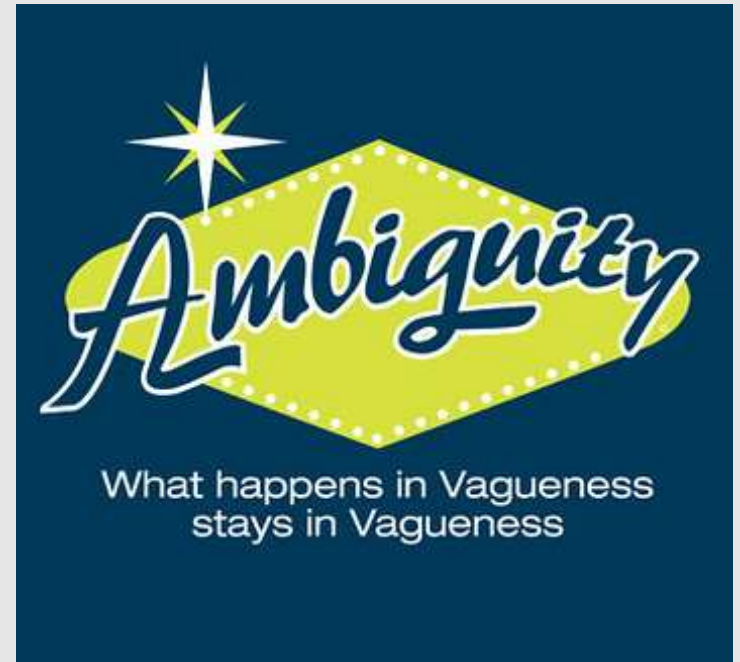
# REASONABLE PERIOD OF TIME

**All records must be provided within a 'reasonable period of time' after the request is received.**

- Facts considered:
  - How broad is the request?
  - Where are the records located?
  - How much redaction is necessary?
  - Busy time at the agency?
  - Common sense factors?
- What OPAC likes to see:
  - Communication – Status Updates, Timeline
  - Piecemeal disclosures

# REASONABLE PARTICULARITY

- A request from the public must be reasonably particular – a subjective standard
- Two conflicting cases
  - Can you find it?
  - Are there objective elements in the query?
- What I like to see:
  - No blanket denial
  - Cooperate to narrow request



# THREE CATEGORIES OF PUBLIC RECORDS

1. DISCLOSABLE RECORDS
2. CONFIDENTIAL PUBLIC RECORDS
3. DISCRETIONARY PUBLIC RECORDS

# 1. DISCLOSABLE RECORDS

- Meeting minutes
- Budgets
- Invoices
- Receipts
- RFPs
- Contracts
- *Anything received in an open public meeting*

## 2. CONFIDENTIAL PUBLIC RECORDS

- Personal Health Information
- Confidential Financial Information
- Trade secrets
- Student records
- Social Security Numbers
- Those declared confidential by state statute or federal law



### 3. DISCRETIONARY PUBLIC RECORDS

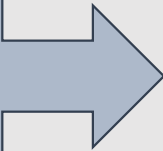
- Investigatory records of law enforcement agencies
- Attorney work product / client communication
- Deliberative material
- Personnel files of public employees

# EMAILS

- A public record includes electronic media that is created, received, retained, maintained, or filed by / with a public agency.
- Electronic mail must be available for inspection and copying by the governing body unless an exception to disclosure, based on content, applies.
- Electronic mail must be maintained in accordance with records retention schedules, pursuant to IC 5-15.
  - Most agencies have their own retention schedules.

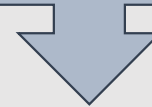
# DENIALS

ORALLY

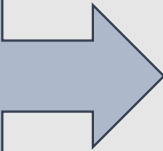


DENIAL MAY BE DONE  
ORALLY

BEFORE TRIAL COURT



WRITTEN



DENIAL MUST BE IN  
WRITING

BURDEN IS ON AGENCY  
TO DEMONSTRATE  
DENIAL COMPLIED WITH  
APRA

COURT MAY REVIEW THE RECORDS IN-CAMERA; MAY REVIEW RECORDS IF  
REDACTIONS OF RECORDS HAS OCCURRED

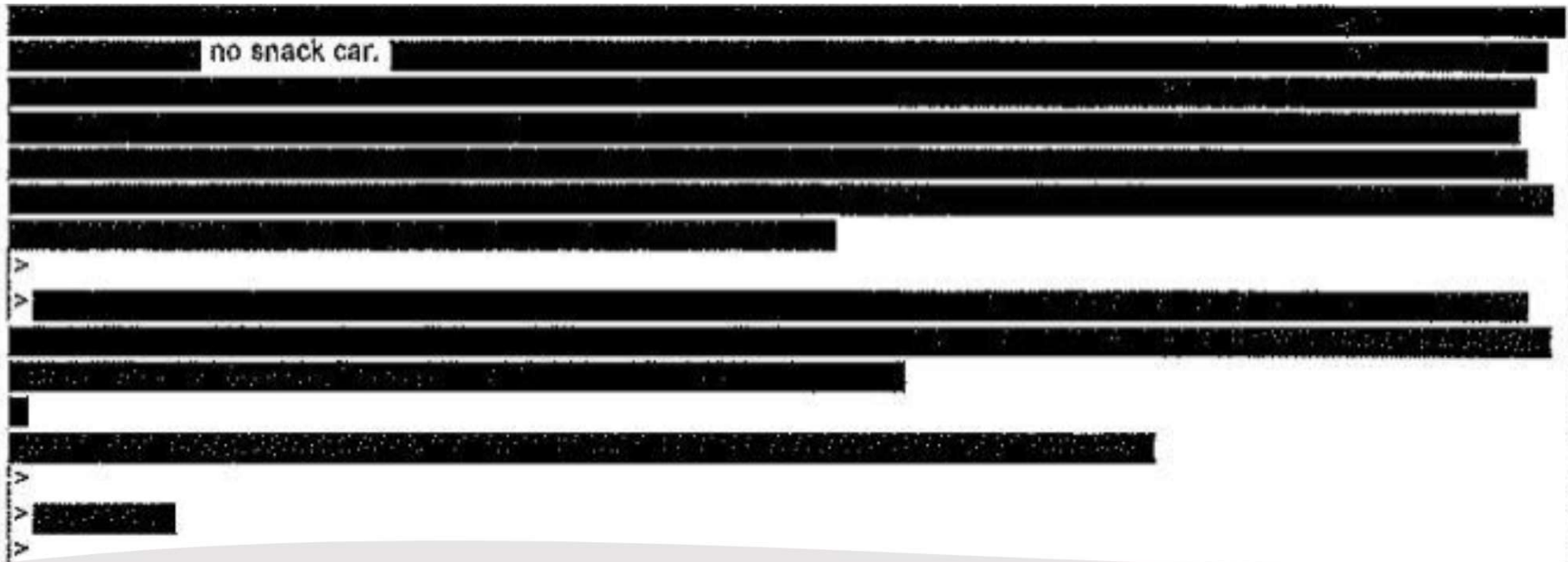
# NONCOMPLIANCE

## Consequences

- Complaint to Public Access Counselor
- Lawsuit

## Penalties

- Court action seeking order to produce & potentially order to pay attorney's fees
- Under IC 5-14-3-9.5 Personal Liability for public agency, officer or management level employee - Fines for knowing and intentionally withholding of public records or violation of the ODL
- Bad press and damages to public perception



## COMMON MISCONCEPTIONS OF AGENCIES

- Offering to allow inspection is sufficient
- Everything can be redacted
- Denials do not have to be explained
- Any document containing confidential information may be omitted from public records response

# COMMON MISCONCEPTIONS OF CITIZENS

A public agency should:

- Answer questions under APRA
- Give me immediate access
- Keep public records forever
- Handle public records requests before handling other matters of the public agency
- Keep public records in a format that is most convenient for me



## **PUBLIC ACCESS HANDBOOK**

**[http://www.in.gov/pac/files/pac\\_handbook.pdf](http://www.in.gov/pac/files/pac_handbook.pdf)**

## **PUBLIC ACCESS COUNSELOR WEBSITE:**

**<http://www.in.gov/pac>**

## **CONTACT INFORMATION:**

**Indiana Public Access Counselor  
402 W. Washington Street, W470**

**Indianapolis, IN 46204**

**317.234.0906**

**[pac@opac.in.gov](mailto:pac@opac.in.gov)**

QUESTIONS?