

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS  
ATTORNEY GENERAL

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November 9, 2018

Ms. Jennifer Baca  
County Manager  
County of Harding  
P.O. Box 1002  
Mosquero, NM 87733  
Email: [Jennifer.baca@plateautel.net](mailto:Jennifer.baca@plateautel.net)

**RE: Open Meetings Act Complaint – County of Harding**

Dear Ms. Baca:

The Office of the Attorney General, Open Government Division (“OGD”) received your complaint alleging violations of the Open Meetings Act (“OMA”), NMSA 1978, Sections 10-15-1 to -4 (2013) by the County of Harding. The OGD’s jurisdiction is limited to a review of the Inspection of Public Records Act (“IPRA”) and OMA. As we discussed on the phone, OMA is intended to allow the public access to “the greatest possible information” about governmental affairs. Section 10-15-1(A). To that end, OMA never requires a public body to enter into closed session, but instead permits it to do so in a limited number of circumstances. NMSA 1978, § 10-15-1(H). For this reason, questions from one member of a public body in an open meeting regarding personnel matters do not violate OMA’s provisions on closed session.

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

Sincerely,

A handwritten signature in blue ink that reads "John Kreienkamp".

John Kreienkamp  
Assistant Attorney General

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## Electronic Complaint Submission

### Submission Detail

**ECS Reference Number** NMOAG-ECS-20180712-10ab

**Final Submit Date** 7/12/2018 2:36:47 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** Open Meetings (OMA) Complaint

**Retained Attorney**

## Parties

### Complainant

**Jennifer Baca**

Person

#### Address

[REDACTED]

#### Contact information

[REDACTED]

### Complaint against

**County of Harding - Jennifer Baca, County Manager**

Public Body (Government Entity)

#### Address

PO Box 1002  
Mosquero, New Mexico 87733

#### Contact information

[jennifer.baca@plateautel.net](mailto:jennifer.baca@plateautel.net)  
(575) 673-2927  
Hardingcounty.org

Filing complaint on behalf of ourselves; for error in OMA.

## Complaint Specifics

<b>Specific date(s) of OMA violation(s)</b>	July 12, 2018
<b>Agenda</b>	Agenda did not include a list of specific items the public body intended to discuss or transact at the meeting or the items listed and acted upon were not listed with reasonable specificity
<b>Other Violation</b>	<p>During the County Manager's report at the regular Board of County Commission meeting on July 12, 2018; Chairman Harold Mackey inquired with the County Manager Jennifer Baca details regarding the promotion of an individual employee and inquired why she had been placed on Probation, what wages she was placed at, and referenced her history of employment with the County, if this was necessary. As the questions were asked, I respond with answers; then recognizing the sensitivity of the revealed answers; stopped and informed the Board of Commission that these were all Personnel matters and should not be discussed in Open meeting. As I had responded to the questions we had breached OMA; I would be notifying the OAG with a complaint. I also stated in the future this was not information or a practice that could continue. This is not for discussion in Open meeting, it is required be post on the Agenda for Closed Session with individual employees named and specific details of reason of Closed Session and listed exemption of Personnel matters. Plus, the employee must be notified to be able to attend. I further mentioned that as the County Manager I am the authority of Human Resources and personnel; the only Personnel the BOCC could call into closed session would be their 3 appointed employees: County Manager, Finance Director, and Road Superintendent. Other employees would be under the direction of the County Manager. Therefore, this error has happened and has been address within the meeting. This is our notification to the OAG of the discussion.</p>

## Transaction

## Documents

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