

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS  
ATTORNEY GENERAL

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May 8, 2019

**VIA ELECTRONIC MAIL ONLY**

Jennifer A. Vialpando  
P.O. Box 701  
Questa, New Mexico 87556  
Email: [jennifer@shadesofemptycanvas.mygbiz.com](mailto:jennifer@shadesofemptycanvas.mygbiz.com)

**RE: Inspection of Public Records Act Complaint – Questa School’s Business Office**

Dear Ms. Vialpando:

On or about January 3, 2019, the Office of the Attorney General, Open Government Division (“OGD”), received your complaint against Questa School’s Business Office (“Questa”), in which you allege that Questa failed to provide records responsive to an IPRA request within three days, failed to timely send a three-day letter explaining when the records would be available and failed to provide the requested documents in electronic format, violations of the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 to -12 (1993, as amended through 2019) (“IPRA”).

We understand that on November 30, 2018 a written IPRA request was sent to Questa seeking production of seven categories of public records. On December 3, 2018, Questa emailed a letter explaining that the documents would not be available within three days citing that the request was excessively burdensome or broad. Questa stated it would provide an update on the production of the documents by December 17, 2018. On December 17, 2018, Questa emailed another letter stating it was still in the process of locating responsive documents and that it would either provide the documents or provide an update by January 2, 2019. On January 2, 2019, Questa again emailed a letter requesting additional time to respond stating that it would provide an update on January 17, 2019. A fourth request for an extension of time was emailed on January 17, 2019. On February 1, 2019, Questa emailed the requested records, withholding or redacting only those records containing protected information pursuant to NMSA 1978, Section 14-2-1(A)(3) (matters of opinion in personnel files) and 1.7.1.12(C) NMAC (“records and documentation pertaining to physical or mental illness, injury or examinations, sick leave and medical treatment”).

Jennifer A. Vialpando

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Under IPRA, every person has a right to inspect public records of the state. NMSA 1978, Section 14-2-1. However, there are exceptions to that right, including records that are otherwise protected by law. See § 14-2-1(A)(3). That exception includes withholding or redacting information related to matters of opinion contained in personnel files. § 14-2-1(A)(3). Without reviewing the documents withheld by Questa, the OGD cannot definitively determine if the withheld documents fall under the IPRA exception. When a public entity withholds public records, a court may conduct an in camera review of the withheld records. See, e.g., *Bd. of Comm'rs v. Las Cruces Sun-News*, 2003-NMCA-102, ¶¶ 11-13, 134 N.M. 283. However, the OGD does not have the authority to conduct such a review.

After review of your complaint, Questa's response and supporting documentation, our office cannot conclude that the Questa failed to timely provide written notices explaining the delay in providing the requested documents. While Questa's delay was considerably longer than the three to fifteen days anticipated under IPRA, Questa maintained regular communication and ultimately provided the requested documents in compliance with the statute. See *Derringer v. State*, 2003-NMCA-073, ¶ 15, 133 N.M. 721, *cert. denied*, 133 N.M. 727 (We hold that, by its plain language, the Inspection of Public Records Act does not provide for damages pursuant to an action brought after a public body has complied with the Act.) It appears that Questa provided the requested documents in electronic format.

Accordingly, we consider this matter closed. Thank you for affording our office this opportunity to be of assistance.

Sincerely,



Lori Chavez

Assistant Attorney General

cc: Samantha M. Adams, Attorney for Questa School's Business Office

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS  
ATTORNEY GENERAL

## Electronic Complaint Submission

### Submission Detail

<b>ECS Reference Number</b>	NMOAG-ECS-20190103-d4b9
<b>Final Submit Date</b>	1/3/2019 1:53:13 PM

**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

Jennifer A Vialpando

Person

#### Address

[REDACTED]

#### Contact information

[REDACTED]

### Complaint against

QUESTA SCHOOL'S BUSINESS OFFICE - Leanne Salazar

Public Body (Government Entity)

#### Address

2556A WILDCAT ROAD  
QUESTA, New Mexico 87556

#### Contact information

[lsalazar@questa.k12.nm.us](mailto:lsalazar@questa.k12.nm.us)  
(575) 586-0421  
<https://qisd-nm.schoolloop.com/>

ALL IPRA REQUESTS ARE FORWARD TO THE SCHOOL'S ATTORNEYS; ADAMS, CROW LAW FIRM

## Complaint Specifics

<b>Format of IPRA request:</b>	Written
<b>Date IPRA request was submitted to the public body:</b>	NOV. 30, 2018
<b>Date of all responses received from the public body:</b>	NOV. 30, 2018 DEC. 17, 2018 JAN. 2, 2019
<b>Records</b>	No records were provided., 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.
<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.

## Transaction

## Documents



IPRA Delay 1.pdf

Copy of "burdensome" extension 1

**Comments**



IRPA Delay 2.pdf

Copy of "extremely burdensome" letter 2

**Comments**

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



SAMANTHA M. ADAMS  
ARLYN G. CROW  
ALANA M. DE YOUNG  
BILLY J. JIMENEZ  
KATHARINE C. DOWNEY

17 December 2018

Via email: [jennifer@shadesofemptycanvas.mygbiz.com](mailto:jennifer@shadesofemptycanvas.mygbiz.com)

Jennifer Vialpando  
144 Cabresto Road  
Questa, NM 87556  
[jennifer@shadesofemptycanvas.mygbiz.com](mailto:jennifer@shadesofemptycanvas.mygbiz.com)

Re: Public Records Request, received November 30, 2018

Dear Ms. Vialpando:

On behalf of the Questa Independent School District (“QISD”), the ADAMS+CROW LAW FIRM provides this update regarding your public records request dated November 30, 2018, submitted pursuant to the Inspection of Public Records Act (“IPRA”), NMSA 1978, Sections 14-2-1 to 14-2-12. You requested to inspect the following records:

1. List of Volunteer Coaches for ALL sports
2. Copies of Background Checks for ALL coaches and volunteers working with students
3. Copies of Leave Requests, Professional, sick and personal for Superintendent from date of hire, to November 30, 2018
4. Travel Log on school vehicle use for professional use for:
  - a. Superintendent
  - b. Both Principals
  - c. StaffFrom August 2018 through Nov. 30th 2018 include nature of PD, and length of use.
5. There is a Salary sheet for Administration and Administrative Support, I would like a list of names of the person or persons in charge of each position on the salary list.
6. Copies of Substitutes that rendered services for the months of August through November, 2018 and for whom they substituted for all employees.
7. Logged training hours for each board member as of 11/30/18

As stated previously in QISD's letter dated December 3, 2018, QISD determined that your IPRA request is excessively burdensome or broad pursuant to NMSA 1978, Section 14-2-10. QISD is in the process of gathering responsive documents and requires additional time to respond to your request. QISD will provide you with a response or update by January 2, 2019.

Please let us know if you have any questions.

Sincerely,



**BILLY J. JIMENEZ**  
**ATTORNEY**  
**ADAMS+CROW LAW FIRM**

cc: Ms. LeAnne Salazar, QISD Superintendent  
Ms. Nicole Cardenas, QISD Secretary  
Ms. Kathy Gonzales, QISD Secretary  
Ms. Samantha Adams, ADAMS+CROW LAW FIRM





SAMANTHA M. ADAMS  
ARLYN G. CROW  
ALANA M. DE YOUNG  
BILLY J. JIMENEZ  
KATHARINE C. DOWNEY

2 January 2019

Via email: [jennifer@shadesofemptycanvas.mygbiz.com](mailto:jennifer@shadesofemptycanvas.mygbiz.com)

Jennifer Vialpando  
144 Cabresto Road  
Questa, NM 87556  
[jennifer@shadesofemptycanvas.mygbiz.com](mailto:jennifer@shadesofemptycanvas.mygbiz.com)

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Please let us know if you have any questions.

Sincerely,



**BILLY J. JIMENEZ**  
**ATTORNEY**  
**ADAMS+CROW LAW FIRM**

cc: Ms. LeAnne Salazar, QISD Superintendent  
Ms. Nicole Cardenas, QISD Secretary  
Ms. Kathy Gonzales, QISD Secretary  
Ms. Samantha Adams, ADAMS+CROW LAW FIRM



SAMANTHA M. ADAMS  
ARLYN G. CROW  
ALANA M. DE YOUNG  
BILLY J. JIMENEZ  
KATHARINE C. DOWNEY

1 February 2019

Via email: [jennifer@shadesofemptycanvas.mygbiz.com](mailto:jennifer@shadesofemptycanvas.mygbiz.com)

Jennifer Vialpando  
144 Cabresto Road  
Questa, NM 87556  
[jennifer@shadesofemptycanvas.mygbiz.com](mailto:jennifer@shadesofemptycanvas.mygbiz.com)

Re: Public Records Request, received November 30, 2018

Dear Ms. Vialpando:

On behalf of the Questa Independent School District (“QISD”), the ADAMS+CROW LAW FIRM responds to your public records request dated November 30, 2018, submitted pursuant to the Inspection of Public Records Act (“IPRA”), NMSA 1978, Sections 14-2-1 to 14-2-12. You requested to inspect the following records:

1. List of Volunteer Coaches for ALL sports
2. Copies of Background Checks for ALL coaches and volunteers working with students
3. Copies of Leave Requests, Professional, sick and personal for Superintendent from date of hire, to November 30, 2018
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7. Logged training hours for each board member as of 11/30/18

We enclose for your inspection documents responsive to items 1, 2, 3, 4, and 6 of your request. Certain documents were excepted from release and were withheld or redacted pursuant to NMSA 1978, Section 14-2-1(A)(3) of IPRA. These excepted records contain protected personal identifiers and information regarding public employee sick leave that are considered letters or memoranda of opinion in personnel files protected under Section 14-2-1(A)(3).

Please note that a public entity is not required to create a public record pursuant to Section 14-2-8 of IPRA. The right to inspect public records is limited to nonexempt public records that exist at the time of the request. In response to items 2, 5 and 7 of your request, we do not believe QISD has any additional responsive records. We are inquiring further and will provide you with an update on or prior to February 15, 2019.

Please let us know if you have any questions.

Sincerely,



**BILLY J. JIMENEZ**  
**ATTORNEY**  
**ADAMS+CROW LAW FIRM**

cc: Mr. Felipe Blea, QISD Interim Superintendent  
Ms. Kathy Gonzales, QISD Secretary  
Ms. Samantha Adams, ADAMS+CROW LAW FIRM