

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS  
ATTORNEY GENERAL

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November 7, 2018

Susan Payne  
505 Sunset Avenue  
Alamogordo, NM 88310

**RE: Inspection of Public Records Act Complaint - Alamogordo Public Schools**

Dear Ms. Payne:

On or about November 20, 2017, the Office of the Attorney General, Open Government Division, received your complaint against the Alamogordo Public Schools ("APS") alleging violations of the Inspection of Public Records Act ("IPRA"), NMSA 1978, 14-2-1 through 14-2-12. The complaint alleges that APS provided some but not all the records responsive to the IPRA request.

On September 8, 2017, you requested APS provide you "[a]ll payments made out of any Alamogordo Public Schools accounts associated with special education for the school year 2016-/2017. Please include vendor name, amount, date and check number." On or about September 19, 2017, you received some but not all of the documents responsive to the request. After review of the documents, you determined that documents involving at least five individuals employed by APS were not included in the document production. On October 5, 2017, you requested the information with more specificity. APS provided the requested documents on or about October 9, 2017.

APS responded to the complaint stating that they interpreted your first IPRA request as limited in scope to "vendor name, amount, date and check number". Upon receiving clarification of your request on October 5, APS produced additional responsive documents. On January 19, 2018, APS received a third IPRA request from you. In researching for documents responsive to that request, the APS records custodian discovered additional information responsive to your two previous requests and produced those documents as well as documents responsive to the January 2018 request. Upon information and belief, APS believes it has fully provided all documents in response to your three IPRA requests.

Susan Payne  
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Based upon the information provided to this office, it appears that APS has complied with its obligations under the IPRA in response to your requests. Absent additional evidence demonstrating that APS was acting in bad faith or with the intent to evade its obligations under the IPRA, our office is unable to conclude that APS improperly withheld responsive records in its custody at the time of your request.

Thank you for affording our office this opportunity to be of assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori Chavez".

Lori Chavez  
Assistant Attorney General

cc: Mary R. Jenke, Alamogordo Public Schools

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**INSPECTION OF PUBLIC RECORDS ACT COMPLAINT FORM**

Under the Inspection of Public Records Act (“IPRA”), the Office of the Attorney General (“OAG”) has the discretion and authority to enforce the IPRA’s provisions. NMSA 1978, § 14-2-12. Generally, the OAG reviews and issues determinations regarding whether public agencies have violated the IPRA. All IPRA complaints submitted to the OAG, including any attached materials and any correspondence regarding those complaints, are public records subject to public inspection. Additionally, IPRA complaints and determinations from the OAG may be posted on our website.

All complaints submitted to the OAG will be reviewed for potential IPRA violations. The OAG may dismiss those complaints that fall outside IPRA’s purview and those for which there is no remedy available under IPRA, or forward IPRA complaints to another appropriate agency for resolution. Please note that the OAG does not represent complainants in suits against public bodies.

**INSPECTION OF PUBLIC RECORDS ACT ("IPRA") COMPLAINT FORM**

New Mexico Office of the Attorney General  
Open Government Division

**YOUR CONTACT INFORMATION:**

First Name: Susan Last Name: Payne

Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]

Phone Number: [REDACTED]

[REDACTED]

**IPRA REQUEST TO THE PUBLIC BODY:**

Name of the Public Body that is the subject of this complaint (including city/town, county or region, if applicable): Alamogordo Public Schools, Alamogordo, Otero County, NM

Format of IPRA Request:  Written  Oral

Date IPRA Request was Submitted to the Public Body: 1<sup>st</sup> Request 9/7/17, 2<sup>nd</sup> Request 10/5/17

Date of all Responses Received from the Public Body: 9/8/17, 9/19/17, 10/9/17

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**ALLEGED VIOLATIONS OF IPRA BY THE PUBLIC BODY:** Please select from the following list the violations you allege the public body committed. Check all that apply.

RECORDS

No records were provided.

The agency provided some but not all of the records responsive to the request.

Records were provided, but they were not responsive to the request.

The public body does not have custody or responsibility for the records, and the records custodian did not forward the request to the proper custodian.

The request was for records in electronic format and although the records are available in electronic format, the copies of the public records were not provided

in an electronic format.

## DENIED REQUESTS TO INSPECT PUBLIC RECORDS

\_\_\_\_\_ Although some records were provided, the custodian did not include a written explanation for denying the production of exempt records or for redacting confidential information from records.

\_\_\_\_\_ No records were provided and the records custodian did not deliver or mail a written explanation to the requester within fifteen (15) calendar days after receiving the request that included a description of the records sought, the names and titles of each person responsible for denying the request, and a description of the reasons for the denial.

## NOTICE

\_\_\_\_\_ Public body did not post in a conspicuous location at its administrative office or on the public body's website a notice setting forth: the rights of any person to inspect the public body's public records, the public body's responsibility to make public records available for inspection, the procedures for requesting inspection of public records, the procedures for requesting copies of public records, and/or reasonable fees for copying public records

DEADLINES (For purposes of deadlines imposed by the IPRA, the date the request is received is not counted)

\_\_\_\_\_ Inspection was not allowed within three (3) business days and the public body did not timely send a written "three-day letter" to the requester explaining when the records would be available or when the public body would respond to the request.

\_\_\_\_\_ The public body did not allow inspection or otherwise respond to the request within fifteen (15) calendar days from the date the custodian received the request.

## FEES

\_\_\_\_\_ The public body charged fees in excess of \$1.00 per printed page for documents 11"X17" or smaller, or charged fees that exceeded the actual costs to copy the records.

\_\_\_\_\_ The public body did not provide a receipt upon request.

**DETAILED EXPLANATION OF ALLEGED IPRA VIOLATIONS** (Required): Please provide a description of the actions taken by the public body that violated the IPRA, including specific dates and why you believe the IPRA has been violated.

On 9/8/17 I requested (among other things) **“All payments made out of any Alamogordo Public Schools accounts associated with special education for the school year 2016/2017. Please include vendor name, amount, date and check number.”** After receiving an initial email back the same day requesting more time I did finally receive some information responsive to the request on 9/19/17. After reviewing the information, including payroll records, I identified at least five (5) individuals employed by APS in some capacity related to special education that were NOT listed. Additionally, I received payroll information about some employees (personally known to me) that I do not believe work in any capacity related to special education. Finally, I received no information responsive to my request for any transfers to or from any accounts related to special education. After reviewing the information, and my initial request, I felt there may be a misunderstanding so I decided to send a 2<sup>nd</sup> request and word it in such a way that it was more specific. I felt this would leave no room for misunderstanding. The request read as follows:

**1. “Accounts which contain any and all payments for any Alamogordo Public Schools personnel associated in any way with special education for the entire 2016/2017 school year. This includes (but is not limited to) teachers, assistants, directors and one-on-ones. This also includes any reimbursements and is not limited only to payroll.**

**2. “Any personnel that were not affiliated with special education but may have been paid from special education funds. This includes (but is not limited to) teachers, assistants, and directors. This also includes any reimbursements and is not limited only to payroll”.**

On 10/9/17 I received an email which stated that they provided me with all payment/payroll information pertaining to my request, on 9/19/17. They did however provide information responsive to my 1<sup>st</sup> and 2<sup>nd</sup> request for transfers to or from accounts.

This should have been provided the first time but was not. I can confirm with 100% certainty that employees were missing from my request. I am respectfully requesting the Attorney General look in to this matter so that I may review these documents which should include all the information I have outlined above.

**ADDITIONAL INFORMATION:** Please provide a copy of your original inspection request (if written), and any documentation or evidence you have regarding the alleged IPRA violation.

Employees identified as missing from my request are:

Jessica Thomas – Gonzales (SPED teacher, not listed at all)

Julian Gonzales – (SPED teacher, not listed at all)

Sharla Baker (Former Director of Special Education, not listed at all)

Robbi Coker (Director of Special Education, not listed at all)

Tracy Corbett (SPED teacher, not listed at all)

John Madden (teacher - listed, but not consistently for the entire year)

Jo Vlaughn (teacher - listed, but not consistently)

All of these individuals worked in some capacity under the Alamogordo Public School department of special education for the school year 2016/2017.



Alamogordo Public Schools  
Attn: Mary Jenke  
1211 Hawaii Avenue  
Alamogordo, NM 88310  
(575) 812-6000

September 7, 2017

Pursuant to NMSA 14-2-1 ETSEQ, Please provide me with the following documents and records with 15 days of this request:

1. All payments made out of any Alamogordo Public Schools account associated with special education for the school year 2016/2017. Please include vendor name, amount, date and check number.
2. Any account transfers made to or from any special education accounts for the school year 2016/2017 including the "to/from" account name, date and amount.

A simple printout containing this information will work just fine for both of these requests as long as it contains all the requested information.

You may forward the information to the following email address.

[payne5alamo@hotmail.com](mailto:payne5alamo@hotmail.com)

If this is not an option you may forward all requested documentation to:

Susan L. Payne  
505 Sunset Avenue  
Alamogordo, NM 88310  
(575) 491-0211

Thank you in advance for your cooperation. If you should need any additional information please feel free to contact me at the number provided.

Susan L. Payne, MPA

cc: Carol Genest Finance Director

**ALAMOGORDO PUBLIC SCHOOLS**

PO Box 650  
Alamogordo, NM 88311-0650



**OFFICE OF HUMAN RESOURCES**

Michelle Korbakes, Director  
1211 Hawaii Ave.  
Alamogordo, NM 88310

Office: (575) 812-6065

Fax: (575) 812-6069

September 8, 2017

Susan L. Payne  
505 Sunset Avenue  
Alamogordo, NM 88310

Re: Request to Inspect Public Records

Dear Ms. Payne:

On September 7, 2017, I received your request to inspect certain records. We need additional time to respond, until September 28, 2017.

Sincerely,

A handwritten signature in black ink that reads 'Michelle Korbakes'.

Michelle Korbakes  
Alamogordo Public Schools  
Executive Director of Learning Services & Personnel  
Records Custodian  
1211 Hawaii Ave.  
Alamogordo, NM 88310  
[michelle.korbakes@aps4kids.org](mailto:michelle.korbakes@aps4kids.org)

Alamogordo Public Schools  
Attn: Michelle Korbakes – Records Custodian  
1211 Hawaii Avenue  
Alamogordo, NM 88310  
(575) 812-6000

October 5, 2017

Pursuant to NMSA 14-2-1 ETSEQ, Please provide me with the following documents and records with **15 days of this request:**

1. Accounts which contain **any** and **all** payments for **any** Alamogordo Public Schools personnel associated in **any** way with special education for the **entire** 2016/2017 school year. This includes (but is not limited to) teachers, assistants, directors and one-on-ones. This also includes any reimbursements and is not limited only to payroll.
2. Any personnel that were not affiliated with special education but may have been paid from special education funds. This includes (but is not limited to) teachers, assistants, and directors. This also includes any reimbursements and is not limited only to payroll.
3. **Any transfers to or from** any of the above account requests including the “to or from” accounts. In other words, once you have identified the above information I am requesting you also provide any account transfers made to or from those accounts **including the accounts they were transferred to or from.**

**For all requests please include the following:**

- account name
- vendor and/or employee name
- date
- amount of payment.
- Type of payment (ie: expense or payroll)

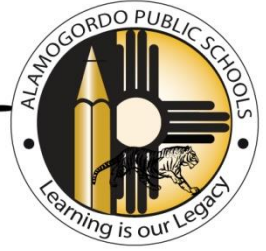
You may forward the information to the following email address [payne5alamo@hotmail.com](mailto:payne5alamo@hotmail.com)

Thank you in advance for your cooperation I look forward to receiving my complete request. If you should need any additional information please feel free to contact me at the number or email provided.

Susan L. Payne, MPA  
(575) 491-0211

**ALAMOGORDO PUBLIC SCHOOLS**

PO Box 650  
Alamogordo, NM 88311-0650



Office: (575) 812-6065  
Fax: (575) 812-6069

**OFFICE OF HUMAN RESOURCES**

Michelle Korbakes, Director  
1211 Hawaii Ave.  
Alamogordo, NM 88310

October 9, 2017

Susan L. Payne  
505 Sunset Avenue  
Alamogordo, NM 88310

Re: Inspection of Public Records Act Request

Dear Ms. Payne:

In response to your October 5, 2017 Inspection of Public Records request, Alamogordo Public Schools has provide electronic copies of documents responsive to number 1 and 2 for your inspection on September 19, 2017.

Documents responsive to number 3 are being provided to you electronically. Should you require paper copies, Alamogordo Public Schools charges \$0.25 per printed page for copying records of 11" x 17" size or smaller. Payment for copies must be prepaid. There are approximately three hundred fifty (350) pages of documents. The total amount due for copies of all documents is \$87.50 for three hundred fifty (350) x \$0.25 per page. If you wish to have copies of the documents, please submit your check or money order payable to Alamogordo Public Schools, Department of Human Resources, Attn: Michelle Korbakes, P.O. Box 650., Alamogordo, NM 88311. Paper copies can be provided to you on Thursday, October 12, 2017.

Respectfully,

A handwritten signature in black ink that reads 'Michelle Korbakes'.

Michelle Korbakes  
Records Custodian

Cc: Adrienne Salas, Superintendent  
Carol Genest, Director of Business and Finance  
Robbi Coker, Director of Special Education