

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

NEW MEXICO FOUNDATION
FOR OPEN GOVERNMENT

Petitioner,

vs.

No. D-202-CV-2026-00569

RECORDS CUSTODIAN for the Jemez
Mountain Public School District, AND
JEMEZ MOUNTAIN PUBLIC SCHOOL
DISTRICT BOARD OF EDUCATION,

Respondents.

**VERIFIED PETITION FOR ALTERNATIVE WRIT OF MANDAMUS TO ENFORCE
THE PROVISIONS OF THE INSPECTION OF PUBLIC RECORDS ACT**

Petitioner, New Mexico Foundation for Open Government (“NMFOG”), through counsel,
Amanda R. Lavin, files this Verified Petition for Alternative Writ of Mandamus¹ pursuant to

¹ The procedures for mandamus are governed by statute. An action for mandamus is initiated by filing a verified petition for writ of mandamus. *See Brantley Farms v. Carlsbad Irr. Dist.*, 1998-NMSC-023, ¶ 12, 124 N.M. 698. The district court must then issue either a peremptory or alternative writ. *See* NMSA 1978, § 44-2-6 (1884). When the writ requires performance that is clear, and there is no valid excuse for not performing it, the district court is to issue a peremptory writ, “without notice and an opportunity to be heard.” *Mimbres Valley Irr. Co. v. Salopek*, 2006-NMCA-093, ¶ 12, 140 N.M. 168. “[I]n all other cases, the alternative writ shall first be issued.” *Id.*, (citing § 44-2-7). “An alternative writ directs the public officer to either do the act required to be performed or show cause before the court on a certain day why he has not done so.” *Id.* “Following service of the petition and alternative writ as directed by the court, the public official answers the factual allegations contained in the alternative writ and sets forth any legal defenses.” *Id.* ¶ 14. The answer “is made in the same manner as an answer to a complaint in [a] civil action.” NMSA 1978, § 44-2-9. “Thus the alternative writ [issued by the district court] serves the same function as a complaint in a civil action and the answer to the writ serves as the answer.” *Salopek*, 2006-NMCA-093, ¶ 14. In short, the district court enters the alternative writ and directs Petitioner to serve the writ on Respondent, who can then comply with the writ or submit an answer and show cause why compliance is not required at a hearing set by the district court.

NMSA 1978, § 14-2-12 (1993) and NMSA 1978, § 44-2-1 *et seq.* (1884, as amended through 1899), alleging that Respondents Records Custodian for the Jemez Mountain Public School District and the Jemez Mountain Public School District Board of Education (collectively, the “District”) have failed to comply with mandatory duties set forth in the New Mexico Inspection of Public Records Act (“IPRA”) by (1) failing to produce or allow inspection of public records; (2) failing to designate a records custodian; and (3) failing to post in the District’s administrative office and on its publicly accessible website a notice describing the public’s right to inspect the District’s public records, the procedures for requesting public records, reasonable fees associated with obtaining copies of public records, and the District’s responsibility to make public records available for inspection.

PARTIES

1. Petitioner NMFOG is a New Mexico nonprofit, nonpartisan organization whose mission is to help individuals, businesses, students, educators, journalists, lawyers, and other engaged citizens understand, obtain, and exercise their rights under IPRA, the Open Meetings Act (“OMA”), the Arrest Record Information Act, the First Amendment to the United States Constitution and Article II Section 17 of the New Mexico Constitution, as well as to help public officials understand and discharge their obligations under those statutes and constitutional provisions. NMFOG has its principal place of business in Bernalillo County, in the state of New Mexico, and submitted a written request for public records to the District on October 17, 2025.
2. Respondent Jemez Mountain Public School District Board of Education is a public body

within the meaning of IPRA, NMSA 1978, Section 14-2-6 (G) (2023).

3. The District has not clearly designated a records custodian as required by Section 14-2-7 of IPRA. NMSA 1978, § 14-2-7 (2001). Pursuant to Rule 1-025(D)(2) NMRA, NMFOG names the Respondent Records Custodian by her/his official title. NMRA, Rule 1-025.

JURISDICTION AND VENUE

4. Jurisdiction and venue are proper in Bernalillo County, New Mexico. NMSA 1978, § 38-3-1(A) (1988).
5. This Court has exclusive, original jurisdiction to hear this petition. NMSA 1978, § 44-2-3 (1953).

FACTUAL ALLEGATIONS

6. In October of 2025, NMFOG received reports of the District's violations of the New Mexico Open Meetings Act ("OMA"). Specifically, the District was requiring virtual attendees at the District's school board meetings to identify themselves on Zoom or they would be prohibited from attending the Board meetings, in violation of OMA's requirement that "all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings" of the school board. NMSA 1978, § 10-15-1(A) (2013).²
7. NMFOG submitted an IPRA request to the District on October 17, 2025, for "all records" Reflecting Jemez Mountain Public School's policies, procedures, and protocols with respect to the School Board's compliance with the New Mexico Open Meetings Act NMSA 1978, Section 10-15-1 *et. seq.*, in effect for 2025. *Exhibit 1, attached hereto.*

² New Mexico Department of Justice ("NMDOJ") found the Clovis Municipal School District Board of Education in violation of the OMA for its similar policy of requiring virtual attendees to keep their cameras on and identify themselves by name or be prohibited from attending and listening to Board meetings. The NMDOJ directed the Clovis School Board to remove these restrictive requirements from its policies and cease implementing this unlawful restriction to access.

8. NMFOG directed its IPRA request to the District Superintendent, Loren Cushman, and Administrative Assistant Donna Jacquez, as the District has not clearly designated a records custodian or posted instructions on how to submit an IPRA request on the District's publicly maintained website or otherwise.³
9. In its email to Cushman and Jacquez, NMFOG requested that its IPRA request be directed to the records custodian for the District, or to Roselyn Carroll. At the time NMFOG submitted its request, it understood that the District had represented in response to a discovery request in a separate IPRA enforcement action against it, *American Civil Liberties Union of New Mexico v. John or Jane Doe, in his/her official capacity as Records Custodian for Jemez Mountain Schools*, cause no. D-101-CV-2025-01605, that Carroll is the District's records custodian.
10. In fact, in response to the Plaintiff's discovery request propounded in D-101-CV-2025-01605, to "[i]dentify the name of the Records Custodian and all individuals by name, title, and role who participated in processing or responding to Plaintiff's [IPRA] requests," Respondent District did not clearly specify the name of any records custodian, and answered "Dr. Roselyn Carroll, PhD, Interim Superintendent for Jemez Mountain Schools at times relevant to the Complaint," and "Laura Castille, Esq. counsel for Lybrook Elementary School [...]." The District further answered, "supplementation will occur if additional individuals are identified."
11. Respondent failed to specify in its answer whether Carroll was the records custodian at all times relevant to the complaint in D-101-CV-2025-01605, or whether she was merely an individual who participated in processing or responding to the IPRA requests at issue in D-

³ <https://www.jmsk12.com/page/board-of-education>

101-CV-2025-01605.

12. Roselyn Carrol at no time has corresponded with Petitioner regarding its IPRA requests and the District has no Records Custodian named or listed on its publicly maintained website. On information or belief, Roselyn Carroll is not the District's Records Custodian.
13. Also on October 17, 2025, NMFOG submitted an IPRA request for "a copy of the Jemez Mountain Public School District's IPRA notice required by Section 14-2-7 (E) (2011)." *Exhibit 1.*
14. On November 3, 2025, attorneys Elena Gallegos and Crystal Hernandez with the Walsh Gallegos law firm responded to NMFOG's IPRA requests. Counsel for the District provided copies of select policies but did not provide all records responsive to NMFOG's request. In all, Respondents provided 13 pages of records, containing seven policies of the District. Of these seven policies, five of those policies relate to the School Board's compliance with the OMA and are responsive to Petitioner's request. Two of the policies provided were non-responsive. *Exhibits 2 and 3, attached hereto.*
15. Upon providing this partial response, attorney Gallegos indicated NMFOG's IPRA request was closed. *Exhibit 2.*
16. The District withheld at least one record responsive to NMFOG's request for polices regarding the OMA: a 748-page document titled, "Policy Manual and Administrative Regulations."
17. This Policy Manual contains many policies related to the School Board's compliance with the OMA that were not included in the District's response to Petitioner, including but not limited to policy number B-1600 and B-2100 regarding taking meeting minutes, B-1550 regarding executive sessions, B-1600 regarding meeting procedures, B-1650 regarding

notice of board meetings, B-1700 and B-1750 regarding creating and disseminating meeting agendas, B-1800 regarding quorum, and B-2150 regarding public participation at board meetings, among others.⁴

18. The records Respondent District provided to Petitioner include only five policies related to the School Board's compliance with the OMA: B-1400, specifying the types of meetings the School Board holds and notice of the meetings, and policy B-1581, a policy regarding executive sessions, B-3150, a policy regarding board member confidential communications, B-3250, a policy regarding board member development opportunities, and D-0300, a policy regarding budget planning, preparation and schedules. *Exhibit 3.*
19. On November 3, 2025, counsel for the District informed NMFOG there were no responsive records to the request for "a copy of the Jemez Mountain Public School District's IPRA notice required by Section 14-2-7 (E)." *Exhibit 2.*
20. Respondent District's website does not contain an IPRA notice describing the right to inspect the District's public records, procedures for requesting public records including the including the contact information for the custodian of public records, reasonable fees for copies of public records, or the District's responsibility to make public records available for inspection, nor does the website even mention the right to inspect the District's public records.
21. Given that Respondent District has no responsive records to Petitioner's request for copy of its IPRA notice as required by Section 14-2-7 (E), on information and belief, Respondent District does not have notice that complies with Section 14-2-7(E)'s requirements posted in

⁴ See NMRA 11-1006, a proponent of a voluminous writing may use a summary to prove its content. Petitioner will make a copy of the 748-page policy manual available for examination or for copying at a reasonable time and place, consistent with Rule 11-1006.

a conspicuous location at its administrative office.

ARGUMENT IN SUPPORT OF ISSUANCE WRIT

22. Respondent District has failed to produce all records responsive to Petitioner NMFOG's October 17, 2025, public records request, by withholding public records and failing to identify withheld records or explain why it partially denied Petitioner's request. The records NMFOG seeks are public records within the meaning of Section 14-2-6(H) of IPRA. NMSA 1978, § 14-2-6(H) (2023).
23. Respondent District has a clear nondiscretionary duty to "permit the inspection immediately or as soon as is practicable under the circumstances but not later than fifteen days after receiving a written request." NMSA 1978, § 14-2-8(D). "If the inspection is not permitted within three business days, the custodian shall explain in writing when the records will be available for inspection or when the public body will respond to the request." *Id.*
24. "The purpose of IPRA is to encourage disclosure of public documents." *San Juan Agric. Water Users Ass'n v. KNME-TV*, 2011-NMSC-011, ¶ 36, 150 N.M. 64. Here, Respondent District failed to produce all responsive records sought by NMFOG, in violation of the Supreme Court's assurance that "IPRA is intended to ensure that the public servants of New Mexico remain accountable to the people they serve. The citizen's right to know is the rule and secrecy is the exception." *Republican Party of N.M. v. N.M. Tax'n and Revenue Dep't*, 2012-NMSC-026, ¶ 7, 283 P.3d 853 (internal quotation marks and citations omitted).
25. The timely production of public records is "an essential function of a representative government and an integral part of the routine duties of public officers and employees." NMSA 1978, § 14-2-5 (1993).

26. Furthermore, Respondent District has failed in its non-discretionary duty under Section 14-2-7 to designate a records custodian who shall “receive requests, including electronic mail or facsimile, to inspect public records; respond to requests in the same medium, electronic or paper, in which the request was made in addition to any other medium that the custodian deems appropriate; provide proper and reasonable opportunities to inspect public records; provide reasonable facilities to make or furnish copies of the public records during usual business hours; and post in a conspicuous location at the administrative office and on the publicly accessible web site, if any, of each public body a notice describing: the right of a person to inspect a public body's records; procedures for requesting inspection of public records, including the contact information for the custodian of public records; procedures for requesting copies of public records; reasonable fees for copying public records; and the responsibility of a public body to make available public records for inspection.” NMSA 1978, § 14-2-7.
27. The Court may compel the performance of these important nondiscretionary acts. *See* NMSA 1978, § 44-2-4 (stating that a writ of mandamus “may be issued to any inferior tribunal, corporation, board or person, to compel the performance of an act which the law specially enjoins as a duty resulting from an office, trust or station”); § 14-2-12(B) (stating that a district court “may issue a writ of mandamus . . . to enforce the provisions of the Inspection of Public Records Act.”).
28. Respondent District is subject to statutory penalties of up to \$100 per day for failing to produce responsive records. *See* NMA 1978, § 14-2-11(C). The New Mexico Court of Appeals addressed the imposition of statutory penalties in *Britton v. Off. of Att’y Gen.*, 2019-NMCA-002, ¶ 31, 433 P.3d 320: “[t]he expectation established by IPRA is that records

custodians will diligently undertake their responsibility to process and fully respond to requests, including determining what public records are responsive to the request and what records or portions thereof may be exempt from disclosure, communicating the status of a request to the requester, and ultimately providing for inspection of all nonexempt records.” The Court explained that, consistent with this expectation, “Section 14-2-11 is focused on deterring nonresponsiveness and noncompliance by public bodies.” *Id.* ¶ 34. The Court held that, to effectuate the purpose of IPRA, Section 14-2-11 requires the imposition of a statutory penalty of up to \$100 per day in all cases where the district court determines the public body’s failure to permit inspection of public records is unreasonable. *Id.* ¶ 38; *see also Albuquerque J. v. Bd. of Educ. of Albuquerque Pub. Schs.*, 2025-NMCA-020, ¶ 66, 576 P.3d 367, 387, cert. granted (Feb. 25, 2025), cert. granted sub nom. *Albuquerque J. v. Bd. of Educ. of APS*, 2025-NMCERT-002, ¶ 66, 564 P.3d 874 (statutory penalties apply to a records custodian’s unreasonable denial of an IPRA request).

29. Respondent District’s failure to provide all responsive records was unreasonable; just last year, it provided its 748-page Policy Manual in response to a discovery request in another civil action against the District. This Policy Manual contains many policies regarding the School Board’s compliance with the OMA that are responsive to NMFOG’s October 17, 2025, IPRA request, that should have been provided to Petitioner.
30. Petitioner NMFOG requests the full \$100 per day penalty because Respondent District not only failed to produce responsive records, but it also failed to identify records it withheld or explain why they were denied. In closing out Petitioner’s IPRA request and only providing some responsive records, the District falsely represented that that the few policies it provided in response to Petitioner’s IPRA request are the only public records in existence

that are responsive. As the Court of Appeals explained in *Britton*, IPRA is focused on providing “the greatest possible information” and denials are valuable information-gathering tools because the absence of either production of responsive records or a conforming denial based upon a valid IPRA exception sends a strong message to the requester that no responsive public records exist. *Britton*, 2019-NMCA-002, ¶ 30 (internal quotes omitted).

31. Respondent District’s failure to comply with its statutory obligation to produce all responsive records to Petitioner’s requests is a violation of its obligation under IPRA to provide the greatest information possible and fully respond to Petitioner’s request. Public entities such as Respondent District are the gatekeepers of public records that all persons have the right to inspect and copy, and requestors of public records rely on public entities to truthfully and accurately facilitate access to public records.
32. Respondent’s conduct is unreasonable, a clear violation of IPRA, and the imposition of a \$100 per day statutory penalty is justified.

RELIEF SOUGHT

33. Petitioner requests the issuance of an Alternative Writ of Mandamus, a proposed version of which is attached hereto, alternatively commanding the District to EITHER:
 - A. Meet its mandatory, nondiscretionary duty to produce all records responsive to Petitioner’s October 17, 2025, request;
 - B. Meet its mandatory, nondiscretionary duty to designate a records custodian;
 - C. Meet its mandatory, nondiscretionary duty to post notice pursuant to IPRA on the District’s publicly accessible website and at its administrative office describing the public’s right to inspect the District’s public records, the procedures for

requesting public records including the contact information for the custodian of public records, reasonable fees associated with obtaining copies of public records, and the District's responsibility to make public records available for inspection;

- D. Pay \$100 per day for each day responsive records are not produced pursuant to Section 14-2-11 of IPRA;
- E. Pay Petitioner's reasonable attorney's fees and costs for litigating this action, pursuant to Sections 14-2-12 and 44-2-1 of IPRA; and
- F. Provide any other relief the Court deems proper.

OR:

- A. Show cause why this writ should not be made permanent. The date to file any responsive pleading shall be seven days after issuance of this writ, and the date for a hearing will be as soon as is convenient for the Court.

VERIFICATION AND PROPOSED WRIT ATTACHED HERETO.

Respectfully Submitted:

THE NEW MEXICO FOUNDATION
FOR OPEN GOVERNMENT



Amanda Lavin, Legal Director
Attorney for Petitioner NMFOG
7777 Jefferson St. NE
Albuquerque, New Mexico 87109
amandalavin@nmfog.org

VERIFICATION OF AMANDA LAVIN

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

I, Amanda Lavin, state that I have read, know and understand the contents of the foregoing Verified Petition for Alternative Writ of Mandamus, and affirm under penalty of perjury under the laws of the State of New Mexico that the factual allegations contained in Paragraphs one through 32 are true and correct to the best of my knowledge.

/s/ Amanda Lavin
Amanda Lavin

Date: 1/13/2025



IPRA Request 10/17/2025

From Amanda Lavin <amandalavin@nmfog.org>

Date Fri 10/17/2025 4:59 PM

To cushman_l@jmsd.k12.nm.us <cushman_l@jmsd.k12.nm.us>; jacquez_d@jmsd.k12.nm.us <jacquez_d@jmsd.k12.nm.us>

Good afternoon:

Please direct this request to your records custodian, Roselyn Carroll, or if Ms. Carroll is not the designated records custodian, to the individual who the Jemez Mountain Public Schools has designated as its records custodian pursuant to the New Mexico Inspection of Public Records Act ("IPRA"), NMSA 1978, Section 14-2-7.

I respectfully request to inspect the following public records pursuant to IPRA. Please provide copies of these records in electronic format as required by Section 14-2-9(B).

1. All records - including internal memoranda, communications, resolutions, etc. - reflecting Jemez Mountain Public School's policies, procedures, and protocols with respect to the School Board's compliance with the New Mexico Open Meetings Act NMSA 1978, Section 10-15-1 *et. seq.*, in effect for 2025. Please include any amendments or changes to such policies, procedures, and protocols.
2. Recordings of the regular School Board Meetings from October August 12, 2025, September 9, 2025, and October 7, 2025.
3. A copy of the Jemez Mountain Public School District's IPRA notice required by Section 14-2-7 (E).

Thank you for your prompt attention to this request.

Sincerely,
Amanda Lavin

Amanda R. Lavin
Legal Director
New Mexico Foundation for Open Government
7777 Jefferson St. NE
Albuquerque, NM 87109
Cell: (505) 289-0573
Helpline: (505) 764-3750
amandalavin@nmfog.org

EXHIBIT 1



WALSH GALLEGOS
KYLE ROBINSON & ROALSON P.C.

November 03, 2025

Via Email at amandalavin@nmifog.org

Amanda Lavin
7777 Jefferson St. NE
Albuquerque, NM 87109

RE: October 17, 2025 IPRA REQUEST

Dear Ms. Lavin:

On October 17, 2025, Jemez Mountain Public Schools (the District) received your Inspection of Public Records Request Act request which is dated October 17, 2025. Our offices represent the District in this matter. Specifically, you made the following request:

"I respectfully request to inspect the following public records pursuant to IPRA. Please provide copies of these records in electronic format as required by Section 14-2-9(B).

1. *All records - including internal memoranda, communications, resolutions, etc. - reflecting Jemez Mountain Public School's policies, procedures, and protocols with respect to the School Board's compliance with the New Mexico Open Meetings Act NMSA 1978, Section 10-15-1 et. seq., in effect for 2025. Please include any amendments or changes to such policies, procedures, and protocols.*
2. *Recordings of the regular School Board Meetings from October August 12, 2025, September 9, 2025, and October 7, 2025.*
3. *A copy of the Jemez Mountain Public School District's IPRA notice required by Section 14-2-7 (E)."*

On October 21, 2025, you made the following clarification:

"2. Recordings of the regular School Board Meetings from ~~October~~ August 12, 2025, September 9, 2025, and October 7, 2025."

District Response:

Request 1:

Responsive records are being produced. We consider this portion of the request **closed**.

Request 2:

EXHIBIT 2

10/17/25 IPRA Response

November 3, 2025

Page 2

Responsive records are being produced. We consider this portion of the request **closed**.

Request 3:

There are no documents responsive to your request. NMSA 1978, § 14-2-8(B). We consider this portion of the request **closed**.

Sincerely,

/s/ Elena M. Gallegos

Elena M. Gallegos

Attorney for Jemez Mountain Public Schools

Note **B-1400** © BE
SCHOOL BOARD MEETINGS

The Board shall determine, at least annually in a public meeting, what notice for a public meeting is reasonable when applied to the School District.

The Board shall transact all business at official meetings of the Board. These may be either regular, special, or emergency meetings, defined as follows:

- Regular meeting - a meeting of the members of a local school board at which at least a quorum is present, about which notice has been published, and at which normal school district business is transacted.

- Special meeting - an official legal-action meeting called between scheduled regular meetings to consider only specifically identified topics.

- Emergency meeting - an official legal-action meeting called due to unforeseen circumstances that, if not addressed immediately by the public body, will likely result in injury or damage to persons or property or substantial financial loss to the public body.

A local school board shall hold at least one (1) regular meeting each month of the calendar year.

Every meeting of the Board, regular, special or emergency, shall be open to the public except for an executive session that is held in accordance with state law. A "meeting" is defined as the gathering of a quorum of members of a public body to propose or take legal action, including any deliberations with respect to such action, that has been properly noticed, pursuant to law.

The Board of Education recognizes that, in a small community Board members will occasionally attend social events, community functions, school activities or programs, athletic events or meetings of other groups or entities, or be present at local commercial establishments. In the event a quorum of the membership of the Board is present on such occasions, a violation of this resolution and the Open Meetings Act does not occur so long as the board members do not discuss school business or prospective Board actions as described in this resolution. By adoption of this resolution, each member represents and agrees to abide by these limitations and not to engage in such discussions outside the context of a properly called board meeting that complies with the Open Meetings Act.

Regular Board Meetings

The second Tuesday of each calendar month is designated as the regular Board meeting date.

A regular meeting may be rescheduled by agreement of a majority of the Board.

Written notice of the date, hour, place, and subject (agenda) of each regular meeting of the Board shall be given as follows:

- Notice shall be posted at least ten (10) days preceding the scheduled time of the meeting, with the exception of an actual emergency, in which case such notice as is appropriate to the circumstances shall be given.

- Notice shall be posted in prominent places, convenient to the public, and available for reading at all time during the posting.

- The notice shall include an agenda or information as to when and where an agenda can be obtained at least seventy-two (72) hours prior to the meeting and posted on the District's web site, if one is available.

Every regular meeting of the Board shall be open to the public to listen and observe the actions of the Board.

Special Board Meetings

Special meetings may be called whenever deemed necessary by the Board President or when requested by a majority of the Board. Written or telephoned notice of all special meetings shall be given to the members of the Board, and written notice shall be posted, at least three (3) days prior to the time stated for the meeting to convene. The notice shall include an agenda or information as to when and where an agenda can be obtained. The agenda shall be made available to the public at least seventy-two (72) hours prior to the special meeting and posted on the District's web site, if one is available. The Superintendent's office shall transmit copies of the written notice to those broadcast stations licensed by the federal communications commission (FCC) and newspapers of general circulation that have made written request for notice of public meetings. No business other than the matters specified in the notice shall be transacted at such meeting.

Special meetings shall be open to the public to listen and observe the actions of the Board.

Emergency Meetings

An "emergency" refers to unforeseen circumstances that, if not addressed immediately by the public body, will likely result in injury or damage to persons or property or substantial financial loss to the public body.

An emergency meeting may be called as necessary. The normal notice and posting of an agenda along with the requirement of discussing only agenda items is not required when the Board declares an emergency in accord with the statutory definition, but notice twenty-four (24) hours prior to the meeting is expected unless the emergency precludes such notice. The District must, within ten days of taking action on an emergency matter, report to the attorney general's office the action taken and the circumstances creating the emergency. The requirement to report to the attorney general is waived upon the declaration of a state or national emergency.

In addition to the information specified above, all notices shall include the following language.

"If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Superintendent of schools, at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Superintendent's Office, if a summary or other type of accessible format is needed."

Adopted: date of manual adoption

LEGAL REF.: 10-15-1 NMSA *et seq.*
22-5-12 NMSA

CROSS REF.: BEC - Executive Sessions/Open Meetings

BEDA - Notification of Board Meetings

BEDEB - Agenda

BEDC - Quorum

B-1581 BEC-E**EXHIBIT EXHIBIT****EXECUTIVE SESSIONS / OPEN MEETINGS**

The Open Meetings Act requires all Board meetings to be open to the public at all times unless an exception found in the Act permits a closed executive meeting. A closed executive meeting may be held to discuss:

- Issuance, suspension, renewal, or revocation of a license. Final actions shall be taken at an open meeting.

- "Limited personnel matters" which means the discussion of hiring, promotion, demotion, dismissal, assignment, or resignation of or the investigation or consideration of complaints or charges against any individual public employee. Final actions on personnel which the Board is lawfully authorized to take shall be taken at an open public meeting.

- An "administrative adjudicatory proceeding" which means a proceeding brought by or against a person before a public body in which individual legal rights, duties or privileges are required by law to be determined by the public body after an opportunity for a trial-type hearing. Final action which the Board is lawfully authorized to take as a result of the proceeding shall occur in an open meeting.

- Personally identifiable information about any individual student, unless the student, his parent or guardian requests otherwise.

- Purchases exceeding two thousand five hundred dollars (\$2,500) that can be made only from one source, and the contents of competitive sealed proposals solicited pursuant to the Procurement Code during the contract negotiation process. The actual approval of purchase of the item or final action regarding the selection of a contractor shall be made in an open meeting.

- Threatened or pending litigation in which the Board is or may become a participant.

- The purchase, acquisition, or disposal of real property or water rights.

**B-3150 © BHDA
BOARD MEMBER CONFIDENTIAL
COMMUNICATIONS**

Confidential Communications

The Board recognizes that confidential information will be brought to the attention of individual Board members and/or the Board that includes, but is not limited to, the following:

- Matters relating to the employment or dismissal of, or charges against, specific District personnel.
- Matters relating to litigation or proposed litigation in which the Board is or may become a party, or attorney-client communications.
- Matters of consideration regarding the acceptance of gifts, bequests, or donations where confidentiality has been requested by the donor.
- Consideration of wages and benefits during salary discussions.
- Considerations of the suspension, expulsion or disciplinary action related to a student(s).
- Matters relating to discussions of bargaining strategy preliminary to collective bargaining and information relating to actual collective bargaining sessions.

The Board further recognizes that public disclosure of such information may result in injury to individuals or potential harm and possible liability to the District and that Board members are honor-bound by the Board's Code of Ethics to respect the confidentiality of information that is privileged under applicable law. Thus, Board members shall discuss or disclose confidential information only in connection with legitimate District business and only with individuals having a legitimate right to know.

All information discussed or documents provided to Board members which fall within the parameters of confidential information, or which are presented in an executive session authorized to be closed by the Open Meetings Act, shall be kept confidential unless otherwise authorized by a majority vote of the Board.

Adopted: date of manual adoption

CROSS REF.: BEDH - Public Participation at Board Meetings

**B-3250 © BIB
BOARD MEMBER DEVELOPMENT
OPPORTUNITIES**

The Board recognizes that confidential information will be brought to the attention of individual Board members and/or the Board that includes, but is not limited to, the following:

- Matters relating to the employment or dismissal of, or charges against, specific District personnel.
- Matters relating to litigation or proposed litigation in which the Board is or may become a party, or attorney-client communications.
- Matters of consideration regarding the acceptance of gifts, bequests, or donations where confidentiality has been requested by the donor.
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- Considerations of the suspension, expulsion or disciplinary action related to a student(s).
- Matters relating to discussions of bargaining strategy preliminary to collective bargaining and information relating to actual collective bargaining sessions.

The Board further recognizes that public disclosure of such information may result in injury to individuals or potential harm and possible liability to the District and that Board members are honor-bound by the Board's Code of Ethics to respect the confidentiality of information that is privileged under applicable law. Thus, Board members shall discuss or disclose confidential information only in connection with legitimate District business and only with individuals having a legitimate right to know.

All information discussed or documents provided to Board members which fall within the parameters of confidential information, or which are presented in an executive session authorized to be closed by the Open Meetings Act, shall be kept confidential unless otherwise authorized by a majority vote of the Board.

Adopted: date of manual adoption

CROSS REF.: BEDH - Public Participation at Board Meetings

Note **C-1350** © **CFD**
SCHOOL - BASED MANAGEMENT

(School Councils)

The Board authorizes the establishment of a school council at each school site. The school council shall work with the school principal and give advice, consistent with state and school district rules and policies, on instructional issues and curricula and on the public school's proposed and actual budgets.

The school council shall develop creative ways to involve parents in the schools, champion for students, build community support and encourage community participation in the public schools.

Develop strategies/designs that may coordinate with any existing work force development boards or vocational education advisory councils to connect students and school academic programs to business resources and opportunities.

This shared decision making shall not supersede Board, Superintendent, or principal decision-making responsibilities unless waived by the Board.

Membership

The school council at each school shall reflect an equitable balance between school employees, parents, and community members and shall be composed of:

- Two (2) parents of students enrolled in the school who are not employed by the District.

- One (1) teacher.

- One (1) nonlicensed employee.

- Two (2) community members, one (1) who must represent the business community if such person is available.

- Coronado High School shall include at least one (1) high school student..

The members shall initially be appointed by the principal. Thereafter, equitable representation shall be selected in a manner determined by the school council. School advisory councils shall meet at a minimum four times a year at a site and time agreed upon and noticed as required by the New Mexico Open Meetings Act. Should a council member resign or move the principal may appoint an interim member of the group until the next organizational meeting.

The principal will call advisory council meetings and maintain minutes, post the agenda, and provide necessary resources for their functions in accord with Statutes, Secretary of Public Education regulations and District policy and regulations.

Adopted: date of manual adoption

LEGAL REF.: 22-5-16 NMSA

CROSS REF.: BDD - Board-Superintendent Relationship
 CCB - Line and Staff Relations

^ D-0300 © DBC
BUDGET PLANNING, PREPARATION,
AND SCHEDULES

Deadline and Schedule
Requirements

The Superintendent will present the tentative District budget to the Board for final review prior to the submission deadline of the State Public Education Department (PED). The Board will conduct at least one (1) preliminary review of the Superintendent's budget recommendations prior to the final review. Public comment and input will be taken at all such preliminary meetings. The proposed budget shall be submitted by April 15 or later as approved by the Secretary of PED. Approval of the proposed budget by the Local Board shall be in a public hearing noticed in accord with the Open Meeting Act and held prior to June 20. Certification of the proposed budget by the PED shall be on or before July 1. The approved and certified budget then constitutes the operating budget. On or before July 31, the District shall determine actual cash balances in all funds and report them on the most current form prescribed by the PED, making such adjustments in the budget as required to limit expenditure of the June credits in the operational subfund. The Superintendent shall develop a process for allocating resources from the budget to the schools and work sites. The allocation process shall address the priorities identified in the District's Educational Plan for Student Success (EPSS) action plans.

Adopted: date of manual adoption

LEGAL REF.: 22-8-6 NMSA
 6.20.2.9 NMAC

^ & ^ J-4950 © JL
STUDENT WELLNESS

The School District strives to make a significant contribution to the general well-being, mental and physical capacity and learning ability of each student while affording them the opportunity to fully participate in the educational process.

The District is committed to providing school environments that promote and protect children's health, safety, well-being, and ability to learn by supporting healthy eating and physical activity in a safe environment. Healthy eating is demonstrably linked to reduced risk for mortality and development of many chronic diseases as adults.

To ensure the health and well-being of all students, the Board shall promote and monitor student wellness in a manner that the Board determines is appropriate in the following areas:

- *Nutrition Guidelines:* All foods available in each school during the day will have as a primary goal the promotion of student health and the reduction of childhood obesity. All guidelines for reimbursable school meals shall not be less restrictive than regulations and guidance issued by the Secretary of Agriculture, as those regulations and guidance apply to schools.

- *Nutrition Education:* The goal is to influence students' eating behaviors by providing nutrition education that is appropriate for students' ages; reflects students' cultures; is integrated into health education or core curricula; and provides opportunities for students to practice skills and have fun.

- *Physical Activity:* The goals for physical activity are to provide opportunities for every student to develop the knowledge and skills for specific physical activities, to maintain students' physical fitness, to ensure students' regular participation in physical activity, and to teach students the short- and long-term benefits of a physically active and healthful lifestyle.

- *Other School-Based Activities:* The goal is to create a total school environment that is conducive to healthy eating and physical activity.

- *Evaluation:* A primary goal will be to regularly evaluate the effectiveness of this policy in promoting healthy eating and changing the program as appropriate to increase its effectiveness.

- *Parent, Community and Staff Involvement:* A primary goal will be to engage family members, students, and representatives of the school food authority, the Governing Board, school administrators, and the public in development and regular review of this school policy.

A health advisory council consisting of parent(s), school food authority personnel, School Board member(s), school administrator(s), school staff, student(s) and community member(s) shall be established by the Superintendent with the advice and consent of the Board. This council shall meet a minimum of twice a year for the purpose of making recommendations to the local board on the implementation, revision and evaluation of the wellness program. The Superintendent shall be the presiding officer of the health advisory council and shall provide

- A written, specific statement of the purpose of the council.
- The dates on which reports of the council are to be rendered.
- Recommendations on replacements required upon a council members unavailability or resignation.
- The extent to which facilities, supplies, equipment, and clerical support will be provided to the council.
- A briefing on the requirements of the New Mexico Open Meeting Law (10-15-1 NMSA 1978) as it applies to committees of the Board.
- Posting of all notices and agendas of meetings of the council.

The Superintendent is directed to seek the input of the council in the development of recommendations and administrative regulations to implement this policy, including such provisions as may be necessary to address all food and beverages sold and/or served to students at school (i.e., competitive foods, snacks and beverages sold from vending machines, school stores, and funding-raising activities and refreshments that are made available at school parties, celebrations and meetings), including provisions for staff development, family and community involvement and program evaluation. Regulations and exhibits created for the purpose of implementing this policy shall be considered, in effect, to be an extension of this policy.

Adopted: date of manual adoption

LEGAL REF: 6.12.5.8 NMAC, New Mexico Requirements for Competitive Foods Sold to Students
6.12.6.8 NMAC, Wellness Requirements
6.29.6.8 NMAC, Health Education
6.29.9.8 NMAC, Physical Education
42 U.S.C. 1751 et seq., The National School Lunch Act
42 U.S.C. 1771 et seq., The Child Nutrition Act as amended.

CROSS REF: ABA - Community Involvement in Education
ABAA - Parental Involvement
BBA - Board Powers and Responsibilities

EF - Food Services

EFE - Competitive Food Sales/Vending Machines

IHA - Basic Instructional Programs

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

NEW MEXICO FOUNDATION
FOR OPEN GOVERNMENT

Petitioner,

vs.

No. _____

RECORDS CUSTODIAN for the Jemez
Mountain Public School District, AND the
JEMEZ MOUNTAIN PUBLIC SCHOOL
DISTRICT BOARD OF EDUCATION,

Respondents.

ALTERNATIVE WRIT OF MANDAMUS

To: Respondent Jemez Mountain Public School District Board of Education and its
Records Custodian (“Respondent District”)

The facts supporting the issuance of this writ are as follows:

1. On October 17, 2025, Petitioner NMFOG submitted a public records request for the Respondent District’s policies on the New Mexico Open Meetings Act (“OMA”). Petitioner directed its request to Superintendent Loren Cushman as the Respondent has failed to designate a records custodian to receive and respond to IPRA requests.
2. Petitioner’s public records request sought in relevant part:

“All records - including internal memoranda, communications, resolutions, etc. – reflecting Jemez Mountain Public School's policies, procedures, and protocols with respect to the School Board's compliance with the New Mexico Open Meetings Act NMSA 1978, Section 10-15-1 *et. seq.*, in effect for 2025. Please include any amendments or changes to such policies, procedures, and protocols.”

and

“A copy of the Jemez Mountain Public School District's IPRA notice required by Section 14-2-7 (E).”

3. On November 3, 2025, Respondent, through its counsel the Walsh Gallegos law firm, provided 13 pages of records containing seven District policies, only five of which were responsive to Petitioner's request.
4. Counsel for the District told Petitioner that Respondent had no records responsive to the request for "the Jemez Mountain Public School District's IPRA notice required by Section 14-2-7 (E)."
5. Respondent failed to produce all records responsive to Petitioner's request by withholding responsive records, as evidenced by a 748-page policy manual that contains many pages of policies regarding the School Board's compliance with OMA that the District failed to produce for Petitioner's inspection.
6. Respondent failed to explain why it partially denied Petitioner's request.
7. The records that Petitioner seeks from Respondent are public records within the meaning of Section 14-2-6(H) of IPRA. NMSA 1978, § 14-2-6(H).
8. Respondent has a clear, nondiscretionary duty to "permit the inspection immediately or as soon as is practicable under the circumstances, but not later than fifteen days after receiving a written request." NMSA 1978, § 14-2-8(D).
9. The timely production of public records is "an essential function of a representative government and an integral part of the routine duties of public officers and employees." NMSA 1978, § 14-2-5.
10. "A custodian who does not deliver or mail a written explanation of denial within fifteen days after receipt of a written request for inspection is subject to an action to enforce the provisions of the Inspection of Public Records Act and the requester may be awarded damages." NMSA 1978, NMSA 1978, § 14-2-5.

11. Respondent has a mandatory, nondiscretionary duty to designate a records custodian to receive requests to inspect public records; respond to requests; provide proper and reasonable opportunities to inspect public records; and provide reasonable facilities to make or furnish copies of the public records during usual business hours. NMSA 1978, § 14-2-7.
12. Respondent has not designated a records custodian as required by Section 14-2-7.
13. Respondent, through a designated records custodian, has a mandatory, nondiscretionary duty to “post in a conspicuous location at the administrative office and on the publicly accessible web site, if any, of each public body a notice describing: (1) the right of a person to inspect a public body's records; (2) procedures for requesting inspection of public records, including the contact information for the custodian of public records; (3) procedures for requesting copies of public records; (4) reasonable fees for copying public records; and (5) the responsibility of a public body to make available public records for inspection.” *Id.*
14. Respondent District has not posted such notice at its administrative office or on its publicly accessible web site.
15. This Court may compel the performance of these important, nondiscretionary acts. *See* NMSA 1978, § 44-2-4 (stating that a writ of mandamus “may be issued to any inferior tribunal, corporation, board or person, to compel the performance of an act which the law specially enjoins as a duty resulting from an office, trust or station”); NMSA 1978, § 14-2-12(B) (stating that a district court “may issue a writ of mandamus . . . to enforce the provisions of the Inspection of Public Records Act”).

16. Additionally, Respondent is subject to statutory penalties of up to \$100 per day for failing to produce responsive records. *See* NMSA 1978, § 14-2-11(C); *Britton v. Office of Attorney General*, 2019-NMCA-002, ¶¶ 38-39, 433 P.3d 320.

17. The Court concludes that Respondent District has failed to comply with its statutory duties to produce all responsive public records to Petitioner, to designate a records custodian, and to post notice regarding the right to inspect public records as required by Section 14-2-7 (E). The appropriate penalty is \$100 per day beginning November 3, 2025, and ending on the date Respondent District completes production of all responsive records.

YOU ARE HEREBY COMMANDED FORTHWITH EITHER TO:

A. Comply with your mandatory, nondiscretionary duty to produce all records responsive to Petitioner's October 17, 2025, request, by providing them to Petitioner, at:

c/o Amanda Lavin, attorney for Petitioner
New Mexico Foundation for Open Government
7777 Jefferson St NE
Albuquerque, NM 87102

B. Comply with your mandatory, nondiscretionary duty to designate a records custodian to receive and respond to requests to inspect public records, provide proper and reasonable opportunities to inspect public records; provide reasonable facilities to make or furnish copies of the public records during usual business hours, and post in a conspicuous location at the administrative office and on the District's publicly accessible web site a notice describing the right of a person to inspect a public body's records, procedures for requesting inspection of public records, including the contact information for the custodian of public records; procedures for requesting copies of public records; reasonable fees for copying public records; and the responsibility of a public body to make available public records for inspection;

- C. Pay \$100 per day for each day responsive records have not been produced;
- D. Pay Petitioner's reasonable attorney's fees and costs for litigating this action; and
- E. Return with certification that you have done as commanded.

OR:

- A. Show cause why this writ should not be made permanent. The date to file any responsive pleading shall be seven days after issuance of this writ, and the date and time for hearing will be _____.

A copy of Petitioner's Verified Petition for Alternative Writ of Mandamus is attached to this Writ which contains facts and law showing Respondent's obligation to do as commanded.

Approved:

Second Judicial District Court Judge

Date