

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

October 31, 2017

Espanola Public School District
Geno Zamora
Ortiz & Zamora, Attorneys at Law, LLC
2011 Botolph Road, Suite 200
Santa Fe, NM 87505

Re: Inspection of Public Records Act Complaint – Roibala Sanchez

Dear Mr. Zamora:

We have reviewed the complaint submitted by Roibala Sanchez alleging that the Española Public School District (“District”) violated the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 to -12 (as amended through 2013) (“IPRA”), and your response on behalf of the District to our inquiry regarding the complaint. *See* letter from Geno Zamora, Ortiz & Zamora (Feb. 17, 2017) (“District’s Response”). The complaint alleges that the District did not permit inspection of public records responding to Ms. Sanchez’ request within the time required by IPRA. Based on our review, as discussed below, we conclude that the District met IPRA’s 15-day deadline for responding to Ms. Sanchez’ request.

The information provided to us shows that Ms. Sanchez submitted a request dated August 11, 2016 for “all documents” related to an audit presented at a school board meeting held on the same day as the request. *See* e-mail from R Sanchez to Crystal Garcia, Chief Records Custodian (Aug. 11, 2016). Ms. Sanchez asked that records responding to her request be scanned and sent via email, if possible. On August 12, 2016, the District’s records custodian acknowledged receipt of the request, and stated that the District would respond on or before August 26, 2016. *See* letter from Crystal Garcia (Aug. 12, 2016) (delivered by e-mail). According to the complaint, the District had not allowed inspection of responsive records or otherwise responded to Ms. Sanchez’ request as of August 29, 2016.

According to the District’s Response and supporting documentation, the District responded to Ms. Sanchez’ public records request on August 22, 2016. The District’s response, which

was delivered to Ms. Sanchez by e-mail, informed Ms. Sanchez that she could obtain the requested records online at the State Auditor's website; that, in exchange for advance payment of \$0.50 per page or \$152.00 for 304 pages of responsive records, the District would send her the records by U.S. mail or e-mail; or that Ms. Sanchez could arrange to have the documents downloaded onto her personal flash drive at no cost. *See* letter to Ms. Sanchez (Aug. 22, 2016) (delivered by e-mail).

In most cases, IPRA requires the records custodian for a public body to permit inspection of public records responding to a written request or to provide a written explanation of denial no later than fifteen days after receiving the request. *See* §§ 14-2-8(D), 14-2-11(B). Based on the information available at this time, it appears that the District made a good faith effort to respond to Ms. Sanchez' request within fifteen days, as required by IPRA. According to the documentation provided by the District, the District sent its response to Ms. Sanchez at her correct e-mail address on August 22, 2016, which was eleven days after the District received the request.

The District received no further communication from Ms. Sanchez related to her request after August 22. Absent additional evidence suggesting otherwise, we conclude that, although Ms. Sanchez apparently did not receive the District's response, however, the District fulfilled its obligations under IPRA when it e-mailed the response to Ms. Sanchez within the time required by IPRA.

Although timely delivered, it appears that Ms. Sanchez did not receive the District's response to her August 11, 2016 public records request. Unless it has done so already, the District should communicate with Ms. Sanchez again and provide her with the opportunity to inspect and make copies of the records she requested. We ask that the District provide Ms. Sanchez with its revised response at the District's earliest convenience.

If you have any questions regarding this determination or IPRA in general, please let me know.

Sincerely,



Dylan K. Lange
Assistant Attorney General
Open Government Division

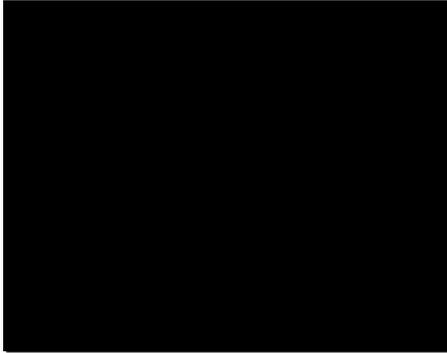
cc: Ms. Roibala Sanchez

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

New Mexico Office of the Attorney General
Open Government Division

YOUR CONTACT INFORMATION:

Roibala Sanchez



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): Espanola Public Schools; Espanola, Rio Arriba County, New Mexico

Format of IPRA Request: Written Oral

Date IPRA Request was Submitted to the Public Body: Thursday, August 11, 2016 10:47 PM

Date of all Responses Received from the Public Body: Friday, August 12, 2016 09:45 AM

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.

Espanola Public School district failed to provide inspection of the records by date indicated (Friday August 26, 2016) and as per IPRA law. As of August 29, 2016, EPS has not responded as to why they

have not allowed inspection and have not made contact with me in regards to the inspection of records.

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.

- **forwarded emails to lrroller@nmag.gov**

SUPERINTENDENT

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August 12, 2016

Roiba Sanchez
PO Box 9
Velarde, NM 87582
roiba.sanchez@hotmail.com
505-920-9710

Re: RS0811001 – Audit Information

Dear Ms. Sanchez:

The District is in receipt of your Inspection of Public Records Act request dated August 11, 2016 and received on August 12, 2016.

The District needs additional time to review your request. Therefore, the District will respond to your request on or before August 26, 2016.

The District will notify you when the records you have requested are ready for inspection. The District charges \$0.50 per page and payment must be received before records will be released.

If you should have any questions, please feel free to email me at crystal.garcia@k12espanola.org or call me at (505) 367-3337.

Sincerely,

Crystal Lea Garcia
Human Resources Officer/Chief Records Custodian