

**STATE OF NEW MEXICO
COUNTY OF BERNALILO
SECOND JUDICIAL DISTRICT**

**NEW MEXICO FOUNDATION
FOR OPEN GOVERNMENT,**

Plaintiff,

v.

No. D-202-CV-2026-09322

**JULIE GAUMAN, records custodian
for the New Mexico Livestock Board,**

Defendant.

COMPLAINT TO ENFORCE THE INSPECTION OF PUBLIC RECORDS ACT

Plaintiff New Mexico Foundation for Open Government (“NMFOG”), for its complaint against Defendant Julie Gauman, records custodian for the New Mexico Livestock Board (“Defendant Gauman”), states as follows:

Introduction

1. This case involves the Livestock Board’s unlawful refusal to allow inspection of public records as required by the New Mexico Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 – 12 (“IPRA”) (2025).
2. The Livestock Board violated IPRA by withholding long-sought investigative reports of its employees despite the New Mexico Supreme Court’s May 2026 ruling in *Albuquerque Journal v. Board of Education of Albuquerque Public Schools*, No. S-1-SC-40671, 2026 WL 1492129, (N.M. May 28, 2026), that overturned prior Court of Appeals decisions upholding the Livestock Board’s refusal to allow inspection of such investigative reports.
3. Defendant Gauman continues to flout her obligations under IPRA to permit inspection of these reports, in spite of the Supreme Court’s clear mandate issued earlier this year that

public bodies cannot withhold “in toto” investigative reports containing both exempt and nonexempt information, and that the records custodian must separate matter of opinion information from that which is not, and “provide the nonopinion information for inspection.” *Id.* at *8.

Parties

4. Plaintiff 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 New Mexico 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.
5. Defendant Julie Gauman is the records custodian for the New Mexico Livestock Board. The Livestock Board is a state agency and “public body” within the meaning of IPRA, NMSA 1978, Section 14-2-6(G) (2023).

Jurisdiction and Venue

6. The Court has jurisdiction over the parties and subject matter of the action under NMSA 1978, Sections 38-3-2 (1998) and 14-2-12 (1993).
7. Venue is proper under NMSA 1978, Section 38-3-2 (1953).

Background and General Allegations

8. On August 3, 2026, Plaintiff submitted two separate public records requests for two investigative reports regarding two different employees of the Livestock Board.

9. Plaintiff requested the “Internal Investigation Fact-Finding Report” regarding April Riggs, Area Supervisor, issued in April 2018 (“Riggs Report”).
10. Plaintiff also requested the Investigative Report regarding former New Mexico Livestock Board employees Ray Baca and Priscilla Peña, conducted on March 29, 2017 (“Baca Peña Report”).
11. On August 18, 2026, Defendant Gauman provided copies of the requested investigative reports that were redacted in their entirety.
12. Defendant Gauman cited various unlawful grounds as justification for fully redacting the reports.
13. Defendant Gauman cited to IPRA’s “catchall exception,” Section 14-2-1(N), which incorporates into IPRA’s exceptions other provisions of law providing for confidentiality, claiming Section 1.7.1.12(C) of the New Mexico Administrative Code, the New Mexico Human Rights Act, the New Mexico Whistleblower Protection Act, and “due to the fact that the production of investigation reports will likely have a significant chilling effect not only on employees who are seeking to protect their legal rights but will likely also hinder witness participation necessary to ensure the protection of employees legal rights are protected,” are legal bases for the redactions. NMSA 1978, § 14-2-1(N) (2025).
14. Defendant Gauman also cited to IPRA’s “matters of opinion exception,” Section 14-2-1(C) as grounds for fully redacting the reports. NMSA 1978, § 14-2-1(C) (2025).
15. On May 28, 2026, the New Mexico Supreme Court issued its opinion in *Albuquerque Journal v. Board of Education of Albuquerque Public Schools*, holding that records in personnel files such as investigative reports of public employees cannot be withheld in their entirety, even if the reports contain some “matter of opinion” information as contemplated

by IPRA's exception to inspection under Section 14-2-1(C). 2026 WL 1492129, at *8.

16. The *Albuquerque Journal v. Board of Education of Albuquerque Public Schools* opinion abrogates a line of New Mexico Court of Appeals cases that held Section 14-2-1(C) exempted entire records or reports from inspection under IPRA, including *Henry v. Gauman*, 2023-NMCA-078, 536 P.3d 498, where the Court of Appeals held the Livestock Board was justified in withholding in its entirety the exact type of report sought by Plaintiff in this case. *Albuquerque Journal*, 2026 WL 1492129, at *1.
17. After the Supreme Court ruling in *Albuquerque Journal v. Board of Education of Albuquerque Public School*, and prior to Plaintiff's August 3, 2026, public records requests to the Livestock Board, Nancy Henry, the plaintiff in the now abrogated Court of Appeals decision, *Henry v. Gauman*, 2023-NMCA-078, submitted IPRA requests to Defendant for at least ten investigative reports of Livestock Board employees that she previously requested and that Defendant withheld.
18. Among the reports Henry requested anew from Defendant was a report involving former Livestock Board employee Kenneth Whetham – the report at issue in *Henry v. Gauman* – and the two reports requested by Plaintiff, the Riggs report and the Baca Peña report.
19. As to each investigative report requested by Henry, Defendant Gauman again denied the requests by providing fully redacted reports to Henry, citing IPRA's "catchall" provision and NMAC Section 1.7.1.12(C), and Section 14-2-1 (C), IPRA's matter of opinion exception to inspection.
20. The Riggs investigative report requested by Plaintiff and Henry was conducted by Craig Martin of the private investigative firm, "Martin's Consulting, Instruction and & Investigations."

21. Although the content of the eight-page report is fully redacted, the title of the report is not, and reads, “Internal Investigation Fact-Finding Report.”
22. The Baca Peña report is 29 pages long, and was also conducted by a private investigator, Liz Griego with “Robert Caswell Investigations.”
23. The Baca Peña report is fully redacted, but at the top of each page, the report reads, “CONFIDENTIAL INFORMATION / ATTORNEY WORK PRODUCT.”
24. Robert Caswell Investigation provides investigative services, not legal representation.
25. Both reports requested by Plaintiff are public records and are subject to inspection under IPRA, and Defendant Gauman’s failure to produce the reports is a violation of IPRA.

Violations of the Inspection of Public Records Act

26. Section 14-2-1 of IPRA guarantees the right of every person to inspect public records of this state. NMSA 1978, § 14-2-1(2025).
27. Section 14-2-5 of IPRA provides, “[...] all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees. It is the further intent of the legislature, and it is declared to be the public policy of this state, that to provide persons with such information 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).
28. The New Mexico Supreme Court has held that “[a] citizen has a fundamental right to have access to public records. The citizen's right to know is the rule, and secrecy is the exception. Where there is no contrary statute or countervailing public policy, the right to inspect public records must be freely allowed.” *State ex rel. Newsome v. Alarid*, 1977-NMSC-076, ¶ 34, 568 P.2d 1236.

29. IPRA defines a public record as “all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained.” NMSA 1978, § 14-2-6(H) (2023).
30. The only public records that may be lawfully withheld from inspection are those subject to the limited exceptions outlined in Section 14-2-1(A)-(N) of IPRA.
31. Section 14-2-1(C), IPRA’s “matters of opinion” in personnel files, has recently been interpreted by the New Mexico Supreme Court to explicitly prohibit the type of wholesale redactions employed by Defendant in both the Riggs Report and the Baca Peña Report.
32. “Personnel records or files may not be withheld from inspection in their entirety; according to IPRA’s plain language, the Legislature designated only *matters of opinion* within a personnel file as exempt from inspection, as opposed to factual matters or other kinds of information within a personnel file, which may be inspected.” *Albuquerque Journal. v. Board of Education of Albuquerque Public Schools*, No. S-1-SC-40671, 2026 WL 1492129, at *6 (N.M. May 28, 2026).
33. To the extent the requested reports contain any actual “matters of opinion” as contemplated by Section 14-2-1(C), only those discrete portions of the reports containing such information may be lawfully redacted pursuant to this exception, and all factual and nonopinion information in the reports must be produced.
34. Section 1.7.1.12(C) of the New Mexico Administrative Code, as incorporated by Section 14-2-1(N), IPRA’s “catchall” exception, is not a valid exception to IPRA under the test set forth by the Supreme Court in *ACLU v. NMCD*, No. S-1-SC404732026, WL 1723418,

(N.M. June 15, 2026).

35. Section 1.7.1.12 (C) issued by the State Personnel Board pursuant to The State Personnel

Act, provides:

“[] the following material shall be regarded as confidential and exempted from public inspection: records and documentation pertaining to physical or mental illness, injury or examinations, sick leave and medical treatment of persons; records and documentation maintained for purposes of the Americans with Disabilities Act [42 U.S.C. Section 12010 et seq.]; letters of reference concerning employment, licensing, or permits; records and documentation containing matters of opinion; interview notes; documents concerning infractions and disciplinary actions; performance appraisals; opinions as to whether a person should be re-employed; college transcripts; military discharge; information on the race, color, religion, sex, national origin, political affiliation, age, and disability of employees; home address and personal telephone number unless related to public business; social security number; laboratory reports or test results generated according to the provisions of 1.7.8 NMAC; and as otherwise provided by state or federal law.

NMAC 1.7.1.12 (C) (2020).

36. Under the test in *American Civil Liberties Union v. New Mexico Corrections Department*,

IPRA’s catchall exception incorporates regulatory bars to disclosure only when (1) the regulation is legislatively authorized and has been formally promulgated through a process involving public notice and comment and a public hearing, and (2) “the regulation effectuates a statute or statutes revealing a clear legislative intent for the confidentiality, secrecy, or nondisclosure of the records.” 2026 WL 1723418, at *6. The Supreme Court explained, “[t]hese requirements ensure that regulatory exceptions to disclosure are applied consistently with both the legislative intent to grant the public a general right of inspection [] and a legislative intent to delegate authority to an administrative agency to limit that right of inspection.” *Id.*

37. The State Personnel Act, NMSA 1978, Sections 10-9-1 through 10-9-25, does not evince a legislative intent for “confidentiality, secrecy, or nondisclosure of records.” *See* NMSA 1978, § § 10-9-1– 10-9-25, generally.
38. While the Personnel Board has the authority to promulgate rules necessary to “effectuate the Personnel Act,” the Personnel Act contains no specific references to confidentiality that grant the Personnel Board authority to enact sweeping confidentiality rules that put virtually all personnel records of public employees beyond the reach of IPRA, as contemplated by Section 1.7.1.12 (C). *See* NMSA 1978, §§ 10-9-1—10-9-25, generally.
39. Furthermore, Section 1.7.1.12(C) contradicts IPRA’s presumptive right of broad disclosure of public records and is contrary to the Legislature’s intent to grant public access to factual matters and other nonexempt information in personnel files of public employees. “The Legislature designated only matters of opinion within a personnel file as exempt from inspection, as opposed to factual matters or other kinds of information within a personnel file, which may be inspected.” *Albuquerque Journal*, 2026 WL 1492129, at *6.
40. Therefore, even assuming the requested reports would be protected by Section 1.7.1.12 (C), this section of the New Mexico Administrative Code is not a valid bar to inspection of public records and Defendant Gauman cannot hide the requested investigative reports behind the confidentiality provisions of Section 1.7.1.12 (C).
41. Nor may Defendant Gauman hide the reports for the purported reason that “due to the fact that the production of investigation reports will likely have a significant chilling effect not only on employees who are seeking to protect their legal rights but will likely also hinder witness participation necessary to ensure the protection of employees legal

rights are protected [...] See New Mexico Human Rights Act, Title VII, and New Mexico Whistleblower Protection Act.”

42. Defendant Gauman’s suggested policy reasons for declaring the reports confidential would harken back to the “rule of reason,” an approach the New Mexico Supreme Court renounced in 2012. *See Republican Party of New Mexico v. New Mexico Tax’n & Revenue Dep’t*, 2012-NMSC-026, ¶ 16, 283 P.3d 853, 860 (“Courts now should restrict their analysis to whether disclosure under IPRA may be withheld because of a specific exception contained within IPRA, or statutory or regulatory exceptions, or privileges adopted by this Court or grounded in the constitution”).”
43. To date, Defendant Gauman has failed to permit inspection of the requested public records, in violation of IPRA.
44. A person whose written public records request has been unlawfully denied may bring an action to enforce any provision of IPRA. NMSA 1978, § 14-2-12(A)(2) (1993).

Count I

Violation of NMSA 1978, Section 14-2-1 Internal Investigation Fact-Finding Report

45. Defendant Gauman violated IPRA when she refused to permit inspection of the “Internal Investigation Fact-Finding Report” regarding April Riggs, Area Supervisor with the Livestock Board.
46. The Riggs report is a public record as defined in Section 14-2-6(H) of IPRA.
47. Defendant Gauman was required to produce the report under Section 14-2-1, and her failure to do so is a violation of IPRA.
48. Even if some portions of the report are subject to redaction under Section 14-2-1(C) as “matters of opinion” information, Defendant Gauman must produce all factual and

nonopinion material for inspection.

49. The very title of the Riggs report suggests the report was conducted for the purpose of “fact-finding,” meaning the report undoubtedly contains facts that are subject to inspection under IPRA.
50. Defendant Gauman’s violation of IPRA entitles Plaintiff to remedies under Sections 14-2-11(C) (1993) and 14-2-12(D) (1993).

Count II

Violation of NMSA 1978, Section 14-2-1 Investigative Report of Ray Baca and Priscilla Peña

51. Defendant Gauman violated IPRA when she refused to permit inspection of the Investigative Report of Ray Baca and Priscilla Peña
52. The Baca Peña report is a public record as defined in Section 14-2-6(H) of IPRA.
53. Defendant Gauman was required to produce the report under Section 14-2-1, and her failure to do so is a violation of IPRA.
54. Even if some portions of the report are subject to redaction under Section 14-2-1(C) as “matters of opinion” information, Defendant Gauman must produce all factual and nonopinion material for inspection.
55. Defendant Gauman’s violation of IPRA entitles Plaintiff to remedies under Sections 14-2-11(C) (1993) and 14-2-12(D).

Prayer for Relief

WHEREFORE, Plaintiff NMFOG prays that the Court enter judgment in Plaintiff's favor and against Defendant Gauman for the following relief:

- A. An order directing Defendant Gauman to satisfy the above-described IPRA requests in full;
- B. An award of damages, costs, and reasonable attorneys' fees under IPRA, NMSA 1978, Sections 14-2-11(C) and 14-2-12(D); and
- C. Such other relief as the Court deems just and proper.

Respectfully submitted,

NEW MEXICO FOUNDATION
FOR OPEN GOVERNMENT



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