



**TODD ROKITA**  
ATTORNEY GENERAL

March 14, 2025

D. William Moreau  
Indiana Citizen Education Foundation  
3544 Clearwater Circle  
Indianapolis, Indiana 46240

**RE: Renewed Request for Public Records**

Dear Mr. Moreau:

This letter is a response from the Office of the Indiana Attorney General (the "OAG") on behalf of the Office of the Secretary of State (the "SOS") to the renewed public records request you submitted on behalf of the Indiana Citizen Education Foundation. It is our position that the Public Access Counselor's (the "PAC's") decision regarding access to the voter lists we sent to the USCIS is wrong. This is in part because the PAC interpreted Ind. Code § 5-14-4-10.5 to mean that he was strictly limited to a plain, narrow, and in our view illogical, reading of Ind. Code § 3-7-26.4-2. Actually, Ind. Code § 5-14-4-10.5 (by plain reading) authorizes advisory opinions to take into account the entire body of public access law and Indiana case law.

We see the Indiana election code as being exhaustive regarding when public access to any portion of the statewide voter list is permitted. The Indiana Election Division (the "Division") may not provide any part of the compilation of the voter registration information contained in the computerized list except in very limited circumstances. Ind. Code § 3-7-26.4-2. Additionally, counties can set a nondiscriminatory uniform policy to either permit or not permit the public to duplicate or obtain records maintained in the computerized list. *See* Ind. Code § 3-7-27-6(c). Indiana Code dictates that counties must provide records maintained in the computerized list to candidates, parties, and precinct inspectors. *See* Ind. Code chs. 3-7-28 and 3-7-29. Thus, the Indiana election code is clear regarding when records maintained in the computerized list can be requested by the public or shall be shared with groups or individuals. For practical purposes, a lack of reference to the SOS in Ind. Code § 3-7-26.4-2 regarding access to voter registration information contained in the computerized list cannot mean that voter records obtained by the SOS are thus open to the public. This would essentially nullify the restrictions put in place on the Division and counties discussed above.

Additionally, the PAC's opinion relies on an unidentified Division staff member as a basis for an incorrect conclusion about the relationship between the SOS and the Division, as well as ownership and responsibility for voter list records. The authority cited by the PAC ("Ind. Code § 3-6-4.2 et. al.") does not address ownership and administration of the statewide voter list. The PAC's conclusion that the Division "did not directly participate in the curation of the list..." was not substantiated and is in fact an inaccurate statement. The Indiana Code states multiple times in Ind. Code ch. 3-7-26.3 that the SOS *and* the Division are responsible for administration of the list.

Ind. Code ch. 3-7-26.3, regarding purposes, ownership and administration of the list—and which precedes Ind. Code ch. 3-7-26.4 regarding administration and access to voter list records—clearly uses the conjunction AND (“the Secretary of State **and** the election division”) as opposed to “OR” (i.e., the Secretary of State **or** the election division). *See* Ind. Code §§ 3-7-26.3-4 and 3-7-26.3-10. Both the SOS and the Division are tasked with administration of, and access to, voter list records.

Despite stating in his opinion that “the public access counselor cannot ascribe legislative intent,” the PAC clearly took the complainant’s theory of legislative intent into account in reaching his conclusion that Ind. Code § 3-7-26.4-2 was inapplicable to the SOS. Based on a supposition of legislative intent about the purpose of Ind. Code § 3-7-27-6(c) (i.e., that Ind. Code § 3-7-27-6(c) “largely shields the election division from having to field public record requests... [which instead] can be accomplished at the county level”) the PAC appears to have concluded that the Division was not intended to have to be burdened with public record requests, and thus it was **logical** that Ind. Code § 3-7-26.4-2 would not apply to the SOS. Absent factoring in legislative intent, which would have been proper, it’s not more logical to say that the legislature would have specifically included the SOS, than to say that the legislature would have specifically excluded the SOS, if the statute was meant to be interpreted on its face and without reference to topically related preceding statutes.

The PAC is the state’s designated expert on understanding and interpreting public access laws. In this case, instead of seriously applying and expounding on his experience and expert knowledge, the PAC summarily disposed of the complaint by reviewing and discarding just one statute—Ind. Code § 3-7-26.4-2. The PAC’s analysis of the facts, and weak effort to apply public access law to the records at issue, and possibly relevant case law, suffers from oversimplification, reliance on unsupported evidence and conclusions, and incorrect application of statutes. A trier of fact, looking at the entirety of circumstances and applicable authority, could reach a different conclusion.

Nevertheless, in consideration of the decision of the PAC, the SOS has authorized the OAG to offer you limited public access to the lists of registered voters. Under the APRA, “if a public agency has created a list of names and addresses . . . it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law.” Ind. Code § 5-14-3-3(f). “‘Inspect’ includes the right to . . . manually transcribe and make notes, abstracts, or memoranda.” Ind. Code § 5-14-3-2(h). Although not required to do so by APRA, the SOS is willing to permit in-person access to the lists. The lists will not be permitted to be duplicated, but you may make a handwritten transcription of the lists, or you may make notes, abstracts, or memoranda of the lists. The lists will not contain information protected under state statute. *See* Ind. Code § 3-7-26.3-29(b). Only the names and addresses of registered voters will be produced, not the date of birth, gender, phone number, email address, voting history, voter identification number, or voter registration date. The redacted materials can be available for inspection upon appointment, during ordinary business hours, with two (2) business days’ notice. Please contact Jerry Bonnett, General Counsel for the Office of the Indiana Secretary of State, via email at [jbonnet@sos.in.gov](mailto:jbonnet@sos.in.gov) to arrange an appointment.

Sincerely,

A handwritten signature in dark ink, reading "Christopher M. Anderson". The signature is fluid and cursive, with a prominent initial "C" and a checkmark-like flourish at the end.

Christopher M. Anderson  
Assistant Chief Counsel, Advisory Division