

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

FRANK C. FOY,

Plaintiff,

v.

No. D-202-CV-2009-1587

NEW MEXICO EDUCATIONAL
RETIREMENT BOARD; BRUCE MALOTT;
and GARY BLAND,

Defendants.

ORDER FOR ELECTRONIC COPIES OF ELECTRONIC RECORDS

The Plaintiff having moved the Court for an order allowing the Plaintiff to have electronic copies of electronic records, and Defendants having opposed such motion, and the Court having reviewed the briefs and conducted hearings on the motion, and being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. Plaintiff's motion is hereby granted. Defendants are ordered, upon request by Plaintiff, to provide electronic copies of public records that already exist in electronic form, or which can be produced in electronic form with reasonable effort. Electronic copies may be provided in whatever electronic forms are reasonable and mutually convenient under the particular circumstances, including but not limited to CD, DVD, flash drive, or hard drive. If technical issues arise, Defendants' information technicians are directed to confer with Plaintiff or Plaintiff's representative to resolve technical issues in good faith, keeping in mind that one purpose of the Inspection of Public Records Act is to make "the maximum possible information" available to requesters as easily and as cheaply as possible.

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2. Defendants shall keep track of their actual and reasonable costs in making electronic copies, and shall provide an estimate of such costs in advance to Plaintiff. Costs of copying shall be limited to reproduction costs and shall not include any charge for locating or retrieving the records, or determining whether any of the records are subject to disclosure under IPRA. See NMSA 1978, §§ 14-2-5 and -9.

3. This order is effective immediately, and shall not be stayed except by further order of this Court, or an appellate court.

4. This is not a final judgment under Rule 1-054(D).

5. Defendants' motion for interlocutory appeal is denied.



HONORABLE JOHN W. POPE
District Judge