

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS  
ATTORNEY GENERAL

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August 30, 2019

Jamie O. Voita  
6430 Bent Tree Circle  
Farmington, NM 87401

**Re: Inspection of Public Records Act Complaint - Farmington Municipal Schools**

Dear Ms. Voita:

The Office of the Attorney General, Open Government Division (“OGD”) has received your complaint alleging that Farmington Municipal Schools (“FMS”) violated the Inspection of Public Records Act (“IPRA”), NMSA 1978, Sections 14-2-1 to -12 (1947, as amended through 2013). According to your complaint, FMS failed to respond to your eleven separate records requests within the mandatory timeframe or provide a timely three-day letter indicating a need for additional time. Having thoroughly reviewed your complaint and the FMS response, it appears that no violation of IPRA occurred.

IPRA requires that a custodian "permit the inspection immediately or as soon as practicable under the circumstances, but no later than fifteen days after receiving a written request" and that "if inspection is not permitted within three business days, the custodian shall explain in writing when the records will be available for inspection..." NMSA 1978, § 14-2-8(D). "If a custodian determines that a written request is excessively burdensome or broad, an additional reasonable period of time shall be allowed to comply with the request. The custodian shall provide written notification to the requester within fifteen days of receipt of the request that additional time will be needed to respond to the written request." NMSA 1978, § 14-2-10.

After receiving your complaint, this office sent an inquiry letter to FMS concerning your original IPRA request of April 24, 2019. Based on this response, it appears that there may be some confusion as to whether the response period began when the original request was formally received or when the subsequent electronic request was received. For the purposes of your complaint, the two request dates do not affect our determination. Your paper request was submitted on Wednesday, April 24, 2019. However, a subsequent agreement to send the documents electronically in order to avoid copy fees was agreed upon and new electronic requests were received by FMS on Friday, April 26, 2019. A three-day response letter was sent on April 29, 2019. The date of the three-day letter was

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within the statutory requirement of three business days, even if the earlier of the two dates is considered.

On May 10, 2019, FMS sent an additional letter to you indicating that the request was overly broad and burdensome and that a full response would be issued on or before May 28, 2019. In response to this complaint, FMS indicated that the delay was due to the fact that the files had to be collected from multiple school sites within the district because they were not held at the FMS main office. This appears to be a reasonable explanation for the delay in issuing the requested records. *See* Attorney General Inspection of Public Records Compliance Guide p. 39. (8<sup>th</sup> Ed. 2015) (“IPRA Guide”). FMS compiled the requested documents from the appropriate school sites and provided these to you on May 16, 2019.

In subsequent communication with this office, you indicate that the requests should have been reviewed individually and therefore could not be “too burdensome.” However, it was reasonable, under the circumstances, for FMS to have treated these requests as a single request. In both instances, the requests arrived on the same day and at approximately the same time. Additionally, each of the requests were identical to one another with exception of the employee names. Moreover, FMS stated in its response that searching for the requested documents on an individual basis would have only delayed the full response further as they were able to pull appropriate documents for the entire request at one time. Therefore, responding to each request individually would have had a negative impact on the timeliness of each individual response and, could be considered overly broad and burdensome if the delay would have exceeded fifteen days.

FMS appears to have provided timely notifications to you throughout this process and has since provided you with all of the requested records in its possession. Therefore, we find that no violation of IPRA occurred and consider this matter closed.

The OGD appreciates your bringing possible violations to this office and will welcome any further complaints you may submit. If you have any concerns in the future, please do not hesitate to contact us.

Sincerely,



Miguel Lozano  
Assistant Attorney General

cc: Daniel Castille, Attorney for Farmington Municipal Schools

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## Electronic Complaint Submission

### Submission Detail

<b>ECS Reference Number</b>	NMOAG-ECS-20190513-afeb
<b>Final Submit Date</b>	5/13/2019 9:11:03 AM

**Disclosure of your complaint:** This complaint is a public record, thus available under provisions of the NM Inspection of Public Records Act.

**Disclosure to other entities:** This complaint, its content, and other information may be disclosed to other law enforcement and regulatory agencies.

I understand this complaint and any submitted documents are public record and may be shared with other law enforcement and regulatory agencies.

**DECLARATION:** By submitting this form, I attest that the information in this complaint is true and accurate to the best of my knowledge. I further understand that by submitting this form I may be called to testify as a witness in this matter.

I understand declaration statement.

*The New Mexico Office of the Attorney General cannot give legal advice regarding this complaint and will not act as your personal attorney. If you have questions regarding your rights please contact a private attorney.*

*Submission of this complaint is not confirmation that an investigation will be initiated.*

## Complaint Detail

**Complaint Type** Inspection of Public Records (IPRA) Complaint

**Retained Attorney**

## Parties

### Complainant

**Jamie Voita**

Person

#### Address

[REDACTED]

#### Contact information

[REDACTED]  
[REDACTED]

### Complaint against

**Farmington Municipal Schools - Renee Lucero**

Public Body (Government Entity)

#### Address

2001 North Dustin  
Farmington, New Mexico 87401

#### Contact information

[rlucero@fms.k12.nm.us](mailto:rlucero@fms.k12.nm.us)  
(505) 324-9840  
<http://district.fms.k12.nm.us/>

## Complaint Specifics

<b>Format of IPRA request:</b>	Written
<b>Date IPRA request was submitted to the public body:</b>	April 24, 2019
<b>Date of all responses received from the public body:</b>	April 25, 2019 April 29,2019 May 10, 201
<b>Records</b>	No records were provided.
<b>Deadlines (For purposes of deadlines imposed by the IPRA, the date the request is received is not counted)</b>	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.
<b>Fees</b>	The public body did not provide a receipt upon request.

## Transaction

## Documents

\*\*\* END OF COMPLAINT \*\*\*



Salazar, Patricia <psalazar@nmag.gov>

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## Inspection of Public Records Act Complaint – Farmington Municipal Schools

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**Jamie Voita** <jvoita@yahoo.com>  
To: "Salazar, Patricia" <PSalazar@nmag.gov>

Mon, May 13, 2019 at 5:11 PM

I delivered written copies of eleven separate hard copy requests for records on April 24.

On April 25, Renee Lucero called to advise me that electronic copies could not be made available unless I resubmitted my requests via e-mail.

On April 26, I sent eleven separate e-mail requests.

On May 10, I received notice that they will not meet the deadline because the request is too burdensome. However, they have combined my eleven separate requests into a single request. None of the individual requests should be considered too burdensome.

Thank you,  
Jamie Voita

[Quoted text hidden]