

# Supreme Court issues opinion on disclosure of employee discipline



By **Julie Slavens**, Senior Counsel/Director of Policy Services, [jslavens@isba-ind.org](mailto:jslavens@isba-ind.org)

---

Recently the Indiana Supreme Court **ruled** on the scope of the provision in the Access to Public Records law that requires the disclosure of the factual basis for a disciplinary action resulting in an employee’s suspension, demotion, or dismissal.

In this case, a school corporation suspended a teacher/coach without pay for five days. The local TV station requested the factual basis for the unpaid suspension. The school corporation responded with a written compilation stating that the teacher/coach was suspended “due to not implementing instructions for classroom management strategies consistent with [board policy].”

The local TV station sued the school corporation claiming the response did not comply with the requirement in IC 5-14-3-4(b)(8) to provide a factual basis for the suspension. The lawsuit also requested the release of supporting documents from the employee’s personnel file.

The Court ruled that the school corporation did not provide sufficient facts to determine what the employee did to merit being disciplined.

The Court focused on the term “factual basis” in the statute. The statute does not define this term, so the Court referred to the dictionary definition and adopted the plain meaning of the term as a “fact-based account of what led to the discipline.”

For guidance as to what meets this definition, the Court looked at other state laws requiring a factual basis for an action, namely the criminal code. The Court after reviewing what is required for a factual basis in a criminal case determined for employee discipline it means facts “sufficient for a reasonable person to understand what an employee did to deserve discipline.”

According to the unanimous opinion written by Justice Mark Massa, a school corporation does not have to provide “every intricate detail about what caused it to discipline an employee, but it must provide some facts about the employee’s actions.”

The Court went on to rule that a school corporation cannot satisfy the “factual basis” standard by providing “bald conclusions,” which the Court concluded that the school corporation did in this case.

The opinion also found that a school corporation is not required to provide documents from an employee’s personnel file, only specific information. A school corporation may compile the requested information in a new document and provide it to the requester of the information.

The case is *WTHR v. Hamilton Southeastern Schools*, 178 N.E.3d 1187 (Ind. 2022).