

IOWA PUBLIC INFORMATION BOARD

MEMBERS

Joan Corbin, Pella (Government Representative, 2024-2028)
E. J. Giovannetti, Urbandale (Public Representative, 2022-2026)
Barry Lindahl, Dubuque (Government Representative, 2024-2028)
Catherine Lucas (Government Representative, 2024-2028)
Luke Martz, Des Moines (Public Representative, 2024-2028)
Joel McCrea, Pleasant Hill (Media Representative, 2022-2026)
Monica McHugh, Zwingle (Public Representative, 2022-2026)
Jackie Schmillen, Urbandale (Media Representative, 2022-2026)
Vacant

STAFF

Erika Eckley, Executive Director
Kimberly Murphy, Deputy Director
Alexander Lee, Agency Counsel

Use the following link to watch the IPIB meeting live:

<https://youtube.com/@IowaPublicInformationBoard>

Note: If you wish to make public comment to the Board, please send an email to IPIB@iowa.gov prior to the meeting.

Agenda

November 21, 2024 at 1:00 p.m.
IDALS 2N Large Conference Room
Wallace Building
502 East 9th Street, Des Moines

1:00 PM – IPIB Meeting

I. Approval of agenda*

II. Approval of the October 17, 2024, minutes *

III. Public Forum (5-minute limit per speaker)

IV. Comments from the board chair. (McHugh)

1. Introduction of Board Member Catherine Lucas

V. Update Complaint Process Review Pilot (Eckley)

VI. Consent Agenda *

A. Dismissals

1. 24FC:0091 (Ellen Becker - Chapter 21- South Tama Co. school district) 10/21/2024
2. 24FC:0095 (Justin Scott - Chapter 22- Denver Community School Board) 10/25/2024
3. 24FC:0098 (Charles Kerker - Chapter 22- Dyersville Events LLC) 10/29/2024
4. 24FC:0099 (Tyson Trunkhill - Chapter 21- Denver School District School Board) 10/30/2024
5. 24FC:0100 (Tyson Trunkhill - Chapter 21- Denver School District School Board) 10/30/2024

6. 24FC:0103 (Sue Miles - Chapter 21- Winterset Public library) 10/31/2024
7. 24FC:0105 (Chad Brewbaker - Chapter 21- Iowa Campaign Ethics Board) 10/31/2024
8. 24FC:0107 (Chad Brewbaker - Chapter 21- Polk County Board of Supervisors) 11/1/2024
9. 24FC:0114 (Chad Brewbaker - Chapter 21- Multiple) 11/14/2024

B. Acceptances

1. 24FC:0092 (Aubrey Burress - Both- Pleasant Grove township) 10/21/2024 - Information Gathering
2. 24FC:0094 (Ben Lynch - Both- Des Moines City Council) 10/24/2024 - Information Gathering
3. 24FC:0093 (Timothy Hansen - Chapter 22- Franklin County Sheriff's Office) 10/24/2024 - Information Gathering
4. 24FC:0097 (Tyler Patterson - Both- Clarke County Hospital, Unity Point Affiliate) 10/27/2024 - Information Gathering
5. 24FC:0096 (Rachel Dolley - Chapter 21- Commission of Wapello County Veterans Affairs) 10/28/2024 - Information Gathering
6. 24FC:0101 (Erin Sommers - Chapter 21- City of Pocahontas) 10/29/2024 - Information Gathering
7. 24FC:0106 (Sheryl Pilkington - Chapter 22- City of fairfield, ia) 10/29/2024 - Information Gathering
8. 24FC:0104 (Matthew Rollinger - Chapter 22- Linn Mar Community School District) 10/31/2024 - Information Gathering
9. 24FC:0110 (Keegan Jarvis - Chapter 21- City of Swan IA) 11/6/2024 - Information Gathering
10. 24FC:0112 (Keegan Jarvis - Chapter 21- City of swan iowa) 11/8/2024 - Acknowledgement of Complaint
11. 24FC:0113 (Geralyn Jones - Chapter 21- Linn-Mar Board of Directors) 11/12/2024 - Information Gathering

VII. Advisory Opinion – Deliberation/Action. * (Lee)

1. 24AO:0012 - 9/24/2024 - If a records request is made for social media posts, such as a government-moderated Facebook page, is the government body required to provide screen shots of the posts or can the government body direct the requestor to the Facebook page and the requested

VIII. Cases involving Board Deliberation/Action.* (Eckley)

- IX.** 23FC:0053 (Debra Schiel-Larson - Both- Indianola Community School District) 5/4/2023 -Final Report
- X.** 24FC:0052 (Erik Johnson - Chapter 22- Delaware Township) 6/6/2024 -Acceptance
- XI.** 24FC:0056 (Steven Asche - Chapter 22- City of Eagle Grove) 6/20/2024 -Informal Resolution Report
- XII.** 24FC:0057 (Jody Phillips - Chapter 22- Pekin Community School District - Board) 7/3/2024 -Final Report
- XIII.** 24FC:0059 (Jan Norris - Both- Montgomery County Board of Supervisors) 7/23/2024 -Final Report
- XIV.** 24FC:0068 (Drake Riddle - Chapter 21- Page County Board of Supervisors and their Clerk) 8/8/2024 - Informal Resolution Report
- XV.** 24FC:0072 (Lucian Diaconu - Chapter 22- Gilbert Community School District) 8/14/2024 -Dismissal
- XVI.** 24FC:0084 (Paul A. Reed, Sr. - Chapter 22- City of West Liberty) 9/25/2024 -Dismissal
- XVII.** 24FC:0087 (Nicholas Bargren - Chapter 22- Iowa City Police Department) 10/5/2024 -Dismissal
- XVIII.** 24FC:0089 (Curtis Wagler - Chapter 22- Henry County Sheriff's Office/Henry County BOS) 10/8/2024 -Dismissal (Partial)

XIX. Matters Withdrawn, No Action Necessary. (Eckley)

1. 24FC:0078 (Megan Pegorick - Chapter 22- Midland Community School District) 9/10/2024
2. 24FC:0102 (John Johnson - Chapter 22- Britt Public Library) 10/26/2024

X. Pending Complaints. *Informational Only - No Deliberation or Action* (Eckley)

1. 24FC:0013 (Bonnie Castillo - Both- Union County Emergency Management Agency) 2/2/2024 - Informal Resolution Process
2. 24FC:0064 (Mark Milligan - Chapter 22- Monroe County Sheriff's Department; represented by Monroe County Attorney) 7/30/2024 - Informal Resolution Process
3. 24FC:0070 (Brian Thomas - Both- Jefferson County BOS) 8/13/2024 - Informal Resolution Process
4. 24FC:0077 (Kyle Ocker - Chapter 22- Mahaska County Sheriff's Office) 9/9/2024 - Informal Resolution Process
5. 24FC:0079 (Tiffany South - Chapter 22- CAM Community School District) 9/18/2024 - Information Gathering
6. 24FC:0081 (Joe Monahan - Chapter 22- Ames Public Library, Ames City Attorney) 9/20/2024 - Information Gathering
7. 24FC:0082 (Robin Delaney - Chapter 21- Des Moines County Board of Supervisors) 9/25/2024 - Informal Resolution Process
8. 24FC:0083 (Tim Ferguson - Chapter 22- Scotty County government) 9/25/2024 - Information Gathering
9. 24FC:0085 (Gregory Mangold - Chapter 21- Des Moines County Board of Supervisors) 9/27/2024 - Informal Resolution Process
10. 24FC:0088 (Randy Evans - Chapter 21- Des Moines County Board of Supervisors) 10/5/2024 - Informal Resolution Process
11. 24FC:0090 (Sarah Weber - Chapter 21- Orange City Council) 10/9/2024 - Information Gathering
12. 24FC:0108 (Charles Kerker - Chapter 22- City of Dyersville IA) 11/4/2024 - Acknowledgement of Complaint
13. 24FC:0109 (Joe Goche - Chapter 21- Kossuth county Supervisors and Auditor) 11/5/2024 - Acknowledgement of Complaint
14. 24FC:0111 (Michael McPeck - Chapter 22- Iowa Department of Corrections) 11/7/2024 - Acknowledgement of Complaint

XI. Deliberation/Action on Policy for Record Request Fees * (Murphy)

XII. Committee Reports

1. Training – (Lee)
2. Legislative – (Eckley)
 - a. Board Review and Possible Action on Legislative Proposals *
 - i. 90-day jurisdiction of IPIB
 - ii. Records request acknowledgement
 - iii. Reasonably calculated notice changes
3. Rules – (Murphy)

XIII. Office status report.

1. Office Update * (Eckley)
2. Financial/Budget Update (FY25) * (Eckley)
3. Presentations/Trainings (Eckley)
 - a. Tama County
 - b. ISAC New County Officials
4. District Court Update (Eckley)

XIV. Next IPIB Board Meeting will be held on December 19, 2024, at 1:00 p.m.

XV. Adjourn

*** Attachments**

IOWA PUBLIC INFORMATION BOARD

October 17, 2024
Unapproved Minutes

The Iowa Public Information Board (IPIB) met on October 17, 2024, for its monthly meeting at 1 p.m. at the offices of the Department of Agriculture and Land Stewardship located at 502 East 9th Street, Des Moines. The following members participated: Joan Corbin, Pella; E.J. Giovannetti, Urbandale; Barry Lindahl, Dubuque; Luke Martz, Ames; Monica McHugh, Zwingle. Also present were IPIB Executive Director, Erika Eckley; IPIB Deputy Director, Kimberly Murphy; IPIB Agency Counsel, Alexander Lee. A quorum was declared present.

On a motion by Giovannetti and second by Martz, to approve the agenda. Adopted, 5-0.

On a motion by Lindahl and second by Corbin, to approve the September 19, 2024, minutes. Adopted, 5-0.

Public Forum –

There were no public comments.

Comments from the Board Chair –

The board chair did not have any comments.

Advisory Opinions – The Board was briefed on the Advisory Opinion and acted as indicated below:

1. 24AO:0011 Does Iowa Code Chapter 22.7(5A) require that a Department of Justice form be utilized to allow the crisis intervention report to be categorized as confidential? – Abstention by Lindahl. On a motion by Giovannetti and second by Martz, to adopt the Advisory Opinion. Approved, 4-0.

IPIB Cases – The Board was briefed on each case and acted as indicated below:

1. **23FC:0053 (Debra Schiel-Larson – Both - Indianola Community School District) 5/4/2023 - Board Acceptance of IR – Verbal Update.** Debra Schiel-Larson addressed the Board. Emily Ellingson, representing the Indianola Community School District, addressed the Board. Board discussion occurred. On motion by Giovannetti and second by Corbin, to table the complaint to the next meeting of the Board. Approved, 5-0.
2. **23FC:0126 (Traci Stillwell - Chapter 22 - Hampton Public Library Hampton, IA) 11/19/2023 - Final Report.** Traci Stilwell addressed the Board. Megan Rosenberg, representing the Hampton Public Library, addressed the Board. Board discussion occurred. On motion by Martz and second by Giovannetti, to approve the Final Report. Approved, 5-0.
3. **24FC:0017 (Latrice Lacey - Chapter 22 - City of Davenport) 2/12/2024 - Probable Cause Report.** Mikkie Schiltz, representing the City of Davenport, addressed the Board. Board discussion occurred. On motion by Lindahl and second by Martz, to approve the Probable Cause Report and recommendation. Approved, 5-0.

4. **24FC:0053 (Blake Jones - Chapter 22 - City of Eldora) 6/18/2024 - Final Report.** On motion by Lindahl and second by Corbin, to approve the Final Report. Giovannetti abstained. Approved, 4-0.
5. **24FC:0057 (Jody Phillips - Chapter 22 - Pekin Community School District - Board) 7/3/2024 - Informal Resolution Report.** Carrie Weber, representing the Pekin Community School District, addressed the Board. Board discussion occurred. On a motion by Giovannetti and second by Martz, to approve the Informal Resolution Report. Approved, 5-0.
6. **24FC:0058 (Chad Miller - Both - Scott County Board of Review) 7/8/2024 – Dismissal.** Tom McManus and Tim Downing, representing Scott County, addressed the Board. Board discussion occurred. On motion by Giovannetti and second by Corbin, to approve the Dismissal. Approved, 5-0.
7. **24FC:0059 (Jan Norris – Both - Montgomery County Board of Supervisors) 7/23/2024 - Informal Resolution Report.** Jan Norris addressed the Board. Drew Swanson, representing Montgomery County, addressed the Board. On a motion by Martz and second by Lindahl, to approve the Informal Resolution Report. Approved, 5-0.
8. **24FC:0064 (Mark Milligan - Chapter 22 - Monroe County Sheriff's Department; represented by Monroe County Attorney) 7/30/2024 – Acceptance.** Mark Milligan addressed the Board. Laura Davis, representing the Monroe County Sheriff's Department, addressed the Board. Board discussion occurred. On motion by Martz and second by Lindahl, to approve the Acceptance. Approved, 5-0.
9. **24FC:0067 (Janet Pierson - Chapter 22 - Decatur County Auditor, Decatur County Attorney, Decatur County Board of Supervisors) 8/9/2024 – Dismissal.** Board discussion occurred. On motion by Giovannetti and second by Corbin, to approve the Dismissal. Approved, 5-0.
10. **24FC:0068 (Drake Riddle - Chapter 21 - Page County Board of Supervisors and their Clerk) 8/8/2024 – Acceptance.** Jacob Homes, Chairman of the Page County Board of Supervisors, addressed the Board. Judy Clark, a member of the Page County Board of Supervisors, addressed the Board. Board discussion occurred. On a motion by Martz and second by Giovannetti, to approve the Acceptance. Approved, 5-0.
11. **24FC:0069 (William Vandenberg - Chapter 22 - Lee County Sheriff's Office) 8/10/2024 – Dismissal.** Holly Corkery, representing Lee County, addressed the Board. Board discussion occurred. On motion by Giovannetti and second by Lindahl, to approve the Dismissal. Approved, 5-0.
12. **24FC:0070 (Brian Thomas – Both - Jefferson County BOS) 8/13/2024 – Acceptance.** Brian Thomas addressed the Board. Chauncey Moulding, representing Jefferson County, addressed the Board. Board discussion occurred. On a motion by Martz and second by Giovannetti, to approve the Acceptance. Approved, 5-0.
13. **24FC:0071 (Kevin Wymore - Chapter 21 - Cedar Rapids Community School District) 8/13/2024 – Dismissal.** Kevin Wymore addressed the Board. Brett Nitzschke, representing the City of Cedar Rapids Community School District, addressed the Board. Board discussion occurred. On a motion by Lindahl and second by Martz, to approve the Dismissal. Approved, 5-0.

14. **24FC:0073 (Gail Bonath - Chapter 21- Drake Community Library, Grinnell, Iowa) 8/25/2024 – Dismissal.** Board discussion occurred. On a motion by Martz and second by Corbin, to approve the Dismissal. Approved, 5-0.
15. **24FC:0075 (Karen Davis - Chapter 22 - City of Zearing) 9/3/2024 – Dismissal.** Board discussion occurred. On a motion by Giovannetti and second by Lindahl, to approve the Dismissal. Approved, 5-0.
16. **24FC:0077 (Kyle Ocker - Chapter 22- Mahaska County Sheriff’s Office) 9/9/2024 – Acceptance.** Andrew Ritland, from the Mahaska County Attorney’s Office and representing the Mahaska County Sheriff’s Office, addressed the Board. Board discussion occurred. The Board requested that Advisory Opinion 18AO:008 be reviewed by IPIB staff. On a motion by Martz and second by Lindahl, to approve the Acceptance. Approved, 5-0.
17. **24FC:0080 (Tiffany South - Chapter 22 - Iowa Girls High School Athletic Union) 9/21/2024 – Dismissal.** Brad Epperly, representing the Iowa Girls High School Athletic Union, was present. Board discussion occurred. On a motion by Martz and second by Corbin, to approve the Dismissal. Approved, 5-0.
18. **24FC:0086 (Ben Ward - Chapter 22 - Office of the Iowa Attorney General, Iowa Civil Rights Commission) 9/29/2024 – Dismissal.** Katie Fiala, representing the Iowa Civil Rights Commission, addressed the Board. Board discussion occurred. On a motion by Lindahl and second by Martz, to approve the Dismissal. Approved, 5-0.

Matters Withdrawn, No Action Necessary –

Eckley updated the Board on the following cases that were withdrawn by the Complainant:

1. 24FC:0074 (Diane Holst - Chapter 22- Iowa Secretary of State) 8/26/2024 - Withdrawn

Pending Complaints and Advisory Opinions – These matters are informational and do not require Board action at this time.

1. 24AO:0012 If a records request is made for social media posts, such as a government-moderated Facebook page, is the government body required to provide screen shots of the posts or can the government body direct the requestor to the Facebook page and the requested
2. 24FC:0013 (Bonnie Castillo - Both- Union County Emergency Management Agency) 2/2/2024 - Informal Resolution Process
3. 24FC:0052 (Erik Johnson - Chapter 22- Delaware Township) 6/6/2024 - Information Gathering
4. 24FC:0056 (Steven Asche - Chapter 22- City of Eagle Grove) 6/20/2024 - Informal Resolution Process
5. 24FC:0072 (Lucian Diaconu - Chapter 22- Gilbert Community School District) 8/14/2024 - Information Gathering
6. 24FC:0078 (Megan Pegorick - Chapter 22- Midland Community School District) 9/10/2024 - Information Gathering
7. 24FC:0079 (Tiffany South - Chapter 22- CAM Community School District) 9/18/2024 - Information Gathering
8. 24FC:0081 (Joe Monahan - Chapter 22- Ames Public Library, Ames City Attorney) 9/20/2024 - Information Gathering

9. 24FC:0082 (Robin Delaney - Chapter 21- Des Moines County Board of Supervisors) 9/25/2024 - Complaint Open
10. 24FC:0083 (Tim Ferguson - Chapter 22- Scotty County government) 9/25/2024 - Complaint Open
11. 24FC:0085 (Gregory Mangold - Chapter 21- Des Moines County Board of Supervisors) 9/27/2024 - Information Gathering
12. 24FC:0087 (Nicholas Bargren - Public Records Law- Iowa City Police Department) 10/5/2024 - New / Complaint Information Reviewed
13. 24FC:0088 (Randy Evans - Open Meetings Law- Des Moines County Board of Supervisors) 10/5/2024 - New / Complaint Information Reviewed
14. 24FC:0089 (Curtis Wagler - Chapter 22- Henry County Sheriff's Office) 10/8/2024 - New / Complaint Information Reviewed
15. 24FC:0090 (sarah weber - Open Meetings Law- Orange City Council) 10/9/2024 - New / Complaint Information Reviewed
16. 24FC:0091 (Sheryl Pilkington - Public Records Law- City of fairfield and city sewer and waste water) 10/10/2024 - New / Complaint Information Reviewed

Discussion and Possible Action on Retention Policy –

Murphy provided an overview of the proposed retention policy. Board discussion occurred. On a motion by Martz and second by Lindahl, to adopt the retention policy. Adopted, 5-0.

Discussion and Possible Action on Pilot Case Review Process –

Murphy provided an overview of the proposed complaint process. Board discussion occurred. On a motion by Corbin and second by Lindahl, to adopt the recommendation from the Rules Committee to implement the proposed pilot project. Approved, 5-0.

Charles Nocera's Request –

Eckley reviewed a memo to the Board regarding Nocera's request. Nocera addressed the Board. Board discussion occurred.

Committee Reports -

1. **Training** – Lee addressed the Board and indicated he is still learning about training.
2. **Legislative** – Eckley addressed the Board and indicated that the Committee will be meeting following the termination of the meeting.
3. **Rules** – Murphy addressed the Board and indicated that agenda item XI provided an update regarding the Rules Committee.

Office Status Report –

1. Office Update – Eckley provided an update.
2. Financial/Budget Update (FY25) – Eckley provided an update and reviewed the proposed budget for FY25.

3. Presentations/Trainings – Eckley provided an update regarding presentations and trainings and indicated the following trainings are upcoming:
 - a. Iowa Department of Veterans Affairs
 - b. Montgomery County
 - c. IMAA
 - d. Tama County
 - e. ISAC New County Officers

4. District Court Update – Eckley provided an updated regarding cases being heard in district court, appellate court, and the Supreme Court.

Upcoming Meetings –

The next meeting of the IPIB Board will be held on November 21, 2024, at 1:00 p.m.

On a motion by Lindahl and a second by Giovannetti, the meeting was adjourned by unanimous vote.

The Iowa Public Information Board

<p>In re the Matter of:</p> <p>Ellen Becker, Complainant</p> <p>And Concerning:</p> <p>South Tama County School District, Respondent</p>	<p>Case Number: 24FC:0091</p> <p>Dismissal Order</p>
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On October 3, 2024, Ellen Becker filed formal complaint 24FC:0091, alleging that the South Tama County School District and Superintendent John Cain violated Iowa Code Chapter 21.

Facts

The South Tama County Community School District (STC) is a rural public-school district in central Iowa. STC is represented by a five-member elected Board of Directors, which in turn appoints the district's superintendent. At the time of the alleged violation, the Board had four members and one vacancy, and the superintendent was John Cain.

The Complainant, Ellen Becker, provided two screenshots showing an apparent group text conversation which included the superintendent and all four current board members. On October 3, 2024, at 1:53PM, Superintendent Cain sent a text to the group which read as follows:

Emergency Meeting...one item. I am hoping to get at least three of you to join us tomorrow for a 3:30 Board Meeting at the White House. The MS water heater is shot. Steve has done his work and the only option is to replace. It will cost more than the \$5000 threshold and needs board approval. We have two quotes.

If I hear from three of you, we plan to post by 3:30. You could join virtually as well.

Two board members confirmed their attendance on the group chat, saying “I can be there” and “I will plan on it too.” Cain then responded: “I have 3 so we will move forward. Join if able.”

On October 21, 2024, Becker filed formal complaint 24FC:0091, alleging STC violated Chapter 21 open meetings laws by texting all board members. The complaint also alleged the superintendent lacked authority under law to set emergency meetings.

Applicable Law

Iowa Code § 21.2(2) defines a meeting as a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body’s policy-making duties. The law goes on to state, “Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.”

Iowa Code § 23.6(4) grants IPIB the authority to “[r]eceive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance, formally investigate such complaints, decide after such an investigation whether there is probable cause to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute the respondent before the board in a contested case proceeded conducted according to the provisions of chapter 17A.”

Analysis

Not all meetings of a governmental body include deliberation or action related to policy-making duties. Deliberation is generally defined to include “discussion and evaluative processes in arriving at a decision or policy.” *Hutchison v. Shull*, 878 N.W.2d 221 n. 1 (Iowa 2016) (quoting *Hettinga v. Dallas Cnty. Bd. of Adjustment*, 375 N.W.2d 293, 295 (Iowa Ct. App. 1985)). A gathering is considered “purely ministerial” when members of a governmental body gather “without discussing policy or intending to avoid the purposes of the open meetings law,” though ministerial activities may become deliberation within the meaning of Iowa Code § 21.2(2) when members “engage in any discussion that focuses at all concretely on matters over which they exercise judgment or discretion.” *Id.*

The complaint alleges the superintendent messaged all four current members of the school board on the same group chat, and there is no dispute that these four members would constitute a majority of a governmental body. Nevertheless, the only topics discussed are the scheduling of a possible emergency meeting, member availability for that meeting, and the topic of discussion (approving the replacement of a school water heater). The board members who responded merely confirmed their attendance, without weighing in or even commenting on the substance of the proposed meeting. Scheduling a meeting is considered a “purely ministerial” purpose, outside the scope of a government body’s policy-making duties. *See* 20FC:0027 Logan Nehman/Fonda City Council (finding a discussion between city council members for the purpose of scheduling times for interviewing job applicants to be “purely ministerial” and therefore not a meeting). Likewise, there is no meeting where members of a government body receive information on a matter related to their policy-making duties without deliberation. Because the only discussion between board members alleged was clearly “purely ministerial,” IPIB is unable to find a meeting in violation of Iowa Code § 21.3.

Becker also alleges the superintendent lacked the authority to call for an emergency meeting. IPIB does not have jurisdiction over this claim, as Chapter 21 is silent as to who may call a meeting, and IPIB’s authority to hear complaints is limited to alleged violations of Chapter 21 and 22. Iowa Code § 23.6(4). As a result, IPIB cannot address this portion of the complaint.

Conclusion

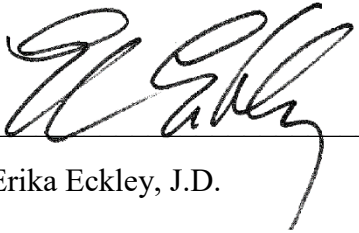
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

The facts alleged in Becker’s complaint do not amount to an unlawful meeting, and Becker’s remaining claims are outside IPIB’s statutory authority to consider.

IT IS SO ORDERED: Formal complaint 24FC:0091 is dismissed as legally insufficient or outside of IPIB’s jurisdiction pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 7, 2024, to:

Ellen Becker, Complainant

The Iowa Public Information Board

In re the Matter of: Justin Scott, Complainant And Concerning: Denver Community School Board, Respondent	Case Number: 24FC:0095 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On October 25, 2024, Justin Scott filed formal complaint 24FC:0095, alleging Denver Community School Board (Board) violated Iowa Code Chapter 21.

Facts

The Denver Community School District is a rural public school-district in Northeast Iowa. Denver CSD is represented by a five-member Board.

On September 11, 2024, during the Public Forum portion of the Board’s monthly meeting, a member of the public expressed concerns about the presence of police officers in the meeting space.

On October 9, 2024, during the subsequent regular meeting, Board President Heather Prendergast responded to these comments during the scheduled Board President Report. The online board minutes for this report read as follows:

Prendergast shared that there were public comments shared by a citizen at the September 11, 2024 School Board Meeting expressing concerns with having police officers present as School Board Meetings. Prendergast shared that she wanted to take the opportunity to explain why she has requested public safety presence at the meetings. Following many of the Board meetings during the summer,[] there have been negative and inflammatory comments made on social media, which can be interpreted as threatening. In addition, there was an individual who ran through the school, after a recent school board meeting asking where the board president was and interrupting a private meeting. She added that she doesn’t take these actions

lightly for the safety of the school board and members of the community, and as such it was helpful to have a police presence in attendance.

During these comments, Prendergast allegedly claimed law enforcement's ongoing presence was due to threats against the school board and herself, as well as "hurtful comments online."

On October 30, 2024, Justin Scott filed formal complaint 24FC:0095, alleging multiple violations arising from Prendergast's comments at the October board meeting, including:

- 1) That Prendergast "misled the public" about the alleged threats against the board and failed to provide specific examples of these threats;
- 2) That Prendergast "made these remarks in a manner that seemed to threaten anyone who might challenge her baseless claims";
- 3) That Prendergast described social media comments as "threats," which "raises concerns about chilling the First Amendment rights of parents and taxpayers";
- 4) That Prendergast and the board minutes mischaracterize the incident in which a parent "ran through the halls asking where [Prendergast] was," as (according to the complaint) the parent had "politely asked the board secretary about the president's location and walked quickly to catch up, displaying no aggression"; and
- 5) That Prendergast's portrayal of the event described above was an "attempt to frame concerned parents as threats," in an "effort to silence legitimate criticism."

Applicable Law

"Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection." Iowa Code § 21.3.

Iowa Code § 23.6(4) grants IPIB the authority to "[r]eceive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance, formally investigate such complaints, decide after such an investigation whether there is probable cause to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute the respondent before the board in a contested case proceeded conducted according to the provisions of chapter 17A."

Analysis

IPIB's statutory jurisdiction to hear complaints is limited to Chapters 21 and 22, which deal with open meetings and open records law, respectively. The former, Chapter 21, requires government bodies in the State of Iowa must generally conduct their business in open meetings accessible to the public, with additional requirements for posting public notice of meetings, recording meeting minutes, and the limited circumstances in which government bodies are permitted to enter closed session. Beyond requirements related to public access and advance notice of meeting agendas, Chapter 21 does not impose any additional constraints on the substance of meetings, including with regards to the conduct of individual public officials.

In its initial facial review, IPIB considers all factual allegations provided by the complainant to be true and accurate for the purposes of deciding whether to accept or dismiss a complaint. In this case, even if Prendergast's statements were knowingly and intentionally inaccurate, this inaccuracy would be outside the scope of Chapter 21. Similarly, Chapter 21 does not address the freedom of speech, the rights of the public to criticize the government, or liability for improper threats.

With regards to meeting minutes, Iowa Code § 21.3 requires governmental bodies to keep meeting minutes, which must include the date, time, and place of the meeting, members present, action taken, and "information sufficient to indicate the vote of each member." Here, even accepting as true the incident described by the minutes is mischaracterized, this portion of the minutes is describing a board member's statements, not the incident itself. This alleged violation is therefore outside the scope of Chapter 21.

Because none of the allegations described in the complaint could serve as the basis for a finding the Board violated Chapter 21, IPIB lacks authority to weigh in on the merits of the complaint.

Conclusion

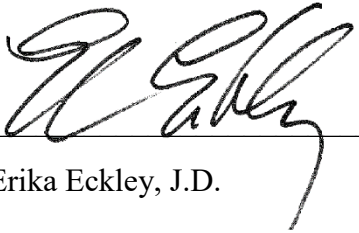
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

On review, the complainant has failed to allege a violation within IPIB's jurisdiction.

IT IS SO ORDERED: Formal complaint 24FC:0095 is dismissed as outside IPIB's jurisdiction pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 8, 2024, to:

Justin Scott, Complainant

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0098
Charles Kerker, Complainant	Dismissal Order
And Concerning:	
City of Dyersville, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On October 29, 2024, Charles Kerker filed formal complaint 24FC:0098, alleging the City of Dyersville (City) violated Iowa Code chapter 22.

Facts

On October 18, 2024, Kerker submitted a public records request to the City of Dyersville seeking the names of all board members of Dyersville Events, LLC.

The City responded and indicated that Dyersville Events, Inc. does not meet the definition of a government body and is not subject to open records and open meetings law.

In response, Kerker filed this complaint.

Applicable Law

“*Government body*’ means this state, or any county, city, township, school corporation, political subdivision, tax-supported district . . . or other entity of this state, or any branch, department, board, bureau, commission, council, committee, official, or officer of any of the foregoing or any employee delegated the responsibility for implementing the requirements of [chapter 22].” Iowa Code § 22.1(1).

“*Lawful custodian*’ means the government body currently in physical possession of the public record. The custodian of a public record in the physical possession of persons outside a government body is the government body owning that record. The records relating to the investment of public funds are the property of the public body responsible for the public funds.” Iowa Code § 22.1(3).

Analysis

Kerker is requesting records regarding Dyersville Events, Inc. This entity is an incorporated and not-for-profit 501(c)(3). Dyersville Events, Inc. does not meet the definitional requirements of a government body pursuant to Iowa Code Chapter 22 and is not subject to open records under this chapter.

The City and Dyersville Events, Inc. are separate entities. The City is not the lawful custodian of records related to the Corporation.

Because the complaint involves a corporation that does not fall within the scope of Iowa Code Chapter 22, IPIB does not have jurisdiction of this complaint.

Conclusion

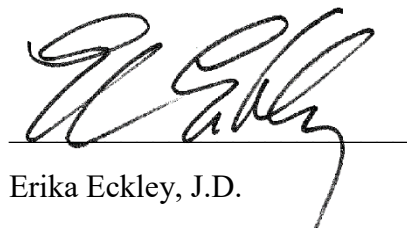
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

Specifically, the complaint is likely legally insufficient, as the City of Dyersville, Inc. is not a government body under § 22.1.

IT IS SO ORDERED: Formal complaint 24FC:0098 is dismissed as it is legally insufficient pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on October 17, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 15, 2024, to:

Charles Kerker, Complainant

The Iowa Public Information Board

In re the Matter of: Tyson Trunkhill, Complainant And Concerning: Denver Community School Board, Respondent	Case Number: 24FC:0099 Dismissal Order
---	---

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On October 25, 2024, Tyson Trunkhill filed formal complaint 24FC:0099, alleging Denver Community School Board (Board) violated Iowa Code Chapter 21.

Facts

The Denver Community School District is a rural public school-district in Northeast Iowa. Denver CSD is represented by a five-member Board of Directors, including Heather Prendergast, who is currently serving as the board's President.

On September 11, 2024, during the Public Forum portion of the school board's monthly board meeting, the complainant, Tyson Trunkhill, expressed concerns about the presence of police officers in the meeting space.

On October 9, 2024, during the subsequent regular meeting, Board President Heather Prendergast responded to these comments during the scheduled Board President Report. The online board minutes for this report read as follows:

Prendergast shared that there were public comments shared by a citizen at the September 11, 2024 School Board Meeting expressing concerns with having police officers present at School Board Meetings. Prendergast shared that she wanted to take the opportunity to explain why she has requested public safety presence at the meetings. Following many of the Board meetings during the summer,[] there have been negative and inflammatory comments made on social media, which can be interpreted as threatening. In addition, there was an individual who ran through the school, after a recent school board meeting asking where the board president was

and interrupting a private meeting. She added that she doesn't take these actions lightly for the safety of the school board and members of the community, and as such it was helpful to have a police presence in attendance.

The complaint alleges that, in the course of this report, the Board (through its President), made "disparaging and false accusations" concerning Trunkhill and another member of the public. Specifically, the Board allegedly labeled Trunkhill a "threat" for previous comments made at meetings and online. Trunkhill stated these misrepresentations constituted slander, as no threats were ever made against the Board or its individual members.

Applicable Law

"Nothing in this chapter shall prevent a governmental body from making and enforcing reasonable rules for the conduct of its meetings to assure those meetings are orderly, and free from interference or interruption by spectators." Iowa Code § 21.7.

Iowa Code § 23.6(4) grants IPIB the authority to "[r]eceive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance, formally investigate such complaints, decide after such an investigation whether there is probable cause to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute the respondent before the board in a contested case proceeded conducted according to the provisions of chapter 17A."

Analysis

IPIB's statutory jurisdiction to hear complaints is limited to Iowa Code Chapters 21 and 22, which deal with open meetings and open records law, respectively. The former, Chapter 21, requires government bodies in the State of Iowa must generally conduct their business in open meetings accessible to the public, with additional requirements for posting public notice of meetings, recording meeting minutes, and the limited circumstances in which government bodies are permitted to enter closed session. Beyond requirements related to public access and advance notice of meeting agendas, Chapter 21 does not impose any additional constraints on the substance of meetings.

In its initial facial review, IPIB considers all factual allegations provided by the complainant to be true and accurate for the purposes of deciding whether to accept or dismiss a complaint. In this case, even if the Board President's public statements were knowingly and intentionally inaccurate, this inaccuracy would be outside the scope of Chapter 21. Likewise, IPIB lacks jurisdiction to address defamation or slander.

To the extent the complaint challenges the presence of law enforcement officers at Board meetings, Chapter 21 does not prohibit governmental bodies from requesting security presence at their

meetings, and Iowa Code § 21.7 expressly permits such a body to make and enforce “reasonable rules for the conduct of its meetings to assure those meetings are orderly.”

Because none of the allegations described in the present complaint could serve as the basis for a finding the Board violated Chapter 21, IPIB lacks authority to weigh in on the merits of the complaint.

Conclusion

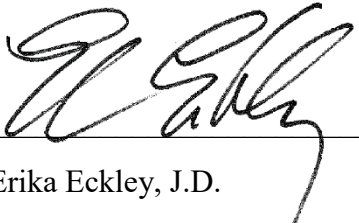
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

On review, the complainant has failed to allege a violation within IPIB’s jurisdiction.

IT IS SO ORDERED: Formal complaint 24FC:0099 is dismissed as outside IPIB’s jurisdiction pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 8, 2024, to:

Tyson Trunkhill, Complainant

The Iowa Public Information Board

In re the Matter of: Tyson Trunkhill, Complainant And Concerning: Denver Community School Board, Respondent	Case Number: 24FC:0100 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On October 30, 2024, Tyson Trunkhill filed formal complaint 24FC:0100, alleging the Denver Community School Board (Board) violated Iowa Code Chapter 21.

Facts

The Denver Community School District is a rural public school-district in Northeast Iowa. Denver CSD is represented by a five-member Board of Directors.

Tyson Trunkhill, the complainant, serves as a coach for the local NASP (National Archery in the Schools Program) Archery Club. Trunkhill alleges that a parent of one of the students involved in this Archery Club has previously made personal threats against Trunkhill's family and the club.

According to the complaint, one of the five members of the CSD Board violated Board policy by taking complaints directly from this individual parent, which Trunkhill suggested included incomplete or inaccurate information about the Archery Club's role in an ongoing dispute. Trunkhill further alleges the Board member subsequently sent an email threatening Trunkhill, Trunkhill's wife, and the Archery Club.

Trunkhill alleges the response to the ongoing dispute involving the Archery Club has been one-sided, and biased against Trunkhill because of previous issues between Trunkhill and the Board.

Applicable Law

Iowa Code § 23.6(4) grants IPIB the authority to "[r]eceive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance, formally

investigate such complaints, decide after such an investigation whether there is probable cause to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute the respondent before the board in a contested case proceeded conducted according to the provisions of chapter 17A.”

Analysis

IPIB’s statutory jurisdiction to hear complaints is limited to Chapters 21 and 22, which deal with open meetings and open records law, respectively. This complaint does not relate to or allege any violation of Iowa Code chapters 21 or 22.

In its initial facial review, IPIB considers all factual allegations provided by the complainant to be true and accurate for the purposes of deciding whether to accept or dismiss a complaint. Because none of the allegations described in the present complaint could serve as the basis for a finding the Board violated either Chapter 21 or Chapter 22, IPIB lacks authority to weigh in on the merits of the complaint.

Conclusion


Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

On review, the complainant has failed to allege a violation within IPIB’s jurisdiction.

IT IS SO ORDERED: Formal complaint 24FC:0100 is dismissed as outside IPIB’s jurisdiction pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 8, 2024, to:

Tyson Trunkhill, Complainant

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0103
Sue Miles, Complainant	Dismissal Order
And Concerning:	
Winterset Public Library, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On October 31, 2024, Sue Miles filed formal complaint 24FC:0103, alleging the Winterset Public Library (Library) violated Iowa Code Chapters 21 or 22.

Facts

On October 30, 2024, Sue Miles visited the Library as a patron. The complaint alleges that, during this visit, the Library's staff members were rude. The complaint also states that a particular employee never smiles and is never friendly to patrons. The complainant states they do not intend to go back to the Library due to the treatment they received. Miles did not allege any facts establishing a meeting of a government body or any request to access public records in the complaint.

Applicable Law

Iowa Code § 23.6(4) grants IPIB the authority to “[r]eceive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance, formally investigate such complaints, decide after such an investigation whether there is probable cause to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute the respondent before the board in a contested case proceeded conducted according to the provisions of chapter 17A.”

Analysis

IPIB's statutory jurisdiction to hear complaints is limited to Chapters 21 and 22, which deal with open meetings and open records law, respectively. This complaint does not relate to or allege a meeting of any government body, nor does it pertain to any public records.

In its initial facial review, IPIB considers all factual allegations provided by the complainant to be true and accurate for the purposes of deciding whether to accept or dismiss a complaint. Because none of the allegations described in the present complaint could serve as the basis for a finding the Library violated either Chapter 21 or Chapter 22, IPIB lacks authority to weigh in on the merits of the complaint.

Conclusion

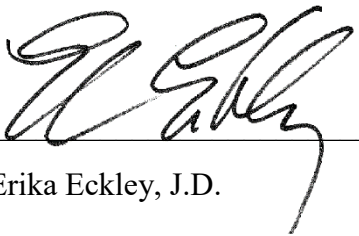
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

On review, the complainant has failed to allege a violation within IPIB's jurisdiction.

IT IS SO ORDERED: Formal complaint 24FC:0103 is dismissed as outside IPIB's jurisdiction pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 8, 2024, to:

Sue Miles, Complainant

The Iowa Public Information Board

In re the Matter of: Chad Brewbaker, Complainant And Concerning: Iowa Ethics and Campaign Disclosure Board, Respondent	Case Number: 24FC:0105 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On October 31, 2024, Chad Brewbaker filed formal complaint 24FC:0105, alleging the Iowa Ethics and Campaign Disclosure Board (IECDB) violated Iowa Code chapter 21.

Facts

The complaint alleges the IECDB “convened a meeting to address a complaint alleging misuse of public funds and authority by the Governor - allegedly embezzling funds contrary to Iowa Code 13.7 involving private attorneys fees and 13.11 involving spending of state settlement funds without LSA or Iowa Department of Management accounting. See years of missing annual Iowa False Claims Act and 13.11 reports missing from LSA. See April 2024 Iowa State Daily article on fees embezzled to Daigle Law Group.

- 1) The outcome was predetermined on the meeting agenda.
- 2) Lack of public access to deliberation in violation of 21.4.
- 3) Refusal to permit public comment.
- 4) Failure to articulate any specific legal ground why the complaint on Kim Reynolds embezzling private attorneys fees was outside their jurisdiction.
- 5) Zach Goodrich failed to disclose he had Bird campaign on same facts as “Tom Miller’s” slush fund, when it looks like fees also embezzled to Bird via Hush Blackwell and RAGA \$1.8m.”

Applicable Law

Iowa Code § 23.6(4) grants IPIB the authority to “[r]eceive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance, formally investigate such complaints, decide after such an investigation whether there is probable cause to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute the respondent before the board in a contested case proceeded conducted according to the provisions of chapter 17A.”

Analysis

IPIB’s statutory jurisdiction to hear complaints is limited to Chapters 21 and 22, which deal with open meetings and public records law, respectively.

In its initial facial review, IPIB considers all factual allegations provided by the complainant to be true and accurate for the purposes of deciding whether to accept or dismiss a complaint. On its face, this complaint does not allege any statutory violations of Iowa Code chapter 21. IPIB lacks authority to consider any non-jurisdictional allegations of the complaint.

Conclusion

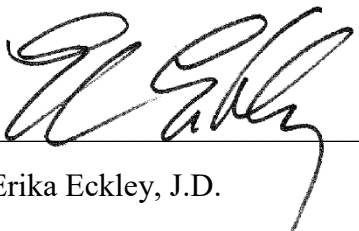
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

On review, the complainant has failed to allege a violation within IPIB’s jurisdiction.

IT IS SO ORDERED: Formal complaint 24FC:0105 is dismissed as outside IPIB’s jurisdiction pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 7, 2024, to:

Chad Brewbaker, Complainant

The Iowa Public Information Board

<p>In re the Matter of:</p> <p>Chad Brewbaker, Complainant</p> <p>And Concerning:</p> <p>Polk County Board of Supervisors, Respondent</p>	<p>Case Number: 24FC:0107</p> <p>Dismissal Order</p>
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On November 1, 2024, Chad Brewbaker filed formal complaint 24FC:0107, alleging Polk County Board of Supervisors (Board) violated Iowa Code chapter 21.

Facts

The complaint alleges Brewbaker “filed a timely request for a Polk County Objections Panel hearing on Polk County Sheriff Kevin Schneider Days before the election and Polk Supervisor Angela Connolly has still not scheduled the public meeting.

...

Polk County deserves it's [sic] Objections Panel hearing - Schneider is subject to immediate Chapter 66 removal - bait and switch to Democrats.”

Applicable Law

Iowa Code § 23.6(4) grants IPIB the authority to “[r]eceive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance, formally investigate such complaints, decide after such an investigation whether there is probable cause to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute the respondent before the board in a contested case proceeded conducted according to the provisions of chapter 17A.”

Analysis

IPIB's statutory jurisdiction to hear complaints is limited to Chapters 21 and 22, which deal with open meetings and public records law, respectively.

In its initial facial review, IPIB considers all factual allegations provided by the complainant to be true and accurate for the purposes of deciding whether to accept or dismiss a complaint. On its face, this complaint does not allege any statutory violations of Iowa Code chapter 21. IPIB lacks authority to consider any non-jurisdictional allegations of the complaint.

Conclusion

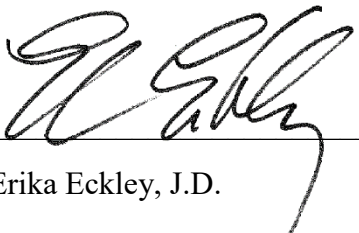
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

On review, the complainant has failed to allege a violation within IPIB's jurisdiction.

IT IS SO ORDERED: Formal complaint 24FC:0107 is dismissed as outside IPIB's jurisdiction pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 7, 2024, to:

Chad Brewbaker, Complainant

The Iowa Public Information Board

In re the Matter of: Chad Brewbaker, Complainant And Concerning: Multiple Government and Private Individuals, Respondent	Case Number: 24FC:0114 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On November 14, 2024, Chad Brewbaker filed formal complaint 24FC:0114, alleging Multiple Government and Private Individuals (Respondents) violated Iowa Code chapters 21 and 22.

Facts

The complaint alleges Brewbaker's private attorney "made false criminal complaint suborned by [another person] lying about a solitary attorney client privileged [company] regarding missing tax filings for 2018 and licensing a lending automation patent w [persons and company] about to get e-notary monopoly from [the Governor]. This used for fraudulent 664A order to defraud [Brewbaker] of 2024 LPIA Dallas County caucus/convention. Arrested in retaliation for May 15, 2024 email to Iowa SOS about [Federal election fraud and public June 2, 2024 LinkedIn comment on [conspiracy. Urbandale PD ordered to cover up and Urbandale Mayor ..had Clive/Ankeny embezzle private attorneys fees outside Iowa Code 13.7 to [law firms] as coverup. Clive PD records now relevant in Chapter 57 ballot contest of 1st Congressional District by [candidate]. [Private law firms] refusing to hand over records for State Board of Canvas and myself and Brady records on truth of \$17,500 stolen w/o GAL."

Applicable Law

Iowa Code § 23.6(4) grants IPIB the authority to "[r]eceive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance, formally investigate such complaints, decide after such an investigation whether there is probable cause to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute

the respondent before the board in a contested case proceeded conducted according to the provisions of chapter 17A.”

Analysis

IPIB’s statutory jurisdiction to hear complaints is limited to Chapters 21 and 22, which deal with open meetings and public records law, respectively.

In its initial facial review, IPIB considers all factual allegations provided by the complainant to be true and accurate for the purposes of deciding whether to accept or dismiss a complaint. On its face, this complaint does not allege any statutory violations of Iowa Code chapter 21. IPIB lacks authority to consider any non-jurisdictional allegations of the complaint.

Conclusion

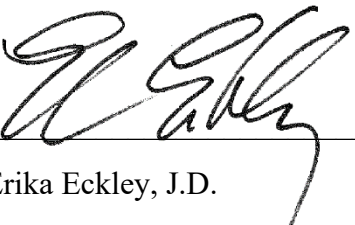
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

On review, the complainant has failed to allege a violation within IPIB’s jurisdiction.

IT IS SO ORDERED: Formal complaint 24FC:0107 is dismissed as outside IPIB’s jurisdiction pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 19, 2024, to:

Chad Brewbaker, Complainant



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Case: 00009628

Account Name	Guest Account	Contact Name	Aubrey Burress
IPIB Case Number	24FC:0092		Contact Phone
Case Owner	Kimberly Murphy	Contact Email	
IPIB Copied Date		County	
IPIB Open Date		Outcome	
IPIB Close Date		Board Review Document	
Category		Board Approval Date	
Board Meeting	<input type="checkbox"/>	Case Record Type	Complaint
Board accept date			
First eligible board meeting			

Additional Information

Status	New / Complaint Information Reviewed	Priority	
Case Origin	Web	Type	
Date of Alleged Violation	10/18/2024	Complaint Type	Both
Contested Case	<input type="checkbox"/>	Petitioner type	
Date of First Board Meeting		Type of Entity	
Reviewed within two board meetings	<input type="checkbox"/>		

Description Information

Subject	24FC:0092
Description	I am a trustee with the Pleasant Grove township. On October 5, 2024 Pleasant Grove had a regular meeting. Bill Morris handed papers to clerk Ray White. I asked to see what was handed in and Ray White told me it wasn't on the agenda. I could see they were bills and said that I had submitted "spending approvals" on the agenda and that I had the right to see them. I was handed 3 bills submitted by Morris Tree Service. Work on some of these bills was approved ONLY by Norm Fry. Norman Fry is the brother in law to Bill Morris Sr and uncle to Bill Morris Jr. Some of this work as in filling of graves and moving unapproved bringing in of rip rap (see Dec meeting where Norm brought in the rip rap on his own without board approval) was done without prior board approval. I asked to add items to the 10/18/24 meeting and was denied, I cancelled the meeting because I was denied agenda items and the meeting was held without financials. We have had oversight from the board of supervisors
Gov't Employees/Officials Involved	
Other Person and Contact Information	Raymond White, Jocelyn Richards, Norman Fry

Web Information

Date/Time Opened	10/21/2024 6:06 PM	Case Number	00009628
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(P.1) Tim Hansen

email - _____

91

To Members of the I. P. I. B.

I wish to file a complaint on the enclosed chap 22 request, answer from the Franklin Co. Sheriff's dept. Aaron Dodd who is the FCS the govt. employee. The Govt. entity is the Iowa Franklin Co. Sheriff's office Hampton, IA.

In 2021 Iowa enacted HF 804 requiring law enforcement agencies to release bodycam footage within 30 days of an incident unless
22.7(1) ongoing investigation / 2. court order
3. confidentiality concerns. 22.7(18)

Public Records

(1) Bodycam footage is a public record per Iowa code 22.1

(2) Records relating to Police shootings including bodycam footage are generally Public Iowa code 22.7(51)

Iowa code 22.8 outlines procedures for examining and copying Public Records including



- [Close Window](#)
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Case: 00009634

Account Name	Guest Account	Contact Name	Ben Lynch
IPIB Case Number	24FC:0094	Contact Phone	
Case Owner	Erika Eckley	Contact Email	
IPIB Copied Date		County	
IPIB Open Date		Outcome	
IPIB Close Date		Board Review Document	
Category	Public Records - Other	Board Approval Date	
Board Meeting	<input type="checkbox"/>	Case Record Type	Complaint
Board accept date			
First eligible board meeting			

Additional Information

Status	New / Complaint Information Reviewed	Priority	
Case Origin	Web	Type	
Date of Alleged Violation	10/24/2024	Complaint Type	Both
Contested Case	<input type="checkbox"/>	Petitioner type	Citizen
Date of First Board Meeting		Type of Entity	City
Reviewed within two board meetings	<input type="checkbox"/>		

Description Information

Subject	24FC:0094
Description	Joe Gatto blocked me on social media. I am his constituent and he needs to unblock me.
Gov't Employees/Officials Involved	Joe Gatto
Other Person and Contact Information	Joe Gatto blocked me on social media. I am his constituent and he needs to unblock me.

Web Information

Date/Time Opened	10/24/2024 2:50 PM	Case Number	00009634
Case Source		Date/Time Closed	

System Information

Created By	Erika Eckley, 10/24/2024 2:50 PM	Last Modified By	Erika Eckley, 10/25/2024 3:28 PM
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Contact Information

Name	Ben Lynch	Account Name	Guest Account
Contact Owner	Erika Eckley	Work Phone	Home Phone
Title		Mobile	
Email	b	Contact Record Type	Customers
Fax			

Address Information

Mailing Address	
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Additional Information

Description		Last Stay-in-Touch Request Date	
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System Information



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Case: 00009645

Account Name	Guest Account	Contact Name	Rachel Dolley
IPIB Case Number	24FC:0096	Contact Phone	(
Case Owner	Erika Eckley	Contact Email	
IPIB Copied Date		County	
IPIB Open Date	10/29/2024	Outcome	
IPIB Close Date		Board Review Document	
Category		Board Approval Date	
Board Meeting	<input type="checkbox"/>	Case Record Type	Complaint
Board accept date			
First eligible board meeting	11/21/2024		
Board Meeting Consent	Accept		

Additional Information

Status	Acknowledgement of Complaint	Priority	
Case Origin	Web	Type	
Date of Alleged Violation	9/9/2024	Complaint Type	Open Meetings Law
Contested Case	<input type="checkbox"/>	Petitioner type	
Date of First Board Meeting		Type of Entity	
Reviewed within two board meetings	<input type="checkbox"/>		

Description Information

Subject	24FC:0096
Description	21.5(1)(i); It is my understanding that as the individual I did not request a closed session meeting. There was no clear agenda other than humiliation, harassment, and belittlement. It was voted on in the open session to have closed session and I was asked to join.
Gov't Employees/Officials Involved	Rachel Dolley, Rick Hindsley, Debra Fenton-Roe, Stephen Croft, Eric Livingston
Other Person and Contact Information	

Web Information

Date/Time Opened	10/28/2024 9:12 AM	Case Number	00009645
Case Source		Date/Time Closed	

System Information



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Case: 00009644

Account Name	Guest Account	Contact Name	Tyler Patterson
IPIB Case Number	24FC:0097	Contact Phone	(
Case Owner	Erika Eckley	Contact Email	
IPIB Copied Date		County	
IPIB Open Date	10/29/2024	Outcome	
IPIB Close Date		Board Review Document	
Category		Board Approval Date	
Board Meeting	<input type="checkbox"/>	Case Record Type	Complaint
Board accept date			
First eligible board meeting	11/21/2024		
Board Meeting Consent			

Additional Information

Status	Acknowledgement of Complaint	Priority	
Case Origin	Web	Type	
Date of Alleged Violation	10/10/2024	Complaint Type	Both
Contested Case	<input type="checkbox"/>	Petitioner type	
Date of First Board Meeting		Type of Entity	
Reviewed within two board meetings	<input type="checkbox"/>		

Description Information

Subject	24FC:0097
Description	The Clarke County Hospital board of trustees has likely been an existence since the hospital was built in 1953 located at 800 South Fillmore St. in Osceola. I am a whistleblower and I began demanding that the open meetings and open records laws be of held by this county board. There are no hospital agenda records or meeting minutes available in the counter, recorders office, although the CEO Who is an employee of unity point and not Clarke County Hospital assure everyone that there are minutes, but no one in the county can find them. There's much speculation about Fischer malfeasance money, laundering and corruption. 70 years of no agendas or records are available for review. The meetings are held in the locked building on the hospital campus. Sometimes the meetings rotate you have to use a key card or ring doorbell to get in and they are held at noon or thereabouts during weekdays they're not accessible to the public and this is obviously a problem and has been for 22 years, at least.
Gov't Employees/Officials Involved	Clarke County Hospital Board of Trustees
Other Person and Contact Information	Many - fear of reprisal keeps them Silent



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Case: 00009647

Account Name	Guest Account	Contact Name	Erin Sommers
IPIB Case Number	24FC:0101	Contact Phone	
Case Owner	Erika Eckley	Contact Email	
IPIB Copied Date	10/28/2024	County	Pocaho
IPIB Open Date	10/28/2024	Outcome	
IPIB Close Date		Board Review Document	
Category	Open Meetings - Closed Session	Board Approval Date	
Board Meeting	<input type="checkbox"/>	Case Record Type	Complaint
Board accept date			
First eligible board meeting			

Additional Information

Status	New / Complaint Information Reviewed	Priority	Medium
Case Origin	Other	Type	
Date of Alleged Violation	10/21/2024	Complaint Type	Chapter 21
Contested Case	<input type="checkbox"/>	Petitioner type	Media
Date of First Board Meeting		Type of Entity	City
Reviewed within two board meetings	<input type="checkbox"/>		

Description Information

Subject	24FC:0101
Description	<p>I am the reporter for the Pocahontas Record-Democrat. On Oct. 21, 2204, the Pocahontas City Council held a regularly scheduled council meeting. At the end of the meeting, during the portion reserved for staff and council member reports, Councilman Tom Ries said he thought the council should discuss City Clerk Brandi Henderson. Another meeting attendee specifically heard Ries said the council needed to discuss "Brandi's insubordination." I missed the word insubordination, but it fit in context.</p> <p>Ries said to have the discussion would likely require a closed session. Henderson immediately said the council could not go into closed session because it wasn't on the agenda. Administrator Laura Holmes said she had checked ahead of the meeting and had confirmed that the council could have a closed session, despite it not being on the agenda, if all council members agreed. Four of five council members were in attendance; they all four agreed to go into closed session.</p> <p>At least three other meeting attendees (myself and two city employees) stood up and left the meeting, but after exiting the building, discussed the situation. The city employees agreed that they did not think the council could go into closed session.</p> <p>I emailed the IPIB immediately after the meeting and the director said closed sessions that are not on the agenda were allowed in certain, emergency situations. No member of the city council, nor the city administrator, said anything about the discussion being a financial or safety concern.</p> <p>That same evening, I emailed Randy Evans of the Freedom of Information Council. He agreed with the IPIB email that the council likely could not go into closed session without proper notice for this situation.</p> <p>Monday, Oct. 28, 2024, I exchanged emails with the city administrator. She said she had consulted with the city's legal council ahead of the meeting and the legal council said they could have a closed session.</p>
Gov't Employees/Officials Involved	
Other Person and Contact Information	Holmes, Pocahontas City Administrator, cityadmin@cityofpokyia.org Alex Leu, Pocahontas Police Chief, aleu@pocahontaspolice.com, also attended the meeting

Web Information

Date/Time Opened	10/29/2024 5:21 PM	Case Number	00009647
Case Source		Date/Time Closed	

System Information

Created By	Erika Eckley, 10/29/2024 5:21 PM	Last Modified By	Erika Eckley, 10/31/2024 9:17 AM
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Contact Information

Name	Erin Sommers	Account Name	Guest Account
Contact Owner	Erika Eckley	Work Phone	
Title		Home Phone	



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Case: 00009654

Account Name	Guest Account	Contact Name	Matthew Rollinger
IPIB Case Number	24FC:0104	Contact Phone	
Case Owner	Kimberly Murphy	Contact Email	
IPIB Copied Date	10/31/2024	County	
IPIB Open Date	11/1/2024	Outcome	
IPIB Close Date		Board Review Document	
Category	Public Records - Other	Board Approval Date	
Board Meeting	<input type="checkbox"/>	Case Record Type	Complaint
Board accept date			
First eligible board meeting	11/21/2024		
Board Meeting Consent	Accept		

Additional Information

Status	Acknowledgement of Complaint	Priority	
Case Origin	Web	Type	
Date of Alleged Violation	10/4/2024	Complaint Type	Chapter 22
Contested Case	<input type="checkbox"/>	Petitioner type	
Date of First Board Meeting		Type of Entity	
Reviewed within two board meetings	<input type="checkbox"/>		

Description Information

Subject	24FC:0104
Description	Not supplying requested records from a written request on October 4, 2024. Acknowledgment of request was recieved by email along with estimate of cost. Estimate was paid in full in 10/11/24 with receipt.
Gov't Employees/Officials Involved	Amy Fecht, Renee Nelson
Other Person and Contact Information	

Web Information

Date/Time Opened	10/31/2024 8:57 PM	Case Number	00009654
Case Source		Date/Time Closed	

System Information



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Case: 00009648

Account Name	Guest Account	Contact Name	Sheryl Pilkington
IPIB Case Number	24FC:0106	Contact Phone	
Case Owner	Erika Eckley	Contact Email	
IPIB Copied Date		County	
IPIB Open Date		Outcome	
IPIB Close Date		Board Review Document	
Category		Board Approval Date	
Board Meeting	<input type="checkbox"/>	Case Record Type	Complaint
Board accept date			
First eligible board meeting			

Additional Information

Status	New / Complaint Information Reviewed	Priority	
Case Origin	Web	Type	
Date of Alleged Violation	10/4/2024	Complaint Type	Public Records Law
Contested Case	<input type="checkbox"/>	Petitioner type	
Date of First Board Meeting		Type of Entity	
Reviewed within two board meetings	<input type="checkbox"/>		

Description Information

Subject	24FC:0106
Description	Hi, i am writing because we have had issues with our city sewer and need information from the city and the city is refusing to give it to us because an employee had lied in court. We have asked for documentation of when N F Street, fairfield,ia had the sewer camera ran down and when the city had flushed them, dates, names of employee who did work and camera footage of the drains that they had taken. We are asking for the year 2023. We know that the camera was sent down on 11/30/23 and again on 12/19/23. We know that they flushed the city main on 12/19/23 as well. We are asking for them to state this information for us for official records that city had done this. We have had their city attorney reply after informing them that they are required to give us this information with their attorney stating they do not keep these records. We know that they do but are not wanting to give them.
Gov't Employees/Officials Involved	Rebekah loper
Other Person and Contact Information	

Web Information

Date/Time Opened	10/29/2024 8:59 PM	Case Number	00009648
Case Source		Date/Time Closed	

System Information

Created By	Erika Eckley, 10/29/2024 8:59 PM	Last Modified By	Erika Eckley, 11/1/2024 11:18 AM
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Contact Information

Name	Sheryl Pilkington	Account Name	Guest Account
Contact Owner	Erika Eckley	Work Phone	(Home Phone
Title		Mobile	
Email	j	Contact Record Type	Customers
Fax			

Address Information

Mailing Address	
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Additional Information

Last Stay-in-Touch Request Date



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Case: 00009662

Account Name	Guest Account	Contact Name	Keegan Jarvis
IPIB Case Number	24FC:0110	Contact Phone	
Case Owner	Alexander Lee	Contact Email	
IPIB Copied Date		County	
IPIB Open Date		Outcome	
IPIB Close Date		Board Review Document	
Category		Board Approval Date	
Board Meeting	<input type="checkbox"/>	Case Record Type	Complaint
Board accept date			
First eligible board meeting			
Board Meeting Consent			

Additional Information

Status	New / Complaint Information Reviewed	Priority	
Case Origin	Web	Type	
Date of Alleged Violation	11/4/2024	Complaint Type	Open Meetings Law
Contested Case	<input type="checkbox"/>	Petitioner type	
Date of First Board Meeting		Type of Entity	
Reviewed within two board meetings	<input type="checkbox"/>		

Description Information

Subject	24FC:0110
Description	The meeting agenda was not posted 24 hours prior to the scheduled meeting on Nov 4th 2024, at 630 pm. This meeting was NOT an emergency meeting. There was no extenuating circumstances. I have photo proof if they lie about it. I believe this is a violation of Section 21.4 sub C. This is the second month in a row they haven't posted there agendas. I can only prove November's as I mentioned it trying to resolve the issue with them and not just escalate it to your board
Gov't Employees/Officials Involved	Sara Heywood, Swan city council et al
Other Person and Contact Information	

Web Information

Date/Time Opened	11/6/2024 9:05 AM	Case Number	00009662
Case Source		Date/Time Closed	

System Information

Created By	Erika Eckley, 11/6/2024 9:05 AM	Last Modified By	Erika Eckley, 11/6/2024 2:59 PM
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Contact Information

Name	Keegan Jarvis	Account Name	Guest Account
Contact Owner	System	Work Phone	(Home Phone
Title		Mobile	
Email	r	Contact Record Type	Customers
Fax			

Address Information

Mailing Address	
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Additional Information

Last Stay-in-Touch Request Date



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Case: 00009666

Account Name	Guest Account	Contact Name	Keegan Jarvis
IPIB Case Number	24FC:0112	Contact Phone	
Case Owner	Alexander Lee	Contact Email	
IPIB Copied Date	11/8/2024	County	
IPIB Open Date	11/12/2024	Outcome	
IPIB Close Date		Board Review Document	
Category		Board Approval Date	
Board Meeting	<input type="checkbox"/>	Case Record Type	Complaint
Board accept date			
First eligible board meeting			
Board Meeting Consent			

Additional Information

Status	Complaint Open	Priority	
Case Origin	Web	Type	
Date of Alleged Violation	4/9/2024	Complaint Type	Open Meetings Law
Contested Case	<input type="checkbox"/>	Petitioner type	
Date of First Board Meeting		Type of Entity	
Reviewed within two board meetings	<input type="checkbox"/>		

Description Information

Subject	24FC:0112
Description	<p>Council voted and adjourned the meeting. Then they proceeded to hand out interrogatory questions from my lawsuit against them. Not really anything the board can do about this but the interagatories are well overdue, even past the letter my attorney sent them. I think this may be why they tried to sneak it in after meeting adjournment?</p> <p>These guys have had training from this board earlier this year. They know better than the repeated violations. They just have no respect for the law. They think this board cant or wont enforce on them!</p>
Gov't Employees/Officials Involved	Mayor Harding, councilwoman millison, councilwoman collins
Other Person and Contact Information	Sara Heywood, and Councilwoman Smith

Web Information

Date/Time Opened	11/8/2024 2:05 PM	Case Number	00009666
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Case: 00009667

Account Name	Guest Account	Contact Name	Geralyn Jones
IPIB Case Number	24FC:0113	Contact Phone	(
Case Owner	Alexander Lee	Contact Email	
IPIB Copied Date		County	
IPIB Open Date		Outcome	
IPIB Close Date		Board Review Document	
Category		Board Approval Date	
Board Meeting	<input type="checkbox"/>	Case Record Type	Complaint
Board accept date			
First eligible board meeting			
Board Meeting Consent			

Additional Information

Status	New / Complaint Information Reviewed	Priority	
Case Origin	Web	Type	
Date of Alleged Violation	11/11/2024	Complaint Type	Chapter 21
Contested Case	<input type="checkbox"/>	Petitioner type	
Date of First Board Meeting		Type of Entity	
Reviewed within two board meetings	<input type="checkbox"/>		

Description Information

Subject	24FC:0113
Description	<p>Dear Members of the Iowa Public Information Board,</p> <p>I am filing a complaint against the Linn-Mar School Board of Directors for voting by secret ballot to elect its president during a regular board meeting on November 11, 2024 with no special circumstances presented. This action violates Iowa Code § 21.4, which requires that votes in public meetings be conducted openly, with individual votes recorded. Secret ballots undermine transparency and accountability, and the public has a right to know how their elected officials vote.</p> <p>I kindly and respectfully request that the Board investigate whether the Linn-Mar School Board violated Iowa's Open Meetings Law and take appropriate action.</p> <p>Thank you for all that you do and your attention to this matter.</p> <p>Sincerely, Geralyn Jones</p>
Gov't Employees/Officials Involved	All elected Linn-Mar Board of Directors
Other Person and Contact Information	

Web Information

Date/Time Opened	11/12/2024 9:09 PM	Case Number	00009667
Case Source		Date/Time Closed	

System Information

Created By	Erika Eckley, 11/12/2024 9:09 PM	Last Modified By	Erika Eckley, 11/13/2024 11:58 AM
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Contact Information

Name	Geralyn Jones	Account Name	Guest Account
Contact Owner	Erika Eckley	Work Phone	Home Phone
Title		Mobile	
Email		Contact Record Type	Customers
Fax			



502 East 9th Street
Des Moines, Iowa 50319
www.ipib.iowa.gov

Erika Eckley, JD
Executive Director
(515) 393-8339
erika.eckley@iowa.gov

Advisory Opinion 24AO:0012

DATE: November 21, 2024

SUBJECT: Public Records Requests and Government-Moderated Social Media

Zachary Goodrich
Executive Director and Legal Counsel
Iowa Ethics and Campaign Disclosure Board

Mr. Goodrich,

We are writing in response to your request dated September 24, 2024, seeking an advisory opinion from the Iowa Public Information Board (IPIB) pursuant to Iowa Code chapter 23 and Iowa Administrative Code rule 497-1.3. This opinion concerns clarification over what requirements a government body would be subject to in the event of a public records request for social media posts contained on a government-moderated social media account.

This opinion concerns subject of the opinion Advisory opinions may be adopted by the board pursuant to Iowa Code section 23.6(3) and Rule 497-1.2(2): “[t]he board may on its own motion issue opinions without receiving a formal request.” IPIB’s jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

QUESTION POSED:

If a records request is made for social media posts, such as a government-moderated Facebook page, is the government body required to provide individual screenshots of the posts or can the government body simply direct the requestor to the public social media page?

OPINION:

For the purposes of Iowa Code Chapter 22, “public records” are defined to include “all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to” a government body. Iowa Code § 22.1(3)(a). When a government body within the scope of Chapter 22 uploads content to a government-moderated social media page, such as a Facebook group, or creates a post on social media using an account that represents the body and/or its representatives in their official capacity, there is no question this creates a public record within the definitions set forth by § 22.1(3).

Board Members

Joan Corbin • E. J. Giovannetti • Barry Lindahl • Catherine Lucas
Luke Martz • Joel McCrea • Monica McHugh • Jackie Schmillen • vacant

Iowa Code § 22.3A provides direction for ensuring public access to data processing software used to store records. While the substantive guidance described by the statute predates modern social media, it is clear that the legislature intended § 22.3A to be broadly applicable to the electronic storage and retrieval of public records. As defined in § 22.3A(1)(e), “data processing software” refers to

[A]n ordered set of instructions or statements that, when executed by a computer, causes the computer to process data, and includes any program or set of programs, procedures, or routines use to employ and control capabilities of computer hardware. As used in this paragraph ‘data processing software’ includes but is not limited to an operating system, compiler, assembler, utility, library resource, maintenance routine, application, computer networking program, or the associated documentation.

A “computer network” is in turn defined as “a set of related, remotely connected devices and communication facilities including two or more computers with capability to transmit data among them through communication facilities.” Iowa Code § 22.3A(1)(c). A social media website, like Facebook, would appear to fall into this category.

The Code states that “[a] government body shall not acquire any electronic data processing system for the storage, manipulation, or retrieval of public records that would impair the government body's ability to permit the examination of a public record and the copying of a public record in either written or electronic form.” Iowa Code § 22.3A(2)(b). However, with regards to such records, the Code also provides that “[a]n electronic public record shall be made available *in the format in which it is readily accessible to the government body* if that format is useable with commonly available data processing or database management software,” though the government “may make a public record available in a specific format requested by a person that is *different from* that in which the public record is readily accessible to the government body” and may charge the costs associated with producing the record in that alternative format. Iowa Code § 22.3A(2)(d) (emphasis added).

This language suggests that analysis must vary depending on the nature of the government body’s access to its own electronic records. In the context of a social media page or profile belonging to a government body subject to Chapter 22, the central question is whether or not a given “post” exists solely on the social media site hosting it, as opposed to public records which are accessible in another format to the government body and have merely been published as uploads to one or more social media sites.

The former category is broad, consisting of the formatting of profiles and pages themselves, “About” sections and similar information authored by a government body for its public-facing accounts, events or other announcements made through the use of the hosting site’s user interface tools, and any textual posts or comments created by the government on its official pages or profiles. This category would also include materials which were originally drafted outside the host site, as in the case of a flyer created as a Word document which is published as a final product through a government body’s social media account(s). In each case, the relevant factor is that the social media platform is the sole or original “format in which [the electronic public record] is readily accessible to the government body,” as this is the criteria described by Iowa Code § 22.3A(2)(d). Assuming the social media platform in question is free to use and widely available to the public, that format would also presumably qualify as “useable with commonly available data processing or database management software” for the second part of the subsection.

Therefore, if a requester submits a Chapter 22 request for public records in this category, the government body may satisfy its responsibilities as lawful custodian by directing the requester to the public social media page, as doing so provides the requester with access in the same format that the government body itself enjoys. As the second half of Iowa Code § 22.3A(2)(d) explains, the government body may also choose to produce a record in another format according to the requester’s preferences, but this is not required, and the government body may then charge “reasonable costs of any required processing, programming, or other work required to produce the public record” in that format, along with any other costs authorized elsewhere in Chapter 22.

The second category under this analysis consists of public records which are accessible to the government body in another medium which have been published through a government body's social media account in addition to previously or separately existing in another medium accessible to the government body. For these types of records, both provisions of Iowa Code § 22.3A(2)(d) imply that a lawful custodian is still subject to the same production requirements that they would follow for any other public record, given that the record in question would continue to exist in its prior format and a request for production in that specific format would not be "different from that in which the public record is readily accessible to the government body."

As an illustrative example, if a county board of supervisors chooses to publish PDF copies of its weekly meeting minutes to its Facebook page as a supplement to other publication requirements set forth elsewhere in the Code, a requester seeking a PDF for a particular meeting would still be entitled to the release of that particular record as normal. The county board in this instance could not discharge its duties simply by directing the requester to its Facebook page to locate the minutes for themselves, as social media would not be the only format in which the requested PDF, as an electronic record, would be readily accessible to the government body. In other words, a government body may not circumvent their production obligations as a lawful custodian of records under Chapter 22 by using a social media page as an unsorted archive for records, at least so long as the records remain accessible to the government body in other mediums.

This leaves a third category of records which are only readily accessible to the government body through a social media site but which are not equally accessible to the public at large, as these records may still be subject to Chapter 22 (even if they are otherwise confidential under one or more provisions of Iowa Code § 22.7). This may include not only private correspondence with third parties conducted through social media (e.g. direct messages, or DMs), but also analytics automatically produced for the government body as a byproduct of their presence on social media.¹

Nothing in this opinion should be read to require a government body to generate a new record which does not already exist. As explained in another IPIB advisory opinion on the topic of electronic records, 24AO:0003 *Data and Public Records Requests*, a government body may be required to produce existing data, "even if some type of manipulation is required to make the data readable," but there is no accompanying requirement that the government body perform custom searches or rearrange existing data to answer a query. Similarly, Chapter 22 does not impose any retention requirements for public records, meaning that nothing in this analysis would prevent a government body from deleting or editing a social media post consistent with an applicable retention policy. Thus, if a request was made for a deleted or edited record after the fact, the government body would only be responsible for releasing the record if it was "stored or preserved" elsewhere by the body. *See* 22FC:0016 *Doug Weir/City of Ruthven* (finding no violation where a city board failed to respond to a request for Facebook posts, as the board had closed and deleted their entire Facebook account before the request was made, meaning the materials sought were no longer "records within the City's possession").²

We conclude by noting that this advisory opinion does not address related public records issues which may arise when a government body uses a third-party social media platform to conduct its business, including the government's ability to restrict access to its public pages or scenarios in which the third-party social media company itself has banned an individual user from accessing its website. These types of situations could affect the above analysis and would likely require case-by-case evaluation.

¹ For example, the definition of "public records" contained in Iowa Code § 21.1(3)(a) could reasonably be read to include certain viewership metrics generated by Facebook for organizational pages and public events, which are only accessible to the account responsible for that content. Since these records are in the possession of the public body but would not be readily available to the public through the use of commonly available data processing software, the government body would still be required to respond to requests for this type of records individually.

² In the dismissal order for 22FC:0016, IPIB also noted that "[t]he posts on the page were always accessible by anyone while the page was active," consistent with the analysis in the present advisory opinion that access alone could be sufficient for public access.

BY DIRECTION AND VOTE OF THE BOARD:

Joan Corbin
E.J. Giovannetti
Barry Lindahl
Catherine Lucas
Luke Martz
Joel McCrea
Monica McHugh
Jackie Schmillen

Submitted by:

Alexander Lee
Agency Counsel
Iowa Public Information Board

Issued on:

November 21, 2024

Pursuant to Iowa Administrative Rule 497-1.3(3), a person who has received a board opinion may, within 30 days after the issuance of the opinion, request modification or reconsideration of the opinion. A request for modification or reconsideration shall be deemed denied unless the board acts upon the request within 60 days of receipt of the request. The IPIB may take up modification or reconsideration of an advisory opinion on its own motion within 30 days after the issuance of an opinion.

Pursuant to Iowa Administrative Rule 497-1.3(5), a person who has received a board opinion or advice may petition for a declaratory order pursuant to Iowa Code section 17A.9. The IPIB may refuse to issue a declaratory order to a person who has previously received a board opinion on the same question, unless the requestor demonstrates a significant change in circumstances from those in the board opinion.

The Iowa Public Information Board

In re the Matter of: Debra Schiel-Larson, Complainant And Concerning: Indianola Community School District, Respondent	Case Number: 23FC:0053 Final Report
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On March 1, 2023, the Complainant, Debra Schiel-Larson, filed formal complaint 23FC:0053, alleging that the Indianola Community School District (District) violated Iowa Code chapters 21 and 22.

Background

The Request

The District had been evaluating possible changes to the District’s logo and overall branding throughout the 2022-2023 school year. The Board had received periodic updates on the status of the process, with most of the updates related to hiring a third-party entity to assist the District with the logo and branding evaluation process.

On April 5, 2023, the Complainant submitted a public records request to the District for the following records related to the branding committee:

A digital copy of all records related to the Indianola Community School District’s Branding Effort. This includes but is not limited to original work on this topic prior to formation of the associated committee, all correspondence and documents, the school district’s consultant and their efforts, Branding Committee meeting packets, agendas, meeting minutes and records, . . . [and] the information that Superintendent Ted Ihns referenced recently at the Indianola Community School District’s Board meeting on March 21, 2023 with branding designs currently under consideration. Superintendent Ihns agreed to forward this information to the School Board members.

The stated timeframe for the request was from January 2, 2023, to the present.

The Complainant alleges that in responding to the request, the District violated Chapter 22 in two ways. First, the Complainant alleges that the records released did not include any of the attachments referenced in the emails the District released to her. Second, the Complainant alleges that although she requested records from January 2, 2023, to the present, the District failed to provide any records dated after March 2, 2023.

Procedural Status

IPIB accepted the Complaint on August 17, 2024, to work with the parties to further investigate the scope of records withheld and determine whether additional records exist that should have been or could be disclosed.

On March 21, 2024, the IPIB approved the Informal Resolution Report.

On May 3, 2024, the District submitted records to IPIB staff.

On May 21, 2024, IPIB staff provided all documents provided by the District to Ms. Schiel-Larson.

On June 13, 2024, Ms. Schiel-Larson stated that she did not agree that she had received all records pursuant to her request.

On June 27, Ms. Schiel-Larson stated the following were missing. Specifically, she stated that the request was for the District's Branding "Effort," which she believed was not inclusive only of the Branding Committee; the earliest records were November 2022 and the Informal Resolution included the timeframe of January 2022 through September 2023; she requested all communications and not just the branding committee; and no minutes or materials from the committee meetings had been included in the documents.

On August 12, the School provided the following additional search:

To/From: All Board Members district email addresses and Superintendent Ted Ihn's district email address (NOT from:(copier-no-reply@indianola.k12.ia.us)) and (from:(*@indianola.k12.ia.us))
Date Range: January 2, 2022, through September 7, 2023
Search Terms: brand OR branding OR logo

On August 27, 2024, the District reported the search terms resulted in over 500 emails identified as potentially responsive to the request and was concerned the review would take more than 15 hours.

On September 10, IPIB staff spoke with the District regarding the emails identified.

On September 16, the District agreed to review the 500+ emails identified to determine if there are any additional records within the group that should have been provided. These will be provided to IPIB by October 11. In response, Ms. Schiel-Larson has stated she does not believe this review will resolve her complaint.

On September 19, the IPIB agreed the District would review the 500+ emails and provide the responsive records to Ms. Schiel-Larson.

The District provided records to Ms. Schiel-Larson and IPIB staff the morning of IPIB's meeting October 17. After a verbal report and information from the parties, IPIB reiterated if Ms. Schiel-Larson believed any additional records were not received as part of the last release, she could make a new, focused records request to the District. But, following receipt of the records, this complaint 23FC:0053 would be concluded.

Based on the IPIB's direction on September 19 and October 17, the release of records on October 17 of relevant records responsive to Ms. Schiel-Larson's request¹ from the search terms identified, this complaint should be dismissed as resolved.

Respectfully submitted,

Erika Eckley

CERTIFICATE OF MAILING

This document was sent on November 14, 2024, to:

Debra Schiel-Larson, Complainant.
Emily Ellingson, counsel for the Indianola School District

¹ There was some additional communications between the parties regarding documents after the release.

23FC:0053 | Indianola CSD Emails Subject to Release

1 message

Deb & Paul Larson <dpaklarson@gmail.com>
To: Erika Eckley <erika.eckley@iowa.gov>
Cc: Emily Ellingson <emily.ellingson@ahlerslaw.com>

Mon, Nov 18, 2024 at 1:39 PM

Erika;

Good afternoon;

Please include this email and the string of messages associated with it (below) in the November IPIB meeting packet, associated with this case. Thank you.

Respectfully,

Deb Schiel-Larson
Indianola, IA

----- Forwarded message -----

From: **Deb & Paul Larson** <dpaklarson@gmail.com>
Date: Thu, Nov 7, 2024 at 3:06 PM
Subject: 23FC:0053 | Indianola CSD Emails Subject to Release
To: Eckley, Erika <erika.eckley@iowa.gov>
Cc: Emily Ellingson <emily.ellingson@ahlerslaw.com>

Good afternoon.

There is no issue with the text of my original information request. It is detailed and complete. IPIB attorney Daniel Strawhun used this text in its entirety as the basis for the Informal Resolution. Referencing it, Mr. Strawhun clearly stated that "Ultimately, it is the District's legal obligation to produce all public records that the Complainant originally described in her request."

There is no confusion. The parties spent months discussing details. The Indianola Community School District's attempts now to claim that a search using the keyword "Indians" is impossible ignores the fact that alternate keywords were discussed, mutually agreed upon and documented with IPIB staff.

The Complainant – me -- is not at fault. The issue is that the Indianola Community School District (CSD) continues to refuse to comply. For example, we have been working on this formal complaint for over 1 year, and the Indianola CSD is just now offering school board information?

In Summary:

- 1. The responsive document submitted on October 17, 2024 by the Indianola CSD is unacceptable.**
- 2. As stated in the Informal Resolution related to confidentiality claims, it is the IPIB staff – not the Indianola CSD - who is required to review and approve or deny documents proposed to be withheld or redacted.**

The Indianola CSD missed their own deadline and released this responsive document on October 17, 2024 (the date of the last IPIB meeting). With their haste they are also attempting to bypass the critical requirement related to claims of confidentiality.

The attorney-client privilege is understood. But the Indianola CSD has attempted to do their own culling and redaction for confidentiality and this is unacceptable.

- 3. Only 66 emails were released compared to the approximately 500 emails that were described to the IPIB by attorney Emily Ellingson for the Indianola CSD.**

- Of the 66 emails, 4 emails are not related to the Branding Effort.
- Of the 62 remaining emails released, only 10 are external (public) communications.
 - Half of these 10 external emails were sent to me! This is ludicrous.
 - The members of the Branding Committee were intentionally not identified. As a result, external, public communications related to this controversial topic focused on the school superintendent and school board members.

This significant amount of information is missing. Even known, external public communications are missing!

- The Indianola CSD's proposal to limit keyword searches to only "logo," "brand" and "branding" has not fulfilled the District's legal responsibility "to produce all public records that the Complainant originally described in her request."
- Has the Indianola CSD also attempted to limit this document release to only outgoing mail in defiance of the Informal Resolution's clear description "all correspondence and documents?"

c) The 52 remaining emails are internal discussions.

d) Missing external email described but not included. In his message on March 2, 2023, Superintendent Ted Ihns reassured Rob Keller, school board member that he responded to citizen Emily Fox regarding her questions about the Branding Committee ("Just sent her an email"). This public, external email to Emily Fox is also missing.

4. The Approved Branding consultant Donovan Group cost estimate for the Indianola CSD is missing.

As documented in his email, Superintendent Ted Ihns received Branding Effort cost estimates from three companies, including the Donovan Group. The cost estimate released by the Indianola CSD for the Donovan Group is incorrect; it describes their next phase of communications services. The Indianola CSD is aware of the error but so far, they have not corrected it. What was the cost for the Donovan Group's Branding Effort and what did the school board base their decision on?

5. With the information now available, the Indianola CSD's Branding Committee does meet the definition of a governmental body and would therefore be in violation of Chapter 21 requirements, in concurrence with my original, formal complaint to the IPIB.

- a) Elected official Tim Mills, a school board member, was also a member of the Branding Committee and he actively participated.
- b) Tim Mills communicated directly by email with Jerry Gallagher, Donovan Group. The Donovan Group is the District's Branding Effort consultant and a Branding Committee participant. Mr. Mills also provided direction to Mr. Gallagher on development of the logo/branding and was a liaison between the Branding Committee and the School Board.

Please require the Indianola CSD to be in compliance with their legal obligations.

Respectfully,

Deb Schiel-Larson
Indianola, IA

On Wed, Nov 6, 2024 at 9:46 AM Emily Ellingson <emily.ellingson@ahlerslaw.com> wrote:

Hello,

I wanted to follow-up and confirm that the District released all public records that were generated as part of the email search as outlined in the email below. No records related to the Donovan Group's written cost estimate were withheld. I hope that answers your question, Ms. Schiel-Larson.

Thank you,
Emily

Emily Ellingson



Ahlers & Cooney, P.C.
100 Court Avenue, Suite 600
Des Moines, Iowa 50309-2231
Phone: (515) 246-0361 | Fax: (515) 243-2149

[VCard](#) | [Email](#) | [Bio](#) | [Firm Website](#)

From: Deb & Paul Larson <dpaklarson@gmail.com>
Sent: Friday, November 1, 2024 12:09 PM
To: Emily Ellingson <emily.ellingson@ahlerslaw.com>
Cc: Eckley, Erika <erika.eckley@iowa.gov>
Subject: 23FC:0053 | Indianola CSD Emails Subject to Release

Good morning;

Emily, thank you for your response and explanation. The Indianola CSD and School Board will be aware that Donovan Group is doing their work in two phases.

Referencing the document that was released on October 17, 2024:

Beginning Page 212: Donovan Group's estimate (\$3,000 per month) for communications is the phase that followed their Branding Effort and appears to be ongoing now.

The Donovan Group's written cost estimate for the Branding Effort is missing.

Beginning Page 231: Rickabaugh Graphics Written Estimate (costs) and work sample

I will follow up with questions and comments on what was released on October 17, 2024. Does the Indianola CSD have a response yet on why they have attempted to bypass the confidential documents review by the IPIB that is required by the Informal Resolution?

Thank you.

Deb Schiel-Larson

On Fri, Nov 1, 2024 at 9:57 AM Emily Ellingson <emily.ellingson@ahlerslaw.com> wrote:

Good Morning,

The Donovan Group proposal is included in the records that were released on October 17, 2024. I just reviewed to confirm it was included.

It was not redacted in the October 17 materials, which is why it was not included with the records that were re-released in an unredacted format on October 30.

Thank you,

Emily

Emily Ellingson



Ahlers & Cooney, P.C.
100 Court Avenue, Suite 600
Des Moines, Iowa 50309-2231
Phone: (515) 246-0361 | Fax: (515) 243-2149

[VCard](#) | [Email](#) | [Bio](#) | [Firm Website](#)

From: Deb & Paul Larson <dpaklarson@gmail.com>
Sent: Thursday, October 31, 2024 4:49 PM
To: Emily Ellingson <emily.ellingson@ahlerslaw.com>
Cc: Eckley, Erika <erika.eckley@iowa.gov>
Subject: 23FC:0053 | Indianola CSD Emails Subject to Release

Received and thank you.

The Donovan Group was the successful bidder and served as the consultant for the Branding Effort. Why is their cost information missing from the Indianola CSD's responsive document, missing from the information released on October 17, 2024 and missing from these unredacted pages?

Superintendent Ted Ihns references "proposals from 3 companies" in his email on December 2, 2022, not just two companies. [page 165 of the October 17, 2024 document released by the Indianola CSD]

On Wed, Oct 30, 2024 at 9:19 PM Emily Ellingson <emily.ellingson@ahlerslaw.com> wrote:

Good Evening,

Linked below are the unredacted pages requested in the email below. Please let me know if you have any other questions.

Links expire 2024-11-30

Indianola CSD Bid Proposals Reproduced
Unredacted.pdf v1

[DOWNLOAD](#)

[VIEW](#)

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Thanks,
Emily

Emily Ellingson



Ahlers & Cooney, P.C.
100 Court Avenue, Suite 600
Des Moines, Iowa 50309-2231
Phone: (515) 246-0361 | Fax: (515) 243-2149

[VCard](#) | [Email](#) | [Bio](#) | [Firm Website](#)

From: Deb & Paul Larson <dpaklarson@gmail.com>
Sent: Friday, October 25, 2024 1:44 PM
To: Eckley, Erika <erika.eckley@iowa.gov>
Cc: Emily Ellingson <emily.ellingson@ahlerslaw.com>
Subject: 23FC:0053 | Indianola CSD Emails Subject to Release

Good afternoon;

Emily, thank you for following up. I was able to use the link and download the Indianola CSD's document. I am in the process of reviewing it and will provide the data and my comments.

Your email to Erika Eckley on October 17, 2024 (the date of the IPIB meeting) referred to costs that were redacted in error on the attached Indianola CSD document. Please provide the referenced pages in unredacted format to both Erika and me, at this time.

The Indianola CSD missed their own deadline on October 11, 2024. Then the Indianola CSD attempted to ignore the Informal Resolution again – this time by rushing the process clearly required by the Informal Resolution.

We are all aware that it is the Iowa Public Information Board – not the Indianola CSD – who is responsible for review and decisions related to confidential documents, without exception.

The ongoing behavior of the Indianola CSD remains unacceptable.

Deb Schiel-Larson

On Fri, Oct 25, 2024 at 8:58 AM Emily Ellingson <emily.ellingson@ahlerslaw.com> wrote:

Good Morning,

I am following-up to confirm that you were able to access the records linked below. I know the link format was unique, so I wanted to confirm access.

Thank you,
Emily

Emily Ellingson



Ahlers & Cooney, P.C.
100 Court Avenue, Suite 600
Des Moines, Iowa 50309-2231
Phone: (515) 246-0361 | Fax: (515) 243-2149

[VCard](#) | [Email](#) | [Bio](#) | [Firm Website](#)

From: Emily Ellingson
Sent: Thursday, October 17, 2024 8:10 AM
To: Eckley, Erika <erika.eckley@iowa.gov>
Subject: 23FC:0053 | Indianola CSD Emails Subject to Release

Good Morning,

Thank you again for your patience while we reviewed all of the emails generated and prepared the email records responsive to the Board's order. In the link below, please find the records responsive to the request, as ordered by the Iowa Public Information Board on September 19, 2024. I am including a link because when I attach the actual documents (both directly as a pdf and/or through a zip file), they often kick back. If you have any issues accessing the documents, please let me know. In total, there should be 381 pages.

As a reminder, here is the email search that was conducted to generate the linked records:

- **To/From:** All Board Members district email addresses and Superintendent Ted Ihn's district email address (NOT from:(copier-no-reply@indianola.k12.ia.us)) and (from:(*@indianola.k12.ia.us))
- **Date Range:** January 2, 2022, through September 7, 2023
- **Search Terms:** brand OR branding OR logo

As you can see, the records include emails to/from Board members and Superintendent Ihns during the relevant time frame that include the three words specifically identified. Any duplicates have been deleted for ease of review, although there may be multiple emails appearing if there is an email chain that is included. Additionally, any attachments have been included, and are generally included close to the email that included them as attachments.

Finally, you will note there are minimal redactions, and these redactions are of the following:

- Attorney-client privileged communications regarding pending litigation.
- Student/parent information that is confidential.
- Employee personnel information that is confidential.
- Contact information for individuals who are not District employees (note that the email address for Ms. Schiel-Larson was not redacted, as she was the individual requesting the records).

I will note that there are dollar figures that are redacted from the quotes starting on page 171. These should not be redacted, and we can provide you an unredacted version of those if you would like. Please let me know if you would like for me to provide you these pages in an unredacted format.

If you would like, I can share this email with Ms. Schiel-Larson directly and copy you. Please let me know if you have any questions.

Links expire 2024-11-17

Indianola CSD Email Search Records (FINAL).pdf
v1

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Thank you,
Emily

Emily Ellingson



Ahlers & Cooney, P.C.
100 Court Avenue, Suite 600
Des Moines, Iowa 50309-2231
Phone: (515) 246-0361 | **Fax:** (515) 243-2149

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The Iowa Public Information Board

In re the Matter of: Erik Johnson, Complainant And Concerning: Delaware Township, Respondent	Case Number: 24FC:0052 Acceptance Order
---	--

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On June 6, 2024, Erik Johnson filed formal complaint 24FC:0052, alleging Delaware Township violated Iowa Code chapter 22.

Facts

Johnson alleges the Township failed to produce records requested on April 29th, 2024, within a reasonable time. The records request included the following:

I am writing to request access to public records under the Freedom of Information Act (FOIA) and Iowa Open Records law for Delaware Township. Specifically, I am seeking all emails, text messages, social media messages, and any other records pertaining to the following topics and entities:

- 1.) Delaware Township Budget – This does NOT include individual invoices
- 2.) Delaware Township Fire Department Operations
- 3.) Delaware Township Payroll, including processing information and amounts
- 4.) Facebook "Norwoodville News" group
- 5.) Ddfd.net domain name

I request records dated from January 1, 2024, to April 30, 2024, inclusive. I am requesting the records for all Township Trustees, Township Clerk, Fire Department Chief Officers, and non-privileged communications with Township Legal Counsel.

This includes both personal and government issued phones, accounts, etc. I am notifying the Township Clerk, Trustee Chair Person, Department Chief, and Township Counsel as custodians of records.

Johnson also alleges the Township is requiring digital documents to be provided in hardcopy form, causing undue financial burden in obtaining public records. These records are digital in origination he provides he is “willing and would prefer to receive the records digitally.”

Johnson further alleges the Township “is attempting to collect an hourly rate for the compilation time of the Township Clerk. The Clerk is paid from Polk County, not Delaware Township. Charging a fee would then be a revenue generating stream for the Township, as the fee would not be used to cover the payroll of the employee.”

The Township, through counsel, stated the Township responded to Mr. Johnson’s request. After several back and forth emails, the request was sent to counsel to address. Some of the records requested do not belong to the Township, such as the Facebook page, which is maintained by non-government parties. Other documents, such as communications between counsel and others was confidential as attorney-client privileged documents.

The last communication from Johnson to the Township was on June 6, 2024, wherein Johnson stated any per page copy fee for the records should not be required, the documents should be able to be produced electronically, and Johnson refused to pay for the township clerk, board member, or fire chief reimbursed time to complete the records request.

The Township, stated it needed to print the emails to review and provide redactions where appropriate. Also, it is appropriate for the Township to recoup the direct costs of producing any open records request, including time expended in complying with the request. It stated a valid US mail address would be required to send the records through the mail to Johnson and offered no other alternatives.

In responding to this complaint, the Township also provided documents which include all publicly available handouts from the individual meetings held from January through April 2024 where township business was transacted. These included agendas, meeting minutes, financials, and any other handouts provided. These were provided at no cost to Mr. Johnson.

IPIB suggested some ways to resolve this complaint, but neither party has agreed to any recommendations. Mr. Johnson has failed to respond to IPIB since July, so it is unknown whether the documents provided have resolved his request.

Applicable Law

“The examination and copying of public records shall be done under the supervision of the lawful custodian of the records or the custodian’s authorized designee. The lawful custodian shall not require the physical presence of a person requesting or receiving a copy of a public record and shall fulfill requests for a copy of a public record received in writing, by telephone, or

by electronic means. Although fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of reasonable expenses, the lawful custodian shall make every reasonable effort to provide the public record requested at no cost other than copying costs for a record which takes less than thirty minutes to produce. In the event expenses are necessary, such expenses shall be reasonable and communicated to the requester upon receipt of the request.

...

All reasonable expenses of the examination and copying shall be paid by the person desiring to examine or copy. The lawful custodian may charge a reasonable fee for the services of the lawful custodian or the custodian's authorized designee in supervising the examination and copying of the records. If copy equipment is available at the office of the lawful custodian of any public records, the lawful custodian shall provide any person a reasonable number of copies of any public record in the custody of the office upon the payment of a fee. The fee for the copying service as determined by the lawful custodian shall not exceed the actual cost of providing the service. Actual costs shall include only those reasonable expenses directly attributable to supervising the examination of and making and providing copies of public records." Iowa Code § 22.3

Analysis

The primary issues are whether the Township can require Johnson receive the records through the mail and mandate an address be provided rather than electronically and whether the Township can charge for the records.

Electronic Records

The Township stated it could not provide records electronically because there was no government body email from which to send the information, so it would print and mail the records. In addition, the records needed to be reviewed and potentially redacted, which required printing the documents for compiling and review. The Township stated it required a US Postal address to mail the documents. It did not provide the option for Johnson to physically pick up the records or to provide a new, unused USB drive to collect scanned versions.

The Township cannot require Johnson provide a mailing address to complete the records request.¹ In resolution to a previous IPIB complaint, 18FC:0116, the Township allowed a USB drive to be provided so the requestor could obtain the records electronically. No facts have been provided why this could not be done again or why the Township did not follow the resolution from a previous matter.

¹ "The [government body] may request, but not require, people requesting records disclose their names, addresses, and phone numbers. However, under Iowa Code section 22.3, a government body must respond to all public records requests, whether those requests come through a phone call, email, or letter. It cannot limit the records' disclosure to people who complete a specific form designed by the city or people who provide legal identification." 19AO:0005 Traffic Monitoring System Open Records Proposed Policy.

Fees

Johnson's dispute regarding fees is that the township is not entitled to request reimbursement for the time spent retrieving the requested documents because the county pays the salaries of the individuals.

The Township stated the estimated cost for the records requested would be approximately: 300 pages x .10 page = \$30, plus \$20/hr for clerk time x 4 anticipated hours= \$80, plus 4 anticipated hours Chief time at \$19.50/hr=\$78, plus one-half hour time of review by counsel for appropriate redactions of legally privileged material \$180 x 0.50 hours= \$90.00, plus postage \$20.00. The Township stated prepayment would be required. Iowa Code does allow pre-payment of a reasonable estimate of the fees prior to providing the requested public records. Iowa Code § 22.3(1).

The Township is entitled to recoup the costs of the time spent retrieving the records. Iowa Code § 22.3(2); *Teig v. Chavez*, 8 N.W.3d 484, 496-97 (Iowa 2024). Johnson's argument the county government typically pays the hourly rate to the Township employees does not change the fact there is an hourly employee cost to retrieving the records that Johnson as the requestor is to pay.

The amount of time estimated to review and find records does not, on its face, appear unreasonable to review all potential email, text, social media and other records for a four-month period of time that would generate 300 pages of records. The actual amount paid will need to be the actual costs, so if the request does take less time than estimated, a refund will need to be provided.

Conclusion

Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. This complaint meets the necessary requirements for acceptance.

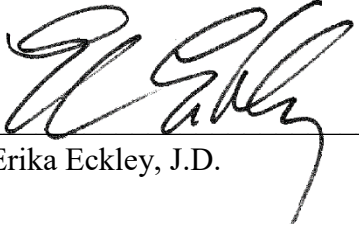
The Township can charge for the actual costs of retrieving the requested records and can request prepayment of a reasonable estimate for the records. The Township cannot, however, require a physical mailing address from the requestor to receive the records.

IT IS SO ORDERED: Formal complaint 24FC:0052 is accepted pursuant to Iowa Code § 23.8(1) and Iowa Administrative Rule 497-2.1(2)(a).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will

review this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 14, 2024, to:

Erik Johnson
Nicholas Bailey, counsel for Delaware Township

The Iowa Public Information Board

In re the Matter of: Steven Asche, Complainant And Concerning: City of Eagle Grove, Respondent	Case Number: 24FC:0056 Informal Resolution Report
---	---

Complaint 24FC:0056 was opened on June 25, 2024, and accepted by the IPIB on September 19, 2024. This Informal Resolution is adopted in response to the IPIB acceptance of the complaint.

Before and throughout the life cycle of this complaint, numerous correspondence and documents have moved between Asche and the City of Eagle Grove (City). Asche paid for access to records and maintains he has not received numerous records. The City continues to provide access to records after the filing of the Complaint. Because of the complexity of the communications between the parties, it is not possible to determine whether all of Mr. Asche’s requests have been fulfilled.

IPIB accepted this case on September 19, 2024, to allow IPIB staff to focus the parties on a resolution of this matter and to ensure all requested records are provided. In addition, IPIB has requested a review of the fees charged to Asche to access the public records.

Applicable Law

“Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record. Unless otherwise provided for by law, the right to examine a public record shall include the right to examine a public record without charge while the public record is in the physical possession of the custodian of the public record.” Iowa Code § 22.2(1).

“In the event expenses are necessary, such expenses shall be reasonable and communicated to the requester upon receipt of the request.” Iowa Code § 22.3(1).

Informal Resolution

Pursuant to Iowa Code § 23.9, the parties have agreed to the following terms and have executed an agreement (Informal Resolution) indicating consent to be governed by these terms:

1. The City will review all documents provided to Asche and determine whether all documents responsive to the public records request have been provided. The City will promptly provide any records that are due and owing to Asche.

2. If the City refuses to release any public records responsive to the public records request, the City will provide a justification for each record withheld. IPIB staff will review each justification to determine whether it is a legally acceptable justification.
3. Upon disclosing all public records responsive to the request or providing a justification for withholding the public records, Asche will provide a clear and concise list of public records that he believes have not been provided by the City pursuant to his public records request. IPIB staff will review the final list of public records and determine whether the requested items are public records and whether the requested items should be released. The City will disclose any items that the IPIB deems should be released.
4. The City will provide a detailed invoice for fees charged to Asche. IPIB staff will review the invoice of fees and make a recommendation to the IPIB regarding the reasonableness of the fees. The City will abide by the determination of the IPIB and will refund any payments, if any refund is ordered by IPIB.


The terms of the Informal Resolution will be completed within 60 days of the date of approval of this Informal Resolution by all parties. Upon showing of proof of compliance, the IPIB will dismiss this complaint as successfully resolved.

Asche approved the Informal Resolution on October 30, 2024.

The City approved the Informal Resolution on November 4, 2024.

The IPIB staff recommends the IPIB approve the Informal Resolution Report.

By the IPIB Deputy Director,



Kimberly M. Murphy, J.D.

CERTIFICATE OF MAILING

This document was sent on November 14, 2024, to:

Steven Asche, Complainant
Bryce Davis, City of Eagle Grove

The Iowa Public Information Board

In re the Matter of: Jody Phillips, Erin Pedrick, and Tracy Diehl, Complainants And Concerning: Pekin Community School District, Respondent	Case Number: 24FC:0057 Final Report
---	---

Complaint 24FC:0057 was opened on July 9, 2024, and accepted by the IPIB on September 19, 2024.

The Complainants provided evidence showing a public records request was submitted to the Pekin Community School District (PCSD) on April 25, 2024. The public records request involved public records on private devices utilized by members of the PCSD Board. Specifically, the Complainants requested text messages or screenshots from members of the PCSD Board related to events occurring at specific periods of time. The PCSD indicated they consulted the school’s attorney, took into account any elements of confidentiality, and asked each PCSD board member to review their phones to determine if any records existed in response to the request. Shortly thereafter, a complaint was filed with the IPIB.

Upon the filing of the complaint, counsel for PCSD responded and maintained the PCSD Board did not have any responsive records to provide and a prior IPIB opinion established that Chapter 22 does not provide specific guidance concerning how a lawful custodian retrieves, reviews, and releases public records on private devices.

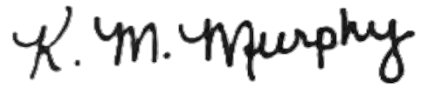
Procedure

On September 19, the IPIB accepted the complaint to further review the surrounding facts and circumstances and to ensure the PCSD had full knowledge of the requirements related to public records on private devices. Upon acceptance, the parties worked toward an informal resolution agreement.

The Complainants approved the Informal Resolution on October 3, 2024. The Pekin Community School District approved the Informal Resolution on October 15, 2024.

All terms of the Informal Resolution have been met. IPIB staff recommends that this Final Report be adopted and that the complaint be dismissed as resolved.

By the IPIB Deputy Director,

Handwritten signature of Kimberly M. Murphy in black ink.

Kimberly M. Murphy, J.D.

CERTIFICATE OF MAILING

This document was sent on November 14, 2024, to:

Jody Phillips, Erin Pedrick, and Tracy Diehl, Complainants
Carrie Weber, Attorney for the Pekin Community School District

The Iowa Public Information Board

In re the Matter of: Jan Norris, Complainant And Concerning: Montgomery County Board of Supervisors, Respondent	Case Number: 24FC:0059 Final Report
---	---

Complaint 24FC:0059 was opened on July 23, 2024, and accepted by the IPIB on September 19, 2024.

Norris provided evidence showing that the Montgomery County Board of Supervisors (County) violated Iowa Code Chapter 21 by conducting open session requirements within a closed session.

The County held a meeting on July 2, 2024. The agenda for the meeting indicated a closed session would be held pursuant to Iowa Code § 21.5(1)(c) and cited to language from this code section.

When the County arrived at the closed session item on the agenda, the County recessed without taking a public vote or announcing a reason for the closed session. The County indicated to the public they would be reconvening in another room for closed session. The open session minutes of the meeting did not indicate a public vote was held to enter into closed session.

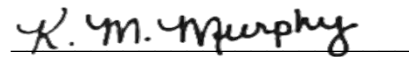
Procedure

On September 19, the IPIB accepted the complaint. Upon acceptance, the parties worked toward an informal resolution agreement.

Norris approved the Informal Resolution on October 4, 2024. The County approved the Informal Resolution on October 8, 2024.

All terms of the Informal Resolution have been met. IPIB staff recommends that this Final Report be adopted and that the complaint be dismissed as resolved.

By the IPIB Deputy Director,



Kimberly M. Murphy, J.D.

CERTIFICATE OF MAILING

This document was sent on November 14, 2024, to:

Jan Norris, Complainant

Drew Swanson, Montgomery County Attorney

The Iowa Public Information Board

In re the Matter of: Drake Riddle, Complainant And Concerning: Page County Board of Supervisors, Respondent	Case Number: 24FC:0068 Informal Resolution Report
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Complaint 24FC:0068 was filed on August 8, 2024, and accepted by the IPIB on October 17, 2024.

The Page County Board of Supervisors (BOS) held a meeting on July 11, 2024. During the meeting, the BOS approved a commercial liquor license. Two of the supervisors voted yes to approve the liquor license. One of the supervisors abstained from the vote. The minutes inaccurately recorded the supervisor as voting no instead of abstaining and reflected the BOS unanimously moved the vote.

The County Auditor’s Office, as clerk to the BOS, corrected the minutes and posted the corrected minutes on the County website. Although the minutes were corrected and reposted, the amended minutes were not reviewed or approved by the BOS, which is not appropriate procedure for amending the approved minutes.

Upon review of this case, IPIB staff identified an additional issue of concern: The BOS produces two sets of minutes for each meeting. It is unclear which set of minutes are the official minutes representing the actions of the BOS. Based on these identified issues, IPIB accepted the complaint.

Applicable Law

Iowa Code § 21.3(2) requires governmental bodies keep minutes of meetings that show the results of each vote taken and information sufficient to indicate the vote of each member.

Informal Resolution

Pursuant to Iowa Code § 23.9, IPIB presents the following terms for an informal resolution of this matter:

1. The BOS will acknowledge at an open meeting that there are sufficient facts to demonstrate the BOS failed to keep accurate minutes showing the results of each vote taken and information sufficient to indicate the vote of each member pursuant to Iowa Code § 21.3(2), that the amended minutes were not approved or reviewed by the BOS, and that the BOS

currently has two sets of minutes, creating ambiguity as to which sets of minutes represent the official actions of the BOS. This acknowledgement will be recorded in the minutes of said meeting and minutes will be provided to the IPIB.

2. The BOS will approve this Informal Resolution during an open meeting and include the full text in the minutes of said meeting. The minutes will be provided to the IPIB.
3. The BOS will conduct training during an open meeting regarding Iowa Code Chapter 21. All members of the BOS and the Page County Auditor as the clerk of the BOS (or any staff of the Page County Auditor's Office serving as the clerk to the BOS) will attend the training. The BOS will invite additional elected and appointed officials of Page County and other governmental staff who interact with the BOS to attend the training. The BOS will work with the Iowa State Association of Counties or the Iowa Public Information Board to provide the training.
4. The BOS will create a policy or procedure to govern the process for developing and approving minutes. This policy or procedure will be reviewed by the IPIB and adopted by the BOS.
5. The BOS will work with the IPIB to designate a single and official set of minutes approved by the BOS and update any required minutes filings on the website and in the BOS book of minutes to accurately reflect the use of a single and official BOS approved set of minutes.

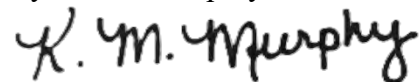
The terms of the Informal Resolution will be completed within 60 days of the date of approval of this Informal Resolution by all parties. Upon showing of proof of compliance, the IPIB will dismiss this complaint as successfully resolved.

Drake Riddle approved the Informal Resolution on November 13, 2024.

The BOS approved the Informal Resolution on November 14, 2024.

The IPIB staff recommend the IPIB approve the Informal Resolution Report.

By the IPIB Deputy Director,



Kimberly M. Murphy, J.D.

CERTIFICATE OF MAILING

This document was sent on November 15, 2024, to:

Drake Riddle, Complainant
Jacob Holmes, Page County Board of Supervisors

The Iowa Public Information Board

In re the Matter of: Lucian Diaconu, Complainant And Concerning: Gilbert Community School District, Respondent	Case Number: 24FC:0072 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On August 14, 2024, Lucian Diaconu filed formal complaint 24FC:0072, alleging the Gilbert Community School District (District) violated Iowa Code Chapter 22.

Facts

The complaint alleges the District violated Iowa Code Chapter 22 by failing to disclose all public records responsive to the request, unreasonable delays for production, unreasonable fees charged for production, and the release was “on paper, with missing information, printed pages in random order and with words out of context.”

On May 24, 2024, Diaconu submitted a records request to the District seeking all electronic communication sent or received in reference to the words, “soccer, safe, time, Noreen, and team” related to two specific employees. Diaconu requested the information be delivered via USB device. The District acknowledged the request on the same date.

On June 4, 2024, Diaconu followed up with the District and requested an update. On the same date, the District responded and indicated the request would take 40 searches and a minimum of 15-20 hours of work. The District estimated the cost for production would be \$47.22 per hour at 15 hours, for a cost of \$708.30. Additional conversations took place on this date regarding fees, payment, and timing of release.

On June 24, Diaconu followed up with the District and requested an update. The District responded as follows:

We wanted to assure you we are working on your records request. We understand it is taking more time than you expected. Just so you are aware, there are over 4900 documents we have to hand sort and review prior to releasing the information to you, and that takes a significant amount of time. The reason we have so many records, for example, is one of the words you have listed was the word "soccer." One person you asked for has the word soccer in their signature line, so every email this person sent is included in your request. We then have to hand-sort and review every email to be sure it does not contain information not a part of your request that would require redaction, for example names of students not related to your request. We are continuing to work on your request, but we wanted to give you a status update and we will continue to work on this project and hope to have it completed in the next 2 weeks.

On August 2, Diaconu again requested an update on the status of the request. Diaconu did not receive a response to the request and again followed up on August 6. The District responded and indicated the documents would be available on Friday and provided the actual cost for production.

On August 8, the District outreached to Diaconu and indicated the documents were ready to be received. The District stated the payment for release was \$522.64 and the total was based on 12 hours of work at \$47.22 per hour.

On August 9, Diaconu sent an email to the District indicating the format for production was paper copies, some pages were copied several times, communications were missing, and an itemized receipt was not provided. Diaconu requested to know how many emails should have been provided and if there were not communications disclosed and why. It appears conversations via phone and email continued until around the date of the filing of the complaint. In addition, Diaconu submitted a second records request.

Additional conversations occurred between the District and Diaconu up until the time of the filing of this complaint. Diaconu received over 5,000 pages of documents.

Applicable Law

Payment of Fees and Access to Records

Iowa Code § 22.3 is clear governmental bodies can charge reasonable fees for the production of public records. Iowa Code § 22.3(1) states as follows:

Although fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of reasonable expenses, the lawful custodian shall make

every reasonable effort to provide the public record requested at no cost other than copying costs for a record which takes less than thirty minutes to produce. In the event expenses are necessary, such expenses shall be reasonable and communicated to the requester upon receipt of the request.

Iowa Code § 22.3(2) goes on to define reasonable fees and states,

The fee for the copying service as determined by the lawful custodian shall not exceed the actual cost of providing the service. Actual costs shall include only those reasonable expenses directly attributable to supervising the examination of and making and providing copies of public records. Actual costs shall not include charges for ordinary expenses or costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office of the lawful custodian. Costs for legal services should only be utilized for the redaction or review of legally protected confidential information.

Timeframe for Production of Records

Iowa Code § 22.8(4) provides a foundation for defining a good-faith and reasonable delay in the production of public records:

Good-faith, reasonable delay by a lawful custodian in permitting the examination and copying of a government record is not a violation of this chapter if the purpose of the delay is any of the following:

- a. To seek an injunction under this section.
- b. To determine whether the lawful custodian is entitled to seek such an injunction or should seek such an injunction.
- c. To determine whether the government record in question is a public record, or confidential record.
- d. To determine whether a confidential record should be available for inspection and copying to the person requesting the right to do so. A reasonable delay for this purpose shall not exceed twenty calendar days and ordinarily should not exceed ten business days.

This section implies review of public records to determine confidentiality should be between 10 and 20 days. But this does not end the analysis. The Supreme Court has held in a recent case that the reasonability of a delay may be determined by the following factors:

- (1) how promptly the defendant acknowledged the plaintiff's requests and follow-up inquiries
- (2) whether the defendant assured the plaintiff of the defendant's intent to provide the

requested records

(3) whether the defendant explained why requested records weren't immediately available (e.g., what searches needed to be performed or what other obstacles needed to be overcome)

(4) whether the defendant produced records as they became available (sometimes called “rolling production”)

(5) whether the defendant updated the plaintiff on efforts to obtain and produce records

(6) whether the defendant provided information about when records could be expected.¹

Analysis

Diaconu raises the following concerns: Failure to to disclose all public records responsive to the request, unreasonable delays for production, unreasonable fees charged for production, and the release was “on paper, with missing information, printed pages in random order and with words out of context.” This analysis addresses each issue.

Failure to Disclose All Public Records. Diaconu alleges the District failed to disclose all public records. Diaconu’s request included very broad search terms that resulted in the review of 4,900 documents resulting in production of over 5,000 pages. One of the search terms was included in the signature line of emails, which resulted in a lot of potentially irrelevant emails.

The District asked Diaconu to provide more specifics in regards to the information being requested to assist in narrowing the search and reducing the time and cost in reviewing. Diaconu refused to provide more information. This is within Diaconu’s discretion. This decision, however, will likely result in Diaconu needing to make additional records requests to further narrow and identify the information being sought if it was not captured through the key word search terms “soccer, safe, time, Noreen, and team.”

Improper Delay. Diaconu alleges the District has improperly delayed production of public records. Diaconu submitted his request for public records on May 24, 2024. The District released the records on August 8, 2024.

The District had to review 4,900 documents to prevent release of student information or other potentially confidential information. The District communicated this as the reason for delay to Diaconu. In addition, the District acknowledged receipt of the request, assured Diaconu the records would be provided, and responded to Diaconu’s requests for updates on the status of the request. Ultimately, Diaconu received over 5,000 pages of documents.

¹ *Belin v. Reynolds*, 989 N.W.2d 166 (Iowa 2023). See also, *Kirkwood Inst. Inc. v. Sand*, 6 N.W.3d 1 (Iowa 2024); IPIB Advisory Opinion, 24FC:0010, Clarification on the definition of “reasonable delay” as it pertains to the period of time for a record’s custodian to determine the confidentiality of records.

Excessive Fees. Diaconu alleges the fees charged in this case are improper. Diaconu received an estimate of fees on June 4, 2024. The estimate was based on the requirement that 40 searches be performed. The District estimated this would be 15-20 hours of labor at a cost of \$47.22 per hour. The total estimate provided was \$708.30. When Diaconu retrieved the public records, fees totaling \$522.69 were paid. The District provided the following invoice:

12 hours of labor by the IT Director \$43.56 \$522.69

Labor included:

Reviewed documents in reference to the words: soccer, safe, time, Noreen and team. Redaction of information, when necessary. Downloading and uploading documents.

Diaconu's request was very broad and involved documents containing student information. The District communicated costs to Diaconu in the form of an estimate, receipt, and invoice. The estimate provided was higher than the actual costs paid. Expenses related to the cost of production were actual costs directly attributable to the work done by District IT staff. The fees charged to Diaconu for the retrieval and production of records resulting in over 5,000 pages are appropriate and reasonable.

Form of Disclosure. Diaconu requests the IPIB make a finding based on the form of release and indicates the release was "on paper, with missing information, printed pages in random order and with words out of context." Diaconu was charged for time, not copies. There is nothing within Iowa Code Chapter 22 stating the manner in which public records must be organized or printed.

Conclusion

Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations, it is found that this complaint does not meet the jurisdictional requirements for acceptance as IPIB was unable to find any evidence of violations of Iowa Code Chapter 22.

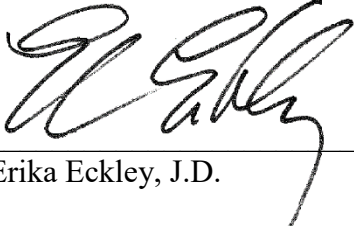
IT IS SO ORDERED: Formal complaint 24FC:0084 is dismissed pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

The District utilized Diaconu's broad search terms, reviewed 4900 documents, provided over 5,000 pages of documents, and charged the actual costs of the time spent retrieving the documents.

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review

this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director

A handwritten signature in black ink, appearing to read 'E. Eckley', written over a horizontal line.

Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on , 2024₂ to:

Lucian Diaconu, Complainant

Elizabeth Heffernan, Attorney for the Gilbert Community School District

The Iowa Public Information Board

In re the Matter of: Paul Reed, Sr., Complainant And Concerning: City of West Liberty, Respondents	Case Number: 24FC:0084 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On September 25, 2024, Paul Reed, Sr. filed formal complaint 24FC:0084, alleging the City of West Liberty (City) violated Iowa Code Chapter 22.

Facts

The complaint alleges the City violated Iowa Code Chapter 22 by charging excessive fees to access public records, requiring full payment of attorney fees prior to release of documents, and delaying release of the public records. The complaint also raises allegations related to “unprofessional” inclusion of others within the communications and preference for records to be provided electronically.

This case involves a dispute between Reed and the City that transcends public records. Reed is a former employee of the City and is requesting records related to his administrative leave, termination, and appeals. Specifically, Reed has requested the following:

1. Any and all communications (emails, letters, etc.) between officials, employees, and representatives of the City of West Liberty, including but not limited to:
 - The City Manager
 - The City Council
 - The West Liberty Fire Department
 - Any attorneys or legal counsel involved.
2. Any official letters or documents issued by the City of West Liberty or its Fire Department related to the employment status of Paul Reed, including administrative leave documentation, termination notices, and appeals process records.
3. Any internal or external communications regarding the decision-making process, legal advice, or discussions about Paul Reed’s employment status.

The request for public records was made on September 4, 2024.

On September 6, the City responded, verified receipt of the request, indicated they would keep Reed posted throughout the process, and provided a copy of the City's policy and procedure for public records requests.

On September 9, the City provided an update to Reed and indicated the City would pull records and require legal counsel to review the records for confidentiality concerns. The City indicated they would follow up with Reed and provide the actual cost to provide the records, including any legal service fees, that must be paid before the records are provided. The City also indicated that, due to the nature of the request, it may take longer than 10 business days to complete the request.

On September 10, Reed responded and indicated the records were related only to Reed and would not require review or redaction. Reed indicated the matter would be escalated to the Iowa Public Information Board if the City did not address his concerns in a satisfactory manner.

On September 12, the City responded and explained why a review would be necessary and further explained the fees. The City stated they would complete the request as quickly as possible.

On September 13, Reed responded and indicated there should not be additional information in his records and referenced a breach of privacy and unprofessional conduct.

Reed continued to escalate his complaints with numerous emails being sent in September, including a 24-hour notice to comply.

On September 24, counsel for the City sent a letter to Reed explaining the costs for the records and indicating the amount of \$543 must be paid to the City before the records will be released.

On the same date, Reed requested a break-down of the costs. Counsel for the City responded on the same date and explained the fees and how they were generated. Reed filed this complaint on the same day.

Applicable Law

Payment of Fees and Access to Records

Iowa Code § 22.3 is clear that governmental bodies can charge reasonable fees for the production of public records and can produce the public records contingent upon receipt of payment. Iowa Code § 22.3(1) states as follows:

Although fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of reasonable expenses, the lawful custodian shall make every reasonable effort to provide the public record requested at no cost other than copying costs for a record which takes less than thirty minutes to produce. In the event expenses are necessary, such expenses shall be reasonable and communicated to the requester upon receipt of the request.

Iowa Code § 22.3(2) goes on to define reasonable fees and states,

The fee for the copying service as determined by the lawful custodian shall not exceed the actual cost of providing the service. Actual costs shall include only those reasonable expenses directly attributable to supervising the examination of and making and providing copies of public records. Actual costs shall not include charges for ordinary expenses or costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office of the lawful custodian. Costs for legal services should only be utilized for the redaction or review of legally protected confidential information.

Timeframe for Production of Records

Iowa Code § 22.8(4) provides a foundation for defining a good-faith and reasonable delay in the production of public records:

Good-faith, reasonable delay by a lawful custodian in permitting the examination and copying of a government record is not a violation of this chapter if the purpose of the delay is any of the following:

- a. To seek an injunction under this section.
- b. To determine whether the lawful custodian is entitled to seek such an injunction or should seek such an injunction.
- c. To determine whether the government record in question is a public record, or confidential record.
- d. To determine whether a confidential record should be available for inspection and copying to the person requesting the right to do so. A reasonable delay for this purpose shall not exceed twenty calendar days and ordinarily should not exceed ten business days.

This section implies review of public records to determine confidentiality should be between 10 and 20 days. But this does not end the analysis. The Supreme Court held in *Belin v. Reynolds*, 989 N.W.2d 166 (Iowa 2023) the reasonability of a delay may be determined by the following factors:

- (1) how promptly the defendant acknowledged the plaintiff's requests and follow-up inquiries
- (2) whether the defendant assured the plaintiff of the defendant's intent to provide the requested records
- (3) whether the defendant explained why requested records weren't immediately available (e.g., what searches needed to be performed or what other obstacles needed to be overcome)
- (4) whether the defendant produced records as they became available (sometimes called "rolling production")
- (5) whether the defendant updated the plaintiff on efforts to obtain and produce records
- (6) whether the defendant provided information about when records could be expected.¹

Analysis

Reed raises the following concerns: Fees charged are excessive, it is improper to require payment of fees before release of documents, the delay to release records in this case is improper, there is unprofessional inclusion of others within communications related to Reed, and records should be provided electronically to avoid fees. This analysis addresses each issue.

Excessive Fees. Reed alleges the fees charged in this case are improper. He received a full breakdown of fees charged in this case from the City and the City's attorney. The fees charged by the City to research and pull the records:

- City Clerk – 8 hours
- IT Specialist – 2 hours
- City Manager – 1 hour

The City charged \$20 per hour for 11 hours of examination and review. **This is a total of \$242.** It is noted that this charge is consistent with the City's policy for production of public records, which was provided to Reed at the time of his public records request.

The City's attorney spent 5.9 hours reviewing hundreds of pages of documents identified as potentially confidential by the City. The rate for the City's attorney is \$275 per hour. As stated by the City's attorney, "Of those documents, one third were not responsive to your request so I subtracted one third of the fees, leaving \$1,087.00 in fees owed to review the documents for confidentiality and redactions." This amount was divided in half for the benefit of the Reed, which resulted in a **total of \$543 in legal services fees.**

¹ See also, *Kirkwood Inst. Inc. v. Sand*, 6 N.W.3d 1 (Iowa 2024); IPIB Advisory Opinion, 24FC:0010, Clarification on the definition of "reasonable delay" as it pertains to the period of time for a record's custodian to determine the confidentiality of records.

The total amount charged to Reed for production of public records was \$785.

Iowa law provides clear guidance regarding charges for production of records. This guidance outlines the following elements:

- Expenses for the cost of production of public records must be reasonable. Iowa Code § 22.3(1).
- Expenses for the cost of production of public records must be communicated to the requester. Iowa Code § 22.3(1).
- Expenses for the cost of production must be actual costs and will include only those reasonable expenses directly attributable to supervising the examination of and making and providing copies of public records. Iowa Code § 22.3(2).
- Actual costs shall not include charges for ordinary expenses or cost associated with administration of the office of the lawful custodian. Iowa Code § 22.3(2).
- Costs for legal services should only be utilized for redaction or review of legally protected confidential information. Iowa Code § 22.3(2).

The City fully complied with all requirements outlined in Iowa Code § 22.3(1) and (2).

Reed's request was very broad, involved his former employment, which likely involved legal concerns, and specifically requested communications regarding legal advice. The City's attorney indicated legal review included hundreds of documents, which was one portion of the full documents reviewed by the City. The City spent eleven hours reviewing these documents and charged \$20 per hour, rather than the actual hourly rate paid to the employees, which is consistent with City policy. The City's attorney charged for review only of relevant records and cut the final amount in half.

The City clearly communicated the costs to Reed. Upon request, the City supplied Reed with the City's policy that outlines how fees for public records are assessed. The City provided Reed with a break-down of the cost for production. The City's attorney provided Reed with the specific cost for legal service fees. The City has clearly and consistently communicated costs to Reed.

Expenses for the cost of production were actual costs directly attributable to the work done by City staff and the City's attorney to examine records. There were no copying costs included. There were no administrative costs included. The costs were consistent with those outlined in the City's policy.

The City's attorney clearly stated that legal services were used for review and redaction of legally protected confidential information. Her charges were narrowed to only those documents necessary to review. Legal services provided in this case were reasonable, especially considering Reed's request specifically included legal advice provided to the City.

IPIB finds that fees charged to Reed for the production of records are appropriate and reasonable.

Payment Before Release. Reed alleges it is improper to withhold public records contingent upon payment of the costs of retrieval and review. Iowa law is clear that fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of reasonable expenses. Iowa Code § 22.3(1); *Teig v. Chavez*, 8 N.W.3d 484, 496-97 (Iowa 2024) (holding costs for retrieval of records is permissible). It is reasonable and legal for the City to withhold public records until payment is made.

Improper Delay. Reed alleges the City has improperly delayed production of public records. Reed submitted his request for public records on September 4, 2024. On September 24, 2024, Reed received communication from the City's attorney indicating Reed could obtain the records upon receipt of payment.

Iowa law states a good-faith, reasonable delay is not a violation of Chapter 22 if the delay is due to determining whether a record is confidential and a delay for this purpose should not exceed twenty calendar days. Iowa Code § 22.8(4). The City made public records available to Reed within the statutory twenty days. Even if the City had exceeded twenty days for production, the City met many of the criteria that justify a longer delay pursuant to the *Belin* factors.

Inclusion of Others Within Communications. The City's determination of who to include or not include within communications is outside the scope of IPIB's jurisdiction under Iowa Code Chapter 23 and will not be reviewed.

Electronic Production. Reed suggests costs for production of records would be reduced if copies of the documents were not made. The only fees charged to Reed are related to retrieval and examination of public records. IPIB finds no violations related to this allegation.

Conclusion

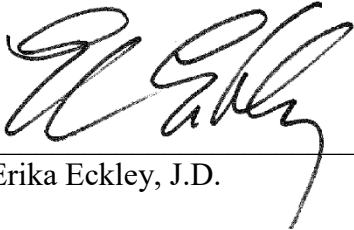
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations, it is found this complaint does not meet the jurisdictional requirements for acceptance.

IPIB's review found no violations of Iowa Code Chapter 22. Rather, it appears the City did an exceptional job responding to a complicated public records request.

IT IS SO ORDERED: Formal complaint 24FC:0084 is dismissed pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director

A handwritten signature in black ink, appearing to read 'E. Eckley', written over a horizontal line.

Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 14, 2024, to:

Paul Reed, Sr., Complainant
Lee Gertz, City of West Liberty
Holly Corkery, Attorney for the City of West Liberty

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0087
Nicholas Bargren, Complainant	Dismissal Order
And Concerning:	
Iowa City Police Department, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On October 5, 2024, Nicholas Bargren filed formal complaint 24FC:0087, alleging Iowa City Police Department violated Iowa Code chapter 22.

Facts

Nicholas Bargren filed this complaint stating he did not receive records of the call logs for three properties pursuant to his verbal records request.

In response, the City stated Bargren received an email with the records on October 4, 2024, and acknowledged receipt of the records on the same day.

Applicable Law

“Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record.” Iowa Code § 22.2(1).

Analysis

Bargren received the records requested. There is no violation of Iowa Code chapter 22.

Conclusion

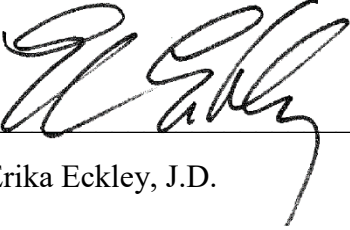
Iowa Code § 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

Bargren promptly received the records requested and emailed confirmation of his receipt of the information.

IT IS SO ORDERED: Formal complaint 24FC:0087 is dismissed as it is frivolous and without merit pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 14, 2024, to:

Nicholas Bargren

Susan Dulek, attorney for Iowa City Police Department

The Iowa Public Information Board

In re the Matter of:	Case Number: 24FC:0089
Curtis Wagler et al., Complainants	Dismissal Order
And Concerning:	
Henry County Board of Supervisors & Henry County Sheriff's Office, Respondents	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On October 9, 2024, Danny Cornell (on behalf of Curtis Wagler et al.) filed formal complaint 24FC:0089, alleging that the Henry County Board of Supervisors and the Henry County Sheriff's Office violated Iowa Code Chapter 22.

Facts

The three complainants in this case, Curtis Wagler, Lori Wagler, and Owen Wagler, are residents of Henry County, Iowa. On May 7, 2024, Danny Cornell, legal counsel for the Waglers, submitted a records request seeking documents and communications related to a Henry County Sheriff's deputy's placement on the Brady-Giglio list, along with a broad request for other records relating to County Attorney Darin Stater's decision not to prosecute the Waglers and actions taken by the named Deputy in the course of the investigation against the Waglers. This request was filed with Henry County Sheriff Rich McNamee, though Stater was separately notified of the pending request. Both McNamee and Stater acknowledged this request.

On May 23, 2024, Stater emailed McNamee, offering to review the requested records on behalf of the Sheriff's Office in order to determine what disclosure was required. In response, the Sheriff's Office delivered a binder with an estimated 1,000 pages to the County Attorney's desk for review.

On July 4, 2024, however, Sheriff McNamee contacted a private law firm, seeking their assistance with the Waglers' records request. On July 15, after consulting with this firm, McNamee sent a follow-up email to Stater, asserting that the Sheriff's Office was the lawful custodian for the records and directing the County Attorney's office not to take any further action on responding to the Waglers' request. McNamee explained that he had only produced the record to Stater on the

understanding that it was required by law, but McNamee now wished to handle the matter himself. He concluded, quote:

As the communication you were sent regarding this FOIA request was made quite some time ago, please be advised that I withdraw any action that may have been perceived as handing this FOIA request off to your office for any time of review. I will review the exceptions myself and soon communicate an official response to the requester, as the custodian of records sought in this request.

The County Attorney's office returned the binder of records and, on July 18, Stater informed the Henry County Board of Supervisors of the situation, including the fact that his office would no longer be conducting further review of the pending request.

The Sheriff's Office ultimately responded to the Waglers' records request on either August 5 or August 12 (the exact date is disputed).

On October 9, 2024, Danny Cornell filed formal complaint 24FC:0089 against the Henry County Board of Supervisors and the Henry County Sheriff's Office, alleging undue delay and the improper failure to release certain public records which were withheld as confidential. Both allegations constitute potential violations of Chapter 22.

In subsequent correspondence, Cornell has asserted the Henry County Board of Supervisors is ultimately responsible for ensuring the Sheriff's Office complies with its Chapter 22 obligations. However, both respondent parties agree that the County Attorney has not been representing the Sheriff's Office on this matter since July 15, when McNamee emailed Stater with explicit direction not to review the request or provide further legal advice. Indeed, McNamee's private counsel, Ellis Law, has provided extensive briefing to IPIB on why the County Attorney *could not* unilaterally assert this authority even if he wished to do so ("We ask that any intervention into Cornell's complaint before IPIB by the Henry County Attorney be denied by IPIB").

Applicable Law

"'Lawful custodian' means the government body currently in physical possession of the public record. The custodian of a public record in the physical possession of persons outside a government body is the government body owning that record. The records relating to the investment of public funds are the property of the public body responsible for the public funds." Iowa Code § 22.1(2).

"'Government body' means this state, or any county, city, township, school corporation, political subdivision, tax-supported district . . . or any branch, department, board, bureau, commission, council, committee, official, or officer of any of the foregoing or any employee delegated the responsibility for implementing the requirements of this chapter." Iowa Code § 22.1(1).

Iowa Code § 23.6(4) grants IPIB the authority to "[r]eceive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance, formally investigate such complaints, decide after such an investigation whether there is probable cause to

believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute the respondent before the board in a contested case proceeded conducted according to the provisions of chapter 17A.”

Analysis

Although the complainants in this case assert the Henry County Board of Supervisors is ultimately responsible for the production of requested public records, both the Board itself (through County Attorney Darin Stater) and the Sheriff’s Office (through Rich McNamee and Ellis Law, the private law firm retained by McNamee for the purposes of this request) have answered they should be treated as separate entities and that the Sheriff’s Office alone is responsible for the public records in question.

The Iowa Code defines a government body to include “this state, or any county, city, township, school corporation, *political subdivision*, tax-supported district . . . or other entity of this state, or any branch, department, board, bureau, commission, council, committee, official, or officer of any of the foregoing or any employee delegated the responsibility for implementing the requirements of [Chapter 22].” Iowa Code § 22.1(1) (emphasis added). A lawful custodian of a public record, meanwhile, is “the government body currently in physical possession” of that record or, in the case of records relating to the investment of public funds, “the public body responsible for the public funds.” Iowa Code § 22.1(2).

In its advisory opinion 23AO:0006 *Who is the lawful custodian when there are multiple levels of political subdivisions involved?*, IPIB interpreted these two provisions to mean a county sheriff’s office qualifies as a “political subdivision” within the meaning of the term’s use in Iowa Code § 22.1(1), as a sheriff’s office is a “legally identifiable political instrumentality” whose “purpose is to aid in the governmental functions of the county.” *See State ex rel. Iowa Emp. Sec. Comm’n v. Des Moines Cnty.*, 149 N.W.2d 288, 291 (Iowa 1967). Because a sheriff’s office is a political subdivision of the county in which it is located, it is also a “government body” under the definition provided in Iowa Code § 22.1(1), which means in turn that it may serve as the lawful custodian for its own public records.¹

The Henry County Sheriff’s Office has repeatedly rejected the assistance of the County Attorney in favor of private counsel, and the County Attorney has accordingly refrained from involving himself or the Board of Supervisors since this preference was communicated.

¹ A county attorney cannot lawfully assist a sheriff’s office in responding to a records request or defending a formal complaint filed with IPIB. A county attorney’s statutory duties include a duty to “[c]ommence, prosecute, and defend all actions and proceedings in which a county officer, in the officer’s official capacity, or the county is interested or a party” as well as a duty to “[g]ive advice or a written opinion, without compensation, to the board and other county officers and to township officers, when requested by an officer, upon any matters in which the state, county, or township may have an interest” Iowa Code § 331.756(6)-(7).

Because the complainants made their records request to the Sheriff's Office and because the Sheriff's Office, as a government body and independent lawful custodian of the records for the purposes of Chapter 22, has decided to handle this matter without the involvement of the County Attorney or the Board of Supervisors, there is no basis to find the latter responsible for any of the potential violations alleged in the formal complaint under review.

Therefore, with regards to the Henry County Board of Supervisors, this case should be dismissed. The remainder of the complaint against the Henry County Sheriff's Office will be addressed separately under the same case number.

Conclusion

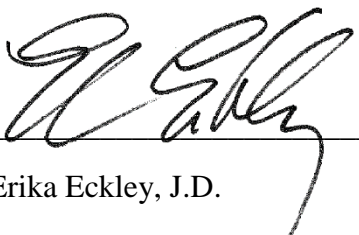
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

Because the Henry County Board of Supervisors had no responsibility to respond to the records request at issue, the portion of the complaint brought against them is without merit.

IT IS SO ORDERED: Formal complaint 24FC:0089 is dismissed with regards to the Henry County Board of Supervisors as without merit pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on November 21, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on November 18, 2024, to:

Curtis Wagler et al., Complainants

Henry County Board of Supervisors, Respondent

Henry County Sheriff's Office, Respondent



Eckley, Erika <erika.eckley@iowa.gov>

Fwd: 24FC:0078 - Status Update

1 message

Murphy, Kimberly <kim.murphy@iowa.gov>
To: "Eckley, Erika" <erika.eckley@iowa.gov>

Fri, Nov 1, 2024 at 12:34 PM

**Kimberly Murphy, JD**

Deputy Director

Iowa Public Information Board (IPIB)

502 East 9th Street

Wallace Building, 3rd Floor

Des Moines, Iowa 50319

New Phone Number: 515-393-7664kim.murphy@iowa.govwww.ipib.iowa.gov

----- Forwarded message -----

From: **Murphy, Kimberly** <kim.murphy@iowa.gov>

Date: Fri, Nov 1, 2024 at 8:24 AM

Subject: Re: 24FC:0078 - Status Update

To: Megan Pegorick <pegorickmegan@hotmail.com>

Cc: Zimmerman, John <MidlandSuperintendent@midland.k12.ia.us>

Thank you, Megan.

I will withdraw this case at the IPIB meeting to be held later this month.

I appreciate the cooperation of each of you in resolving this matter.

Kim

**Kimberly Murphy, JD**

Deputy Director

Iowa Public Information Board (IPIB)

502 East 9th Street

Wallace Building, 3rd Floor

Des Moines, Iowa 50319

New Phone Number: 515-393-7664kim.murphy@iowa.govwww.ipib.iowa.gov

On Tue, Oct 29, 2024 at 1:15 PM Megan Pegorick <pegorickmegan@hotmail.com> wrote:

Requested information was received, please make sure the district preserves all documents.

Thanks for your assistance!

Megan

Sent from my iPhone

On Oct 25, 2024, at 2:13 PM, Murphy, Kimberly <kim.murphy@iowa.gov> wrote:

Good afternoon,

I am following up with the parties in regards to 24FC:0078. It is my understanding that the School District has produced additional documents. It is my further understanding that all requested documents have been produced, with the exception of the budget document labeled as CORRECT. I have talked with Mr. Zimmerman and it appears that the District is not in possession of this document. The IPIB position is that public records must exist to be produced.

To both parties - please let me know if I have mischaracterized any information.

Ms. Pegorick - Do you want to proceed with advancing your complaint or have you received the documents that you requested? If you feel that you have received all documents, you have the option to withdraw your complaint.

Thank you,

Kim



Kimberly Murphy, JD

Deputy Director

Iowa Public Information Board (IPIB)

502 East 9th Street

Wallace Building, 3rd Floor

Des Moines, Iowa 50319

New Phone Number: 515-393-7664

kim.murphy@iowa.gov

www.ipib.iowa.gov

Re: This Book is Gay

1 message

John johnson <dartdude735@hotmail.com>
To: "Eckley, Erika" <erika.eckley@iowa.gov>

Thu, Nov 14, 2024 at 9:39 AM

Withdraw it

Sent from my T-Mobile 5G Device
Get [Outlook for Android](#)

From: Eckley, Erika <erika.eckley@iowa.gov>
Sent: Thursday, November 14, 2024 8:05:06 AM
To: earl@earlwhill.com <earl@earlwhill.com>
Cc: Dartdude735@hotmail.com <Dartdude735@hotmail.com>; Connie Swanson <connie@earlwhill.com>
Subject: Re: This Book is Gay

Thank you for reviewing the matter, Mr. Hill.

Mr. Johnson, according to this, you received all of the records related to your request as there were no additional communications. Knowing this, are you willing to withdraw your complaint?

Erika Eckley, Executive Director
Iowa Public Information Board (IPIB)On Wed, Nov 13, 2024 at 12:01 PM <earl@earlwhill.com> wrote:

John:

Last week I received a call from Erika Eckley, Iowa Public Information Board, asking if I had provided all records available pertaining to This Book is Gay. In all honesty, this book has been a non-issue until recently. Jacob Hall of the Iowa Standard made inquiry. That prompted Jim Nelson to file his complaint. Once the complaint was received, Mrs. Friedow took the complaint to the library board within a few days of receipt. There was a verbal discussion about the book and it was unanimously approved by the board to be replaced back on the shelf as reflected in the board minutes.

The book has been in the library for several years and checked out twice. Your guess is as good as mine as to whether other patrons of the library viewed the book while in the library. We would have no record of that.

I have interviewed Mrs. Friedow and Jim Nelson. If you know something I don't and want me to pursue it as city attorney, I will do so. As of now, you know everything I know.

Sincere best wishes.

Earl W. Hill
Attorney at Law



502 East 9th Street

Des Moines, Iowa 50319

www.ipib.iowa.gov

Erika Eckley, JD

Executive Director

(515) 393-8339

erika.eckley@iowa.gov

Iowa Public Information Board Policy

Subject: Public Records Requests – Fees Charged

Applicable Law: Iowa Code Chapter 22

Date Approved: November 21, 2024

Date Reviewed: November 21, 2024

Purpose: Iowa Code Chapter 22 outlines requirements for all state agencies responding to public records requests, including the assessment of fees for reviewing and producing the records. This **Public Records Request - Fees** policy is developed to comply with Iowa Code Chapter 22.

No Charge: There will be no charge to fulfill a request for a copy of a public record that takes less than thirty minutes to review and produce. At IPIB's discretion, IPIB may waive charges for public records requests that take more than thirty minutes.

Charges for Multiple Requests: At IPIB's discretion, IPIB may charge for review and production of public records that take less than thirty minutes to produce if the individual requesting the public records has made multiple requests.

Estimate of Charge: If an individual will be charged to review and produce public records, the IPIB will estimate the expenses associated with review and production of the public records and will communicate the estimate to the individual requesting public records.

Advance Payment of Charges: IPIB may require payment of charges before review and production of the requested public records. In these cases, IPIB will produce the requested public records upon receipt of the amount estimated. IPIB will refund any difference between the amount estimated and the amount charged.

Charge for Production: The IPIB will charge, to the individual requesting the public records, the actual cost and reasonable expenses incurred by the IPIB for the review and production of the public records.

- **Personnel Time:** The IPIB will charge the salary rate paid per hour to the Director or the Director's Designee for the review and production of the public records.
- **Copying:** The IPIB will not charge for copies of public records.
- **USB Drive:** The IPIB will charge the actual cost for the purchase of a USB Drive if one is required for the production of documents.
- **Mailing:** If public records must be mailed, the IPIB will charge the actual costs for packaging and shipping costs for the public records.

Board Members

Joan Corbin • E. J. Giovannetti • Barry Lindahl • Catherine Lucas
Luke Martz • Joel McCrea • Monica McHugh • Jackie Schmillen • vacant

- **Administrative Costs:** The only expenses charged to individuals requesting public records will be the actual and reasonable cost for review and production. Under no circumstances will the IPIB include in the cost for review and production any administrative cost, such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the IPIB.
- **Legal Services:** Actual and reasonable costs may include the cost of legal services utilized for the redaction or review of legally protected confidential information.

House File 333 - Introduced

HOUSE FILE 333
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 145)

A BILL FOR

1 An Act relating to the filing of complaints with the Iowa
2 public information board.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 23.7, subsection 1, Code 2023, is amended
2 to read as follows:

3 1. The board shall adopt rules pursuant to [chapter 17A](#)
4 providing for the timing, form, content, and means by which any
5 aggrieved person, any taxpayer to or citizen of this state, the
6 attorney general, or any county attorney may file a complaint
7 with the board alleging a violation of [chapter 21](#) or [22](#). The
8 complaint must be filed within ~~sixty~~ ninety days from the time
9 the alleged violation occurred or the complainant could have
10 become aware of the violation with reasonable diligence. All
11 complaints filed with the board shall be public records.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill provides that a person has 90 days, not the current
16 60 days, to file a complaint with the Iowa public information
17 board after an alleged violation of Code chapter 21 (open
18 meetings) or Code chapter 22 (open records) occurred or the
19 complainant could have become aware of the alleged violation.

HF 350 (LSB 1155HV (2) 90)

HOUSE FILE 350

BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 144)

A BILL FOR

An Act relating to public records requests.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 22.3, subsection 1, Code 2023, is amended to read as follows:

1. The examination and copying of public records shall be done under the supervision of the lawful custodian of the records or the custodian's authorized designee. The lawful custodian shall not require the physical presence of a person requesting or receiving a copy of a public record and shall fulfill requests for a copy of a public record received in writing, by telephone, or by electronic means. Although fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of reasonable expenses, the lawful custodian shall make every reasonable effort to provide the public record requested at no cost other than copying costs for a record which takes less than thirty minutes to produce. In the event expenses are necessary, such expenses shall be reasonable and communicated to the requester upon receipt of the request in accordance with section 22.4, subsection 3. A person may contest the reasonableness of the custodian's expenses as provided for in this chapter. The lawful custodian may adopt and enforce reasonable rules regarding the examination and copying of the records and the protection of the records against damage or disorganization. The lawful custodian shall provide a suitable place for the examination and copying of the records, but if it is impracticable to do the examination and copying of the records in the office of the lawful custodian, the person desiring to examine or copy shall pay any necessary expenses of providing a place for the examination and copying.

Sec. 2. Section 22.4, Code 2023, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Upon receipt of a request for a copy of a public record, the lawful custodian or the lawful custodian's authorized designee shall do all of the following:

- a. Promptly acknowledge the request and provide contact information for the lawful custodian's authorized designee. Promptly means using reasonable, good-faith efforts to respond taking into account the circumstances as they exist at the time the request was received.
- b. Provide an approximate date by which an estimate for any reasonable expenses and the release of a copy of the public record or a response to the request will be provided to the requester.
- c. Inform the requester of any expected delay in the production of the public record.

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill provides that upon receipt of a public records request, the lawful custodian shall promptly provide the lawful custodian's contact information, approximate date of the records release, an estimate of any reasonable fees associated with the records request, and any expected delay in production of the public records.

21.4 Public notice.

1. a. Except as provided in subsection 3, a governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information.

(1) Reasonably calculated notice shall include:

(a) advising the news media who have filed a request for notice with the governmental body;

(b) posting the notice so that the notice is visible at all times on a bulletin board or other in a prominent and conspicuous place annually designated for such purposes by the governmental body clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held; and

(c) posting the notice on any website owned or maintained and regularly updated by the government body or other online presence moderated by the government body, if applicable.

(2) If a tentative agenda has been posted and is amended within the timeframe established in section 2(a), then the agenda shall be marked as "AMENDED" and the amended provisions identified. Upon amendment the governmental body shall give notice in accordance with the reasonably calculated notice requirements.

b. Each meeting shall be held at a place reasonably accessible to the public and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impracticable. Special access to the meeting may be granted to persons with disabilities.

2. a. Except as otherwise provided in paragraph "c", notice conforming with all of the requirements of subsection 1 shall be given at least twenty-four hours prior to the commencement or cancellation of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given.

b. When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

c. If a governmental body is prevented from convening an otherwise properly noticed meeting under the requirements of subsection 1, the governmental body may convene the meeting if the governmental body posts an amended notice of the meeting conforming with all of the requirements of subsections 1 and 2.

3. Subsection 1 does not apply to any of the following:

a. A meeting reconvened within four hours of the start of its recess, where an announcement of the time, date, and place of the reconvened meeting is made at the original meeting in open session and recorded in the minutes of the meeting and there is no change in the agenda.

b. A meeting held by a formally constituted subunit of a parent governmental body during a lawful meeting of the parent governmental body or during a recess in that meeting of up to four hours, or a

meeting of that subunit immediately following the meeting of the parent governmental body, if the meeting of that subunit is publicly announced in open session at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

4. If another section of the Code requires a manner of giving specific notice of a meeting, hearing, or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.

Board Dashboard

Dashboard for Board Meetings

As of Nov 14, 2024 5:39 PM Viewing as Erika Eckley

Active Cases Report

46

[View Report \(Active Cases Report\)](#)

New complaints &/or questi

Case Recor...

Compla... ●

Question ●

Record Count



[View Report \(New complaints &/or questi\)](#)

Cases by Entity

Type of Entity

State ●

County ●

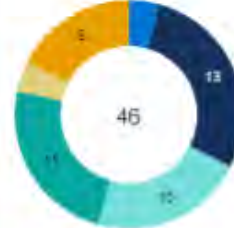
City ●

School ●

N/A ●

Other ●

Record Count



[View Report \(Cases by Entity\)](#)

Active Questions Report

1

[View Report \(Active Questions Report\)](#)

Broad Type (Filed in Curren

Complaint T...

Both ●

Chapter... ●

Chapter... ●

Record Count



[View Report \(Broad Type \(Cases Filed in Curren\)\)](#)

Closed cases (past 12 months)

Outcome

Did not open ■

Resolved ■

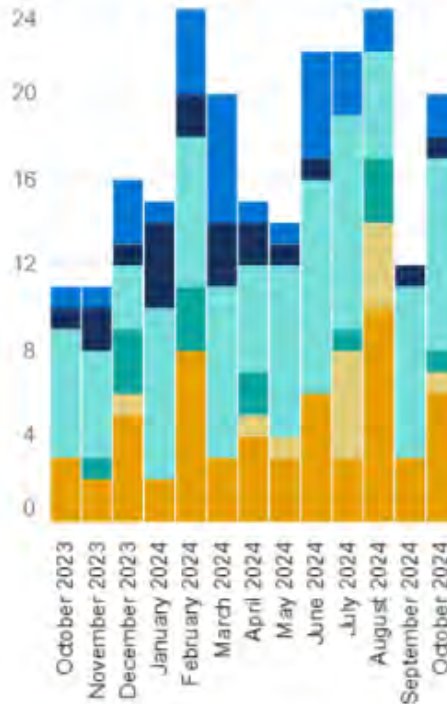
Dismiss ■

Board Acceptance - Closed ■

Probable Cause Report ■

Answered ■

Record Count



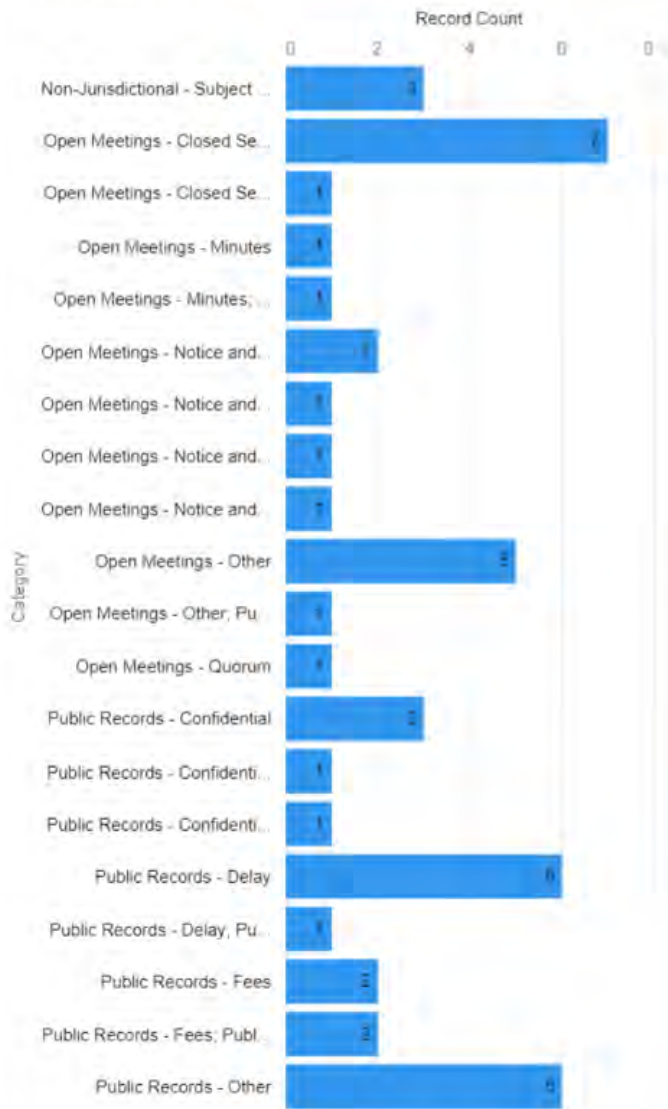
IPIB Close Date

[View Report \(Closed cases \(past 12 months\)\)](#)

Cases by Type

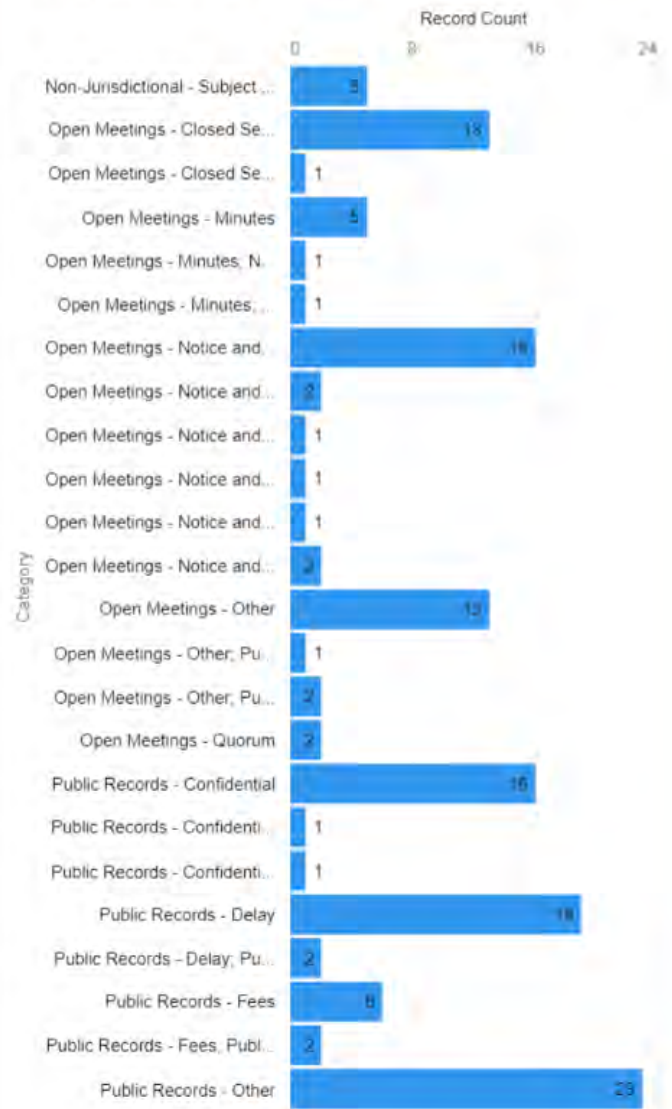
As of Nov 14, 2024 5:42 PM-Viewing as Erika Eckley

Cases by Type (Active)



[View Report \(Cases by Type \(Active\)\)](#)

Cases by Type (Filed in Current Year)



[View Report \(Cases by Type \(Filed in Current Year\)\)](#)

Class	Obj/Rev Class Name	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	HO13	HO14	HO15	YTD	End of Year Forecast	Annual Budget	Percent of Budget	Percent of Budget Forecasted								
		Actual	Actual	Actual	Actual	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Actual	(C=A+B)	(D)	To Date	EOY							
	Appropriation	363,227																											
	Deappropriation																												
	BBF (T&T)																				363,227								
Expenditures																													
101	Personal Services	19,563	19,067	19,474	35,990	23,939	23,939	23,939	23,939	23,939	39,939	23,939	23,939	8,378	-	-	94,094	309,984	323,270	29%	96%								
202	In State Travel	333	38	625	-	-	-	-	-	-	-	-	-	-	-	-	995	995	3,487	29%	29%								
301	Office Supplies	-	129	304	255	255	255	255	255	255	255	255	255	255	-	-	688	2,982	3,000	23%	99%								
309	Printing & Binding	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	500	0%								
313	Postage	-	6	8	3	4	4	4	4	4	4	4	4	4	4	4	17	55	150	11%	37%								
401	Communications	-	174	160	221	250	250	250	250	250	250	250	250	250	250	250	556	2,806	3,000	19%	94%								
406	Outside Services	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,000	0%	0%								
414	Reimbursements To Other Agency	-	1,600	1,608	1,603	1,603	1,603	1,603	1,603	1,603	1,603	1,603	1,603	1,603	-	-	4,811	19,236	12,000	40%	160%								
416	ITD Reimbursements	-	299	11,271	(6,376)	314	314	314	314	314	314	314	314	314	-	-	5,194	8,018	15,820	33%	51%								
418	IT Outside Services	-	146	146	146	146	146	146	146	146	146	146	146	146	-	-	439	1,756	1,000	44%	176%								
Total Expenditures:		19,896	21,459	33,596	31,842	26,511	26,511	26,511	26,511	26,511	42,511	26,511	26,511	10,951	-	-	106,793	345,833	363,227	29%	99%								
Current Month Operations		343,331	(21,459)	(33,596)	(31,842)	(26,511)	(26,511)	(26,511)	(26,511)	(26,511)	(42,511)	(26,511)	(26,511)	(10,951)	-	-													
Cash Balance		343,331	321,872	288,276	256,434	229,922	203,411	176,900	150,389	123,878	81,367	54,856	28,345	17,394	17,394	17,394													

Footnotes:
 Unit should be managed to \$0 at year end.

- Expenditures**
- 101 - Months of October and April have 3 payroll warrants written.
 - 414 - Space could be affected after move. Will update as forecasts are available.
 - 416 - October includes move of Salesforce renewal to P22T.