

SECOND JUDICIAL DISTRICT  
COUNTY OF BERNALILLO  
STATE OF NEW MEXICO

No. D-202-CV-2015-\_\_\_\_\_

D-202-CV-2015-00620

ALBUQUERQUE JOURNAL and KOB-TV, LLC

Plaintiffs,

vs.

BOARD OF EDUCATION OF ALBUQUERQUE  
PUBLIC SCHOOLS and RIGO CHAVEZ, in his  
capacity as custodian of records for Board of  
Education for Albuquerque Public Schools,

Defendants.

**COMPLAINT FOR VIOLATION OF  
THE NEW MEXICO INSPECTION OF PUBLIC RECORDS ACT**

The Plaintiffs, *Albuquerque Journal* (“the *Journal*”) and KOB-TV, LLC (“KOB-TV”), by and through their undersigned counsel, state as follows:

**NATURE OF THE CASE**

The Plaintiffs, both newsgathering organizations that report in the public interest, bring this action to compel Defendant Board of Education of Albuquerque Public Schools (“APS”) and its records custodian, Defendant Rigo Chavez, to comply with its obligations to produce public records under the New Mexico Inspection of Public Records Act, NMSA 1978, § 14-2-1 *et. seq.* (2003) (“IPRA”). APS has refused to produce public records related to its decision to terminate the contract of its Superintendent, Winston Brooks. Without relief from this Court, APS will succeed in keeping from the citizens of this County and State the basis for the APS’ decision to agree to the premature termination of the contract with the Superintendent of the State’s largest school system, to

pay him \$350,000 to leave his job, to release him and his spouse from undisclosed potential "claims," and to agree contractually to keep the basis for these actions secret from the public that elected them and that the Superintendent was charged with serving.

### **GENERAL STATEMENT OF THE CASE**

In July of 2014, APS held a closed meeting to discuss the performance of its superintendent, Winston Brooks ("Brooks"). Shortly thereafter, APS hired Agnes Padilla, an attorney, to perform an investigation of Brooks. Ms. Padilla conducted the investigation and delivered a written report to APS. Within days of receiving the report, APS entered into an agreement with Brooks in which he agreed to resign 10 months in advance of the end of his contract. APS further agreed to pay Brooks public monies amounting to \$350,000. APS also agreed that it would release any claims it might have against Brooks or his wife, Ann Brooks, although the agreement did not disclose what such claims might exist. Despite the considerable public interest in this agreement and the facts that led to it, APS and Brooks also agreed that the Padilla report would be hidden from the taxpayers and public and that all parties would remain silent as to the agreement.

The Padilla report and certain related documents are public records. They document complaints about a highly-paid public figure, explain the decision that led to the termination of employment of the superintendent of the state's largest school district, and presumably document the undisclosed basis for APS' decision to authorize the payment of hundreds of thousands of dollars of public money to facilitate the termination of Brooks and to ensure his and their silence on the reasons for the termination.

### **PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff *Albuquerque Journal* is a newspaper of regional and local circulation in New Mexico. Plaintiff KOB-TV, LLC, is a television station broadcasting throughout New Mexico.

Both Plaintiffs are newsgathering organizations that report on the conduct of public officials and employees, including activities of APS administration, employees, and students.

2. Both Plaintiffs have their principal place of business in Bernalillo County, New Mexico.

3. Defendant Board of Education of Albuquerque Public Schools is responsible for the governance of Albuquerque Public Schools, a public school district with its principal place of business in Bernalillo County. Defendant Rigo Chavez is the designated custodian of records for APS and its Board.

4. As a public school district, APS is subject to IPRA.

5. Jurisdiction and venue are proper pursuant to IPRA and the venue statute, NMSA 1978, Section 38-3-1(G) (1988).

6. There exists an actual controversy between the parties regarding APS' duties under IPRA. Accordingly, an action for declaratory relief is authorized under NMSA 1978, Sections 44-6-2 and 44-6-4 (1975).

### **FACTUAL ALLEGATIONS**

#### ***APS investigates and terminates Winston Brooks***

7. APS is a public school district pursuant to NMSA 1978, Section 22-5-4.

8. APS is the largest school district in New Mexico. According to APS' own website (aps.edu), APS has more than 88,000 students; operates 154 schools scattered across nearly 1,200 square miles with a combined 13,000,000 square feet of instructional space; and is the second largest employer in Albuquerque, employing 14,000 people, including 6,300 teachers.

9. APS is governed by a seven-member, elected school board that sets policy and approves the annual budget. The board also hires the APS superintendent, who oversees the operations of the district.

10. Winston Brooks was hired as APS superintendent in July 2008. Under the terms of a subsequent extension of Brooks' contract with APS, Brooks received a salary of \$250,000. Brooks was contracted to remain as superintendent until June 2016.

11. On November 21, 2013, the Board announced that it had developed a "performance improvement plan" for Brooks. This announcement followed events casting Brooks in a negative light, including a posting by Brooks on Twitter that said "moo, moo-oink, oink" in reference to New Mexico Public Education Department Secretary-Designee Hanna Skandera. APS suspended Brooks for three days without pay following that posting. APS did not disclose the details of the performance improvement plan.

12. On July 16, 2014, the Board voted to go into a closed session of a Board meeting to discuss Brooks' performance improvement plan.

13. On August 7, 2014, Rigo Chavez, APS Director of Communications, released a statement entitled "Statement from Albuquerque Public Schools Board of Education President Dr. Analee Maestas" ("the Maestas Statement").

14. The Maestas Statement stated that during the July 16, 2014, closed session of the Board, "a serious personnel issue was raised and discussed."

15. The Maestas Statement gave no information regarding the nature of the "serious personnel issue."

16. According to the Maestas Statement, at another meeting on July 18, 2014, the Board voted not to go into executive session.

17. The Maestas Statement goes on to state as follows:

I felt that in the best interest of the school district, we had a duty to get to the bottom of the matter. I made the decision as Board President to contract with Agnes Padilla, a very reputable third-party attorney. I did so only after conferring with the board's legal counsel to address the concerns raised during our executive session. Prior to contacting Ms. Padilla, I called each board member and advised them of the course of action I was taking. The same statement was read to each board member.

Each board member was contacted by 10:30 a.m. the same morning and consented to this course of action. Given that this is a personnel matter concerning Mr. Brooks, it was reasonable to pursue this course of action with consent of each board member. I then met with Mr. Brooks, later that morning, and read the exact same statement I had given to board members. The superintendent asked for a copy, which I provided to him. I assured him he would be given the opportunity to be interviewed by the attorney about the areas of concern.

18. On or about July 18, 2014, Maestas, acting on behalf of APS, entered into a written agreement with attorney Agnes Padilla of the Butt, Thornton & Baehr, P.C. law firm. The agreement stated as follows:

This letter is to confirm our agreement pursuant to which you are providing professional legal services to the Board of Education of the Albuquerque Public Schools at the direction of the President of the Board. Those services include, but are not limited to, research and inquiry into matters of concern to the Board and consultation with the Board President and members of the Board concerning the results of your work.

You have agreed that you will bill APS at the rate of \$190 per hour, plus applicable New Mexico gross receipts tax and usual and customary out of pocket costs incurred in performing your work, and that your total compensation shall not exceed \$50,000, exclusive of gross receipts tax. This understanding was effective as of July 18, 2014.

19. The agreement between APS and Ms. Padilla gave no factual information as to the "matters of concern" that Ms. Padilla was being asked to investigate.

20. According to the Maestas Statement, Ms. Padilla delivered a report ("the Padilla report") to Maestas late on the afternoon of August 6, 2014.

21. Maestas did not provide the media or the public with a copy of the Padilla report at that time.

22. On August 11, 2014, the Board met in closed session for five hours to discuss Brooks. Following the closed meeting, APS did not release any information about what had been discussed.

23. APS' first day of school for the 2014-15 school year was August 13, 2014.

24. Two days later, on August 15, 2014, APS and Brooks released a six-page document entitled "Resignation and Settlement Agreement" ("the Brooks Settlement Agreement"). At a meeting on that date, the Board voted unanimously to accept the terms of the Brooks Settlement Agreement.

25. Among the terms set forth in the Brooks Settlement Agreement were the following:

2. "During the 2014-15 school year, the Board and Brooks determined that the board/superintendent relationship was no longer functioning for the benefit of the District."

...

3. "In consideration for Brooks' resignation and signing of this agreement, the Board will provide the following:

a. "Payment of a sum-certain, lump-sum of \$350,000.00 to Brooks . . . ."

...

c. "A letter of reference, as attached to this agreement"

...

8. "The Board hereby releases any and all claims, it or its members may have against Brooks or his wife, Ann Brooks, from any and all legal claims related in any way to his employment with Albuquerque Public Schools which it or they have filed or could file, in any and all forums. This release additionally includes the surrender of any future causes or claims of any type that might be raised against Brooks or his wife arising out of Brooks' employment, even if the bases for such claims are not now known to the Board or might have affected its willingness to enter this agreement.

...

9. Albuquerque Public Schools shall maintain the original of this agreement and the report generated by Agnes Padilla in a file separate from Brooks' personnel file, and it shall not be released to anyone, including potential future employers in response to a request for Brooks' personnel file."

...

12. "The District agrees that the board and central office administration will not disparage the conduct, character, performance, or ethics of Brooks or his wife, Ann Brooks. Similarly, Brooks agrees that neither he, nor his wife, Ann Brooks, will disparage the conduct, character, performance or ethics of the Board or the APS Central Office administration."
13. "The parties agree to a mutual public statement, outlined here as Exhibit 3, which will be the only public comment made by the Board, APS administration, Brooks, or Dr. Ann Brooks regarding this Resignation and Waiver of Claims."

26. In enacting the Inspection of Public Records Act, the New Mexico Legislature made

its intent clear:

Recognizing that a representative government is dependent upon an informed electorate, the intent of the legislature in enacting the Inspection of Public Records Act is to ensure, and it is declared to be the public policy of this state, that 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 further the 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).

27. IPRA, at NMSA 1978, Section 14-2-6(E) (1993), broadly defines the records to which the public is entitled to access: "all documents, papers, letters, books . . . and other materials . . . that are used, created, received, maintained or held by or on behalf of any public body and relate to public business . . . ."

28. The *Journal* and KOB-TV, LLC each made several requests to inspect public records held by APS. Each of the records requested meets the definition of public record set forth in IPRA.

### **The *Journal's* Requests for Public Records Regarding Brooks**

#### ***Journal* Request No. 1: The Padilla Report**

29. On August 7, 2014, Jon Swedien, a reporter acting on behalf of the *Albuquerque Journal*, sent a request pursuant to IPRA to Rigo Chavez, APS' designated custodian of records. The request stated as follows: "Per Inspection of the Public Records Act, I am requesting a copy of any report Agnes Padilla, an attorney for the Butt Thornton & Baehr PC law firm, has provided through her legal services to the district." *See* Ex. 1.

30. On August 8, 2014, Chavez responded. In his response, Mr. Chavez stated that he made inquiry with Analee Maestas and was told that the only investigation conducted by attorney Agnes Padilla "involves a personnel matter." Chavez went on to state that the report was exempt from IPRA under NMSA 1978, Section 14-2-1(A)(3), which excludes from public inspection "letters or memorandums which are matters of opinion in personnel files." Chavez also cited Section 14-2-1(A)(8), which exempts certain records from public inspection "as otherwise provided by law." Chavez stated that "[i]n this case, the law would be Supreme Court Rules of Evidence: Rule 11-503. Lawyer-client privilege" which states that "[a] client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications between himself and his lawyer, and between other specified persons, made to facilitate the rendition of professional legal services to the client." *See* Ex. 2.



31. On August 19, 2014, counsel for the *Journal* sent a letter to Chavez noting the inapplicability of either Section 14-2-1(A)(3) or Section 14-2-1(A)(8) to the Padilla report, and asking APS to reconsider its refusal to produce the report. *See* Ex. 3.

32. On August 25, 2014, Chavez responded by letter. Chavez maintained APS' refusal to produce the Padilla report, and added a new basis for its refusal ("because the report by Ms. Padilla is an attorney work product, it is therefore exempt from disclosure under the Act"). *See* Ex. 4.

***Journal* Request No. 2: Butt, Thornton & Baehr billing records.**

33. On September 2, 2014, counsel for the *Journal*, acting on the *Journal*'s behalf, sent a letter to Chavez requesting "All invoices or other billing records from Butt, Thornton & Baehr, P.C., since January 1, 2014." *See* Ex. 5.

34. On September 9, 2014, having received no response to this request, counsel for the *Journal* sent a letter to Chavez regarding the status of the request. *See* Ex. 6.<sup>1</sup>

35. On Sept. 11, 2014, Chavez sent counsel for the *Journal* a letter (incorrectly dated Sept. 9, 2014). In that letter, Chavez stated that he had made request of APS Risk Management Office for any documents responsive to this request and "I will let you know within the 15 days allowed by the Act of any documents located." *See* Ex. 8.

36. On Sept. 19, 2014, having received no additional response, counsel for the *Journal* sent a letter to Chavez regarding the status of the request. *See* Ex. 9.

37. On Sept. 26, 2014, 24 days after the initial request was made, Chavez responded by stating that APS Risk Management had advised that they had not received any billings from Butt, Thornton & Baehr, P.C., and thus APS had no records to provide. *See* Ex. 10.

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<sup>1</sup> Ex.6 is incorrectly dated Sept. 2, 2014. This letter was actually sent on Sept. 9, 2014, as reflected by the cover email dated Sept. 9, 2014, attached as Ex. 7.

**Journal Request No. 3: Records concerning APS' decision to discuss terminating Brooks' employment**

38. On September 2, 2014, counsel for the *Journal*, acting on the *Journal's* behalf, sent a letter to Chavez requesting "All documents generated by or received by any member of the Albuquerque Public Schools Board of Education concerning the basis for the Board's decision to discuss terminating the employment of Winston Brooks." *See* Ex. 5.

39. On September 9, 2014, having received no response to this request, counsel for the *Journal* sent a letter to Chavez regarding the status of the request. *See* Ex. 6.

40. On Sept. 11, 2014, Chavez sent counsel for the *Journal* a letter (incorrectly dated Sept. 9, 2014). In that letter, Chavez stated that he had made request of Analee Maestas for any documents responsive to this request and "I will let you know within the 15 days allowed by the Act of any documents located." *See* Ex. 8.

41. On Sept. 19, 2014, having received no additional response, counsel for the *Journal* sent a letter to Chavez regarding the status of the request. *See* Ex. 9.

42. On Sept. 26, 2014, 24 days after the initial request was made, Chavez responded by stating that according to Maestas, the only documents "were related to the superintendent's annual performance review and those prepared by attorney Agnes Padilla." Chavez declined to produce these documents, citing NMSA 1978, Section 14-2-1(3) ("letters or memorandums which are matters of opinion in personnel files") and Section 14-2-1(A)(8) (attorney-client privilege and attorney work product). *See* Ex. 10.

**Journal Request No. 4: Records concerning allegations of misconduct by Winston or Ann Brooks**

43. On September 2, 2014, counsel for the *Journal*, acting on the *Journal's* behalf, sent a letter to Chavez requesting "All documents referencing any complaints or allegations of

misconduct regarding Winston Brooks or Ann Brooks made to APS or any member of the APS Board of Education since January 1, 2014.” *See* Ex. 5.

44. On September 9, 2014, having received no response to this request, counsel for the *Journal* sent a letter to Chavez regarding the status of the request. *See* Ex. 6.

45. On Sept. 11, 2014, Chavez sent counsel for the *Journal* a letter (incorrectly dated Sept. 9, 2014). In that letter, Chavez stated that he had made request of Analee Maestas and APS Human Resources Department for any documents responsive to this request and “I will let you know within the 15 days allowed by the Act of any documents located.” *See* Ex. 8.

46. On Sept. 19, 2014, having received no additional response, counsel for the *Journal* sent a letter to Chavez regarding the status of the request. *See* Ex. 9.

47. On Sept. 26, 2014, 24 days after the initial request was made, Chavez responded by stating that APS Risk Management had advised that this department had not received any documents, and thus APS had no records to provide. *See* Ex. 10.

### **KOB-TV’s Requests for Public Records Regarding Brooks**

#### ***KOB-TV’s First Request***

48. By email of August 26, 2014, John Chandler, Managing Editor of KOB-TV, requested, pursuant to IPRA, the following three categories of records:

(a) “[T]he investigation report prepared for Albuquerque Public School Board by attorney Agnes Padilla of Butt, Thornton & Baehr, P.C., about former Superintendent Winston Brooks;”

(b) “[A]ny communication between any APS Board Member or employee and Agnes Padilla;”

(c) “Any and all emails and documents to or from any APS Board Member or employee or representative in regards [sic] the investigation report.”

*See Ex. 11.*

49. On August 28, 2014, Chavez responded on behalf of APS to the request quoted in paragraph 48(a) above, for “the investigation report” prepared by Ms. Padilla about Brooks, citing APS Board President Analee Maestas, denying the request as seeking “...matters of opinion in personnel files...” and “as otherwise provided by law,” citing New Mexico Rule of Evidence 11-503, Lawyer-client privilege and because the Padilla report “is an attorney work product,” Chavez cited NMSA 1978, Section 14-2-1(A)(3) & (8) as justification. *See Ex. 12.*

50. In response to the request contained in paragraph 48(b) concerning “any communications between any APS Board Member or employee and Agnes Padilla,” Chavez responded that the APS Board of Education Office and APS Information Technology Department would search for such records. Chavez subsequently stated that APS “...did not locate any documents responsive to your request.” *See Ex. 13.*

51. With regard to the request contained in paragraph 48(c) above, “any and all emails and documents to or from any APS Board Member or employee or representative” regarding the investigative report, Chavez stated that a search would be made. *See Ex. 12.* Twenty-one days after the request was made, five documents were produced. *See Ex. 13.*

#### ***KOB-TV’s Second Request***

52. By email dated September 3, 2014, Mr. Chandler of KOB-TV requested pursuant to IPRA “...all emails between Superintendent Winston Brooks and Communications Director Monica Armenta, from the last 4 months of Winston Brooks’ employment.” *See Ex. 14.*

53. By email of September 11, 2014, Chavez responded that a search for such records would be made (*see* Ex. 15), and records were later produced. *See* Ex. 16.

***KOB-TV's Third Request***

54. By email dated September 3, 2014, Mr. Chandler of KOB-TV requested pursuant to IPRA “[I]nformation ... regarding bills from Agnes Padilla to ...” APS. *See* Ex. 17. Mr. Chandler resubmitted KOB’s request to address Chavez’s objection that the name, address and telephone number of the requesting party had not been provided by resubmitting a further request on September 17, 2014. *See* Ex. 18. To date, no other objection has been received but responsive records have not been produced.

**COUNT ONE - VIOLATIONS OF THE INSPECTION OF PUBLIC RECORDS ACT**

55. Plaintiffs incorporate by reference the foregoing allegations.

56. Defendants have violated the IPRA in the following ways:

a. Each of the records requested by Plaintiffs are public records pursuant to IPRA and are not subject to any exemption from IPRA.

b. Defendants failed to produce the documents requested by the Plaintiffs and as required by IPRA.

c. Defendants have no valid basis under NMSA 1978, Section 14-2-1 or any other legal authority for refusing to produce the records requested by the Plaintiffs as required by the IRPA.

d. Certain denials of the Plaintiffs’ requests were untimely, in violation of NMSA 1978, Section 14-2-11(B), which required Defendants to act within 15 days either to produce the requested documents or provide the requester with a written explanation of

the denial, including a description of the records sought, the names and titles or positions of each person responsible for the denial, and the reason for the denial.

e. Certain denials were also untimely for failing to provide an initial response to the requests within three business days of receiving them, as required by NMSA 1978, Section 14-2-8.

f. In some cases, Defendants *never* responded to Plaintiffs' requests in violation of the IRPA. Not only do these constitute failures to provide written explanations of denials under Section 14-2-11, it violates the requirement under Section 14-2-8 for a response.

g. Defendants at no time asserted that any of the requests were excessively burdensome or broad or indicated that additional time would be needed to respond to the written request.

57. By refusing to disclose the documents requested, APS is attempting to keep secret matters of significant public concern involving the employment and termination of Superintendent Winston Brooks.

58. Defendants have failed to satisfy their burden of showing that the documents that Plaintiffs' requested were completely exempt from disclosure under any of the exceptions enumerated in Section 14-2-1. Therefore, Defendants should and must comply with Plaintiffs' requests to provide documents without redaction or, if some portions of the requests fall within an exception, to produce the records in a redacted form, withholding only those specific portions that are exempt from disclosure.

59. To the extent Defendants have asserted that no responsive documents exist in regard to certain requests, they remain under a continuing obligation to produce the records

should they come into possession of any responsive documents or become aware that any of the responsive documents are in fact in their possession.

60. Pursuant to NMSA 1978, Section 14-2-12(B) (1993), Plaintiffs are entitled to a writ of mandamus or injunction ordering Defendants to produce all relevant documents in its possession, unredacted, as provided in Plaintiffs' requests.

61. Plaintiffs are entitled to recover their costs and attorneys' fees in pursuing this action pursuant to NMSA 1978, Section 14-2-12(D).

62. Plaintiffs have incurred and continue to incur both statutory and actual damages arising out of APS' refusal to comply with IPRA.

WHEREFORE, Plaintiffs pray that:

1. the Court declare that the records sought by Plaintiffs are public records and documents and are subject to disclosure;
2. the Court issue a writ of mandamus or injunction ordering Defendants to produce the records and information requested without further delay;
3. the Court enter an order for such other and further relief as the Court deems just and proper, including but not limited to an award of statutory and actual damages, costs and reasonable attorneys' fees; and
4. for such further relief authorized by law.

Respectfully submitted,

PEIFER, HANSON & MULLINS, P.A.

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*Attorneys for KOB-TV, LLC*



\*From: \*Jon Swedien" <jswedien@abqjournal.com>  
\*To: \*Rigo F Chavez" <chavez\_ri@aps.edu>  
\*Sent: \*Thursday, August 7, 2014 8:19:55 AM  
\*Subject: \*Ipra request Journal

Dear Mr. Chavez,

Per Inspection of the Public Records Act, I am requesting a copy of any report Agnes Padilla, an attorney for the Butt Thornton & Baehr PC law firm, has provided through her legal services to the district.

Thank you.

--

Jon Swedien  
Albuquerque Journal Reporter  
7777 Jefferson Street NE  
Albuquerque, N.M., 87109  
505 823-3913 <callto:505%20823-3913> (o)  
505 975-0105 <callto:505%20975-0105> (c) jswedien@abqjournal.com



\*From: \*"Rigo F Chavez" <chavez\_ri@aps.edu>  
\*To: \*"Jon Swedien" <jswedien@abqjournal.com>  
\*Sent: \*Friday, August 8, 2014 3:29:27 PM  
\*Subject: \*Request for Information on A. Padilla Investigation

Jon Swedien, reporter

Albuquerque Journal

P.O. Drawer J

Albuquerque, NM 87102

Aug. 8, 2014

/-Sent via e-mail & U.S. Mail-/

Dear Mr. Swedien:

This letter is in response to your e-mail received on Aug. 7, 2014, requesting information under the NM Inspection of Public Records Act regarding an investigation by Agnes Padilla of the Butt Thornton & Baehr law firm for the Albuquerque Public Schools.

With regard to your request for "a copy of any report Agnes Padilla, an attorney for the Butt Thornton & Baehr PC law firm, has provided to through her legal services to the district," I have asked APS Board of Education President Analee Maestas for any information related to this request and she responded that the only investigation conducted by attorney Agnes Padilla involves a personnel matter. Therefore, your request is denied by me as custodian of records for the Albuquerque Public Schools and by Dr. Maestas as president of the Albuquerque Public Schools Board of Education under the provisions of the NM Inspection of Public Records Act 14-2-1. Right to Inspect Public Records Exceptions.

"A. Every person has a right to inspect public records of this state except: (3) letters or memorandums which are matters of opinion in personnel files or students' cumulative files;" and "(8) as otherwise provided by law." In this case, the law would be Supreme Court Rules of

Evidence: Rule 11-503. Lawyer-client privilege "A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications between himself and his lawyer, and between other specified persons, made to facilitate the rendition of professional legal services to the client."

If you have any additional questions, you may contact me at 880-3730.

Sincerely,

Rigo Chavez, director

Albuquerque Public Schools Communications/

Custodian of Records

Suite 630-E, 6400 Uptown Blvd. NE

P.O. Box 25704

Albuquerque, NM 87125-0704

(505) 881-8421 ext. 2

(505) 872-8864 (fax)



**PEIFER, HANSON & MULLINS, P.A.**

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OF COUNSEL

August 19, 2014

**BY EMAIL: [chavez\\_ri@aps.edu](mailto:chavez_ri@aps.edu)**

Mr. Rigo Chavez  
Director of Communications  
Albuquerque Public Schools  
Post Office Box 25704  
Albuquerque, New Mexico 87125

Re: IPRA request for report by Agnes Padilla

Dear Mr. Chavez:

Our firm represents the *Albuquerque Journal*, which made a request to Albuquerque Public Schools ("APS") for any report Agnes Padilla, an attorney with the Butt Thornton & Baehr P.C., law firm, has provided to the district. I have received your letter to the *Journal* dated August 8, 2014, in which you denied the *Journal's* request.

We are writing to request that APS immediately release the report, which is a public record under the New Mexico Inspection of Public Records Act ("IPRA"). Although your letter cites two bases for refusing to produce the report, you have not demonstrated that either justifies withholding the report in its entirety.

First, NMSA 1978 § 14-2-1(A)(3) is not applicable. As a starting point, any interpretation of this or any other provision of IPRA must be made in a manner faithful to the Legislature's stated purpose in enacting it:

Recognizing that a representative government is dependent upon an informed electorate, the intent of the legislature in enacting the Inspection of Public Records Act is to ensure, and it is declared to be the public policy of this state, that 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; *see also Bd. of Comm'rs v. Las Cruces Sun-News*, 134 N.M. 283, 292 (N.M. Ct. App. 2003) (“the core purposes of IPRA [are] to provide access to public information and thereby encourage accountability in public officials and employees).

Section 14-2-1(A)(3) is not a blanket “personnel exception.” It provides only a limited exemption for “letters or memorandums which are matters of opinion in personnel files or students’ cumulative files.” While conceivably the Padilla report may contain some of Ms. Padilla’s opinions, we find it implausible that the report contains only opinions. Although we obviously do not have access to the report, it likely contains factual data such as information obtained from witnesses, dates, references to documents, and other factual material. Such facts are not “matters of opinion” and are thus not protected by § 14-2-1(A)(3). And even if some of the report contains any matters of opinion protected by § 14-2-1(A)(3), IPRA requires APS to redact that information and provide the remainder of the report. *See* NMSA 1978 § 14-2-9 (“Requested public records containing information that is exempt and nonexempt from disclosure shall be separated by the custodian prior to inspection, and the nonexempt information shall be made available for inspection.”).

Second, your denial letter does not show that the entire report could qualify for protection under the attorney-client privilege. The fact that the report was prepared by an attorney does not cloak its entire contents in the attorney-client privilege. Rule 11-503 protects only confidential communications made for the purpose of facilitating the rendition of professional legal services to the client. The attorney-client privilege should only be applied to protected communications - not facts. *State ex rel. State Highway Comm'n v. Steinkraus*, 1966-NMSC-134, ¶ 4, 76 N.M. 617. To the extent that Ms. Padilla’s report contains factual information, it is not protected by the privilege and must be disclosed. Ms. Padilla’s legal advice or opinions may be redacted. “The party claiming privilege has the burden of establishing that a communication is protected.” *Santa Fe Pac. Gold Corp. v. United Nuclear Corp.*, 2007-NMCA-133, ¶ 13, 143 N.M. 215.

In addition, to the extent that APS has disclosed the report to any other person or entity, it has waived any possible attorney client privilege. Under Rule 11-511 NMRA, the attorney-client privilege is waived where the holder of the privilege “voluntarily discloses or consents to disclosure of any significant part of the matter or communication.” To determine whether the privilege applies, we request that you identify every person or entity to whom the report has been provided.

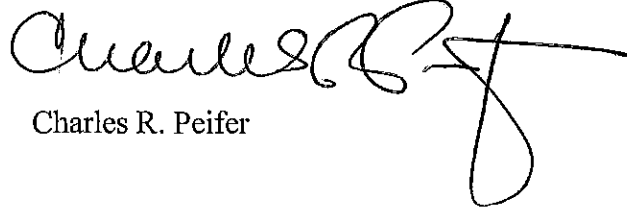
APS must acknowledge the acute public interest in the report. The report’s contents apparently led to the school district’s decision not only to accept the sudden resignation of its superintendent well in advance of the end of his written contract, but also to agree to pay him \$350,000. The teachers, students, and taxpayers of Albuquerque have a right to know the factual grounds for APS’ decision.

Mr. Rigo Chavez  
August 19, 2014  
Page 3

Because of the time-sensitive nature of this issue, we ask that you provide the report or otherwise respond within five (5) business days of this letter.

Very truly yours,

PEIFER, HANSON & MULLINS, P.A.

A handwritten signature in black ink, appearing to read "Charles R. Peifer", with a large, stylized flourish extending from the end of the signature.

Charles R. Peifer

CRP/ncd

cc: Arthur D. Melendres (via email: [amelendres@modrall.com](mailto:amelendres@modrall.com))



Rigo F. Chavez  
DIRECTOR

Charles Peifer  
Peifer, Hansen & Mullins, P.A.  
P.O. Box 25245  
Albuquerque, NM 87125

RECEIVED

AUG 29 2014

Aug. 25, 2014

-Sent via e-mail & U.S. Mail-

Dear Mr. Peifer:

This letter is in response to your letter received via e-mail Aug. 20, 2014, regarding my response to the Albuquerque Journal's request for documents under the NM Inspection of Public Records Act for a copy of the report by Agnes Padilla to the APS Board of Education regarding an investigation of personnel issues involving Winston Brooks.

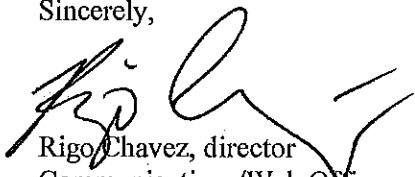
With regard to your contention that the provision of the NM Inspection of Public Records Act that exempts "matters of opinion in a personnel file" from disclosure (NMSA 1978 14-2-1(A)(3)) does not apply in this matter, I stand by the APS response that it does.

With regard to your contention that the provision of the NM Inspection of Public Records Act that exempts from disclosure documents "as otherwise provided by law (NMSA 1978 14-2-1(A)(9) in this case lawyer-client privilege, again I stand by the APS response that it does and therefore, the document is exempt from disclosure. Further, according to the "New Mexico Inspection of Public Records Act *Compliance Guide* (Seventh Edition - 2012 (Pages 18-19))" put out by the New Mexico Attorney General's Office, "SUPREME COURT RULES OF EVIDENCE Rule 11-503. Lawyer-client privilege: "A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications between himself and his lawyer, and between other specified persons, made to facilitate the rendition of professional legal services to the client.""

Finally, because the report by Ms. Padilla is an attorney work product, it is therefore exempt from disclosure under the Act.

If you have any additional questions, you may contact me at 880-3730.

Sincerely,

  
Rigo Chavez, director  
Communications/Web Office  
Custodian of Records



Cc: Analee Maestas, APS Board of Education; Brad Winter, APS Interim Superintendent; Brenda Yager, APS Board of Education; Ruben Hendrickson, APS Chief Operations Officer; Monica Armenta, APS Communications; Art Melendres, Modrall Law Firm; file

**PEIFER, HANSON & MULLINS, P.A.**

ATTORNEYS AND COUNSELORS AT LAW

20 FIRST PLAZA, SUITE 725

POST OFFICE BOX 25245

ALBUQUERQUE, NEW MEXICO 87125-5245

TELEPHONE (505) 247-4800

FACSIMILE (505) 243-6458

CHARLES R. PEIFER  
ROBERT E. HANSON  
MATTHEW R. HOYT  
LAURIEN ICEFFE  
MARK T. BAICER  
ELIZABETH K. RADOSEVICH  
MATTHEW E. JACKSON

CBERIANN L. MULLINS  
GREGORY P. WILLIAMS  
OF COUNSEL

September 2, 2014

**BY EMAIL: [chavez\\_ri@aps.edu](mailto:chavez_ri@aps.edu)**

Mr. Rigo Chavez  
Director of Communications  
Albuquerque Public Schools  
Post Office Box 25704  
Albuquerque, New Mexico 87125

Re: IPRA request for records related to Winston Brooks

Dear Mr. Chavez:

On behalf of the *Albuquerque Journal*, we request copies of the following public records pursuant to the New Mexico Inspection of Public Records Act:

1. All invoices or other billing records from Butt, Thornton & Baehr, P.C., since January 1, 2014.
2. Any agreement or contract between Albuquerque Public Schools or any member of the Albuquerque Public Schools Board of Education and Butt, Thornton & Baehr, P.C.
3. All documents generated by or received by any member of the Albuquerque Public Schools Board of Education concerning the basis for the Board's decision to discuss terminating the employment of Winston Brooks.
4. All documents referencing any complaints or allegations of misconduct regarding Winston Brooks or Ann Brooks made to APS or any member of the APS Board of Education since January 1, 2014.

If you do not have these public records, please let me know and forward to the appropriate records custodian or person. We agree to pay the applicable fees for copying and transmitting the records. If the charges will exceed \$100.00, please call me to discuss. I

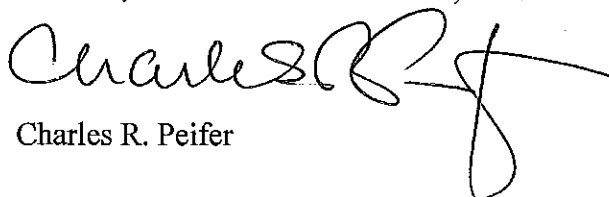


Mr. Rigo Chavez  
September 2, 2014  
Page 2

understand that we may be asked to pay any copying fees in advance. Thank you for your prompt attention to this matter.

Very truly yours,

PEIFER, HANSON & MULLINS, P.A.

A handwritten signature in black ink, appearing to read "Charles R. Peifer". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Charles R. Peifer

CRP/ncd



**PEIFER, HANSON & MULLINS, P.A.**

ATTORNEYS AND COUNSELORS AT LAW

20 FIRST PLAZA, SUITE 725

POST OFFICE BOX 25245

ALBUQUERQUE, NEW MEXICO 87125-5245

TELEPHONE (505) 247-4800

FACSIMILE (505) 243-0458

CHARLES R. PEIFER  
ROBERT E. HANSON  
MATTHEW R. HOYT  
LAUREN KRIEPE  
MARK T. BAKER  
ELIZABETH K. RADOSEVICH  
MATTHEW D. JACKSON

CBERIANN L. MULLINS  
GREGORY P. WILLIAMS  
OF COUNSEL

September 2, 2014

**BY EMAIL: [chavez\\_ri@aps.edu](mailto:chavez_ri@aps.edu)**

Mr. Rigo Chavez  
Director of Communications  
Albuquerque Public Schools  
Post Office Box 25704  
Albuquerque, New Mexico 87125

Re: IPRA request for records related to Winston Brooks

Dear Mr. Chavez:

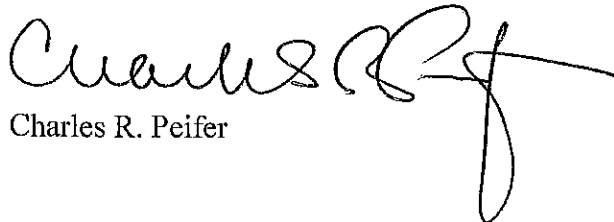
On September 2, 2014, we sent you a request, pursuant to the New Mexico Inspection of Public Records Act, for copies of certain public records. A copy of that request is attached.

We have not received the records from APS or any written response. Pursuant to NMSA 1978 § 14-2-8(D), upon receipt of the response, APS was required to permit the inspection immediately or as soon as practicable under the circumstances. Because the inspection was not permitted within three business days, APS was required to explain in writing when the records would be available for inspection or when it would respond to the request. APS has not done so.

We would appreciate your attention to this matter and reserve all rights under the Act.

Very truly yours,

PEIFER, HANSON & MULLINS, P.A.



Charles R. Peifer

CRP/mcd



**From:** [Naomi Demolli](#)  
**To:** ["chavez\\_ri@aps.edu"](mailto:chavez_ri@aps.edu)  
**Subject:** IPRA request for records related to Winston Brooks  
**Date:** Tuesday, September 09, 2014 10:50:19 AM  
**Attachments:** [2014-09-09 Ltr CRP to Chavez-IPRA request follow-up.pdf](#)  
[2014-09-02 Ltr CRP to Chavez-IPRA Request, billing, etc..pdf](#)

---

Dear Mr. Chavez:

Attached please find letter from Mr. Peifer and the enclosure referenced therein.

Respectfully,

*Naomi C. Demolli*

Legal Assistant to Charles R. Peifer, Cerianne L. Mullins & Gregory P. Williams  
Peifer, Hanson & Mullins, P. A.  
Post Office Box 25245  
Albuquerque, NM 87125-5245  
Office: 505-247-4800  
Fax: 505-243-6458

**DISCLAIMER:**

This e-mail is confidential and intended for the addressee only. If you have received it in error, you are on notice of its status. Please notify us immediately by reply e-mail and then delete this message from your system. Please do not copy it or use it for any purpose, or disclose its contents to any other person. Any views or opinions expressed in this e-mail may be solely those of the author and are not necessarily those of Peifer, Hanson & Mullins, P.A.



**From:** [Chavez, Rigo F](#)  
**To:** [Naomi Demolli](#)  
**Subject:** Request for records related to Winston Brooks  
**Date:** Thursday, September 11, 2014 8:06:02 AM

---

Charles Peifer  
Peifer, Hansen & Mullins, P.A.  
P.O. Box 25245  
Albuquerque, NM 87125

Sept. 9, 2014

*-Sent via e-mail & U.S. Mail-*

Dear Mr. Peifer:

This letter is in response to your letter received via e-mail Sept. 3, 2014, regarding your request on behalf of the Albuquerque Journal for documents under the NM Inspection of Public Records Act for billing records from Butt, Thornton and Baehr, contracts between the district and Butt, Thornton and Baehr, documents relating to the termination of former Albuquerque Public Schools Superintendent Winston Brooks and complaints about Winston Brooks or Ann Brooks made to any member of the APS Board of Education.

With regard to your request for "all invoices or other billing records from Butt, Thornton & Baehr, P.C., since January 1, 2014," I have asked the APS Risk Management Office for any documents responsive to this request and will let you know within the 15 days allowed by the Act of any documents located. If any responsive documents exist, they will be reviewed to determine whether they can be produced.

With regard to your request for any agreement or contract between Albuquerque Public Schools or any member of the Albuquerque Public Schools Board of Education and Butt, Thornton & Baehr, P.C.," I have received a copy of a document responsive to this request from the APS Board of Education and it is available for your inspection. Please call my office at 880-3730 to schedule a mutually agreeable time for you to inspect this document.

With regard to your request for "all documents generated by or received by any member of the Albuquerque Public Schools Board of Education concerning the basis for the Board's decision to discuss terminating the employment of Winston Brooks," I requested information related to this request from the APS Board of Education President Dr. Analee Maestas and will let you know within the 15 days allowed by the Act of any documents located. If any responsive documents exist, they will be reviewed to determine whether they can be produced.

With regard to your request for "all documents referencing any complaints or allegations of misconduct regarding Winston Brooks or Ann Brooks made to APS or any member of the APS Board of Education since January 1, 2014," I requested information related to this request from the APS Board of Education President Dr. Analee Maestas and the APS Human Resources Department



and will let you know within the 15 days allowed by the Act of any documents located. If any responsive documents exist, they will be reviewed to determine whether they can be produced.

Should you want copies of any of the documents located, the district charges \$.50 (50 cents) per page.

If you have any additional questions, you may contact me at 880-3730.

Sincerely,

Rigo Chavez, director  
Albuquerque Public Schools Communications/  
Custodian of Records  
Suite 630-E, 6400 Uptown Blvd. NE  
P.O. Box 25704  
Albuquerque, NM 87125-0704  
(505) 881-8421 ext. 2  
(505) 872-8864 (fax)

**PEIFER, HANSON & MULLINS, P.A.**

ATTORNEYS AND COUNSELORS AT LAW

20 FIRST PLAZA, SUITE 725

POST OFFICE BOX 25245

ALBUQUERQUE, NEW MEXICO 87125-5245

TELEPHONE (505) 247-4800

FACSIMILE (505) 243-0458

CHARLES R. PEIFER  
ROBERT B. HANSON  
MATTHEW R. HOYT  
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MARK T. BAKER  
ELIZABETH K. RADOSEVICH  
MATTHEW E. JACKSON

CHRISTIANNE L. MULLINS  
GREGORY P. WILLIAMS  
OF COUNSEL

September 19, 2014

**BY EMAIL: [chavez\\_ri@aps.edu](mailto:chavez_ri@aps.edu)**

Mr. Rigo Chavez  
Director of Communications  
Albuquerque Public Schools  
Post Office Box 25704  
Albuquerque, New Mexico 87125

Re: IPRA request for records related to Winston Brooks

Dear Mr. Chavez:

On Sept. 3, 2014, we sent you a request, pursuant to the New Mexico Inspection of Public Records Act, for copies of certain public records. Pursuant to NMSA 1978 § 14-2-8(D), upon receipt of the response, APS was required to permit the inspection immediately or as soon as practicable under the circumstances, but not later than 15 days after the request. Because the inspection was not permitted within three business days, APS was required to explain in writing when the records would be available for inspection or when it would respond to the request. On September 11, 2014, you sent this firm a communication which included the following statements:

*With regard to your request for "all invoices or other billing records from Butt, Thornton & Baehr, P.C., since January 1, 2014," I have asked the APS Risk Management Office for any documents responsive to this request and will let you know within the 15 days allowed by the Act of any documents located. If any responsive documents exist, they will be reviewed to determine whether they can be produced.*

...

*With regard to your request for "all documents generated by or received by any member of the Albuquerque Public Schools Board of Education concerning the*



Mr. Rigo Chavez  
September 19, 2014  
Page 2

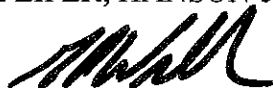
*basis for the Board's decision to discuss terminating the employment of Winston Brooks," I requested information related to this request from the APS Board of Education President Dr. Analee Maestas and will let you know within the 15 days allowed by the Act of any documents located. If any responsive documents exist, they will be reviewed to determine whether they can be produced.*

*With regard to your request for "all documents referencing any complaints or allegations of misconduct regarding Winston Brooks or Ann Brooks made to APS or any member of the APS Board of Education since January 1, 2014," I requested information related to this request from the APS Board of Education President Dr. Analee Maestas and the APS Human Resources Department and will let you know within the 15 days allowed by the Act of any documents located. If any responsive documents exist, they will be reviewed to determine whether they can be produced.*

The 15-day statutory period for providing documents has expired. We would appreciate your attention to this matter and reserve all rights under the Act.

Very truly yours,

PEIFER, HANSON & MULLINS, P.A.



Gregory P. Williams

GPW/ncd



Rigo F. Chavez  
DIRECTOR

Gregory P. Williams  
Peifer, Hansen & Mullins, P.A.  
P.O. Box 25245  
Albuquerque, NM 87125

Sept. 26, 2014

*-Sent via e-mail & U.S. Mail-*

Dear Mr. Williams:

This letter is a follow of to my letters of Sept. 10 and Sept. 11, 2014, and your e-mail received Sept. 19, 2014, regarding your request received Sept. 3, 2014, requesting records on behalf of the Albuquerque Journal under the NM Inspection of Public Records Act about billings from Butt, Thornton and Baehr, contracts between the district and Butt, Thornton and Baehr, documents relating to the termination of former Albuquerque Public Schools Superintendent Winston Brooks and complaints about Winston Brooks or Ann Brooks made to any member of the APS Board of Education.

With regard to your request for "all invoices or other billing records from Butt, Thornton & Baehr, P.C., since January 1, 2014," I asked the APS Risk Management Office for any documents responsive to this request and they responded that they have not received any billings from Butt, Thornton & Baehr, P.C. since Jan. 1, 2014, therefore I have no records to provide.

With regard to your request for any agreement or contract between Albuquerque Public Schools or any member of the Albuquerque Public Schools Board of Education and Butt, Thornton & Baehr, P.C.," I provided a copy of an agreement to Albuquerque Journal reporter Jon Swedien on Sept. 11, 2014. I had previously provided him with a copy as well. If you would like another copy, please let me know.

With regard to your request for "all documents generated by or received by any member of the Albuquerque Public Schools Board of Education concerning the basis for the Board's decision to discuss terminating the employment of Winston Brooks," I requested information related to this request from the APS Board of Education President Dr. Analee Maestas and she responded that the only documents were related to the superintendent's annual performance review and those prepared by attorney Agnes Padilla and are therefore exempt from disclosure under the Act: "14-2-1. Right to Inspect Public Records; Exceptions. A. Every person has a right to inspect public records of this state except: (3) letters or memorandums which are matters of opinion in personnel files or students' cumulative files." The report by Ms. Padilla also is exempt under the provision of the Act: "(8) as otherwise provided by law." In this case, the law would be Supreme Court Rules of Evidence: Rule 11-503. Lawyer-client privilege "A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications between himself and his lawyer, and between other specified persons, made to facilitate the rendition of professional legal services to the client." Finally, because the report by Ms. Padilla is an attorney work product, it is therefore exempt from disclosure under the Act. Therefore, your request is denied by me as custodian of records for the Albuquerque Public Schools and by Dr. Maestas as president of the Albuquerque Public Schools Board of Education.

Request for contract, billings, complaints – 2

With regard to your request for “all documents referencing any complaints or allegations of misconduct regarding Winston Brooks or Ann Brooks made to APS or any member of the APS Board of Education since January 1, 2014,” I requested information related to this request from the APS Board of Education President Dr. Analee Maestas and the APS Human Resources Department. Karen Rudys, APS Interim Asst. Supt. for Human Resources, responded that her department had not received any documents therefore; I have no records to provide.

Dr. Maestas responded that the only documents she had received came from the district’s fraud, waste and abuse anonymous tip line (Ethical Advocate) and the report from attorney Agnes Padilla. The anonymous tip is exempt from disclosure because it is a part of Mr. Brooks personnel file and is a matter of opinion. Therefore, your request is denied by me as custodian of records for the Albuquerque Public Schools and by Dr. Maestas as president of the Albuquerque Public Schools Board of Education under the provisions of the NM Inspection of Public Records Act 14-2-1. Right to Inspect Public Records Exceptions. “A. Every person has a right to inspect public records of this state except: (3) letters or memorandums which are matters of opinion in personnel files or students’ cumulative files. The report from attorney Padilla is exempt as outlined above.

If you have any additional questions, you may contact me at 880-3730.

Sincerely,



Rigo Chavez, director  
Communications/Web Office  
Custodian of Records

Cc: Analee Maestas, APS Board of Education; Brad Winter, APS Interim Superintendent; Brenda Yager, APS Board of Education; Ruben Hendrickson, APS Chief Operations Officer; Karen Rudys, APS Human Resources; Monica Armenta, APS Communications; Tony Ortiz, Ortiz Law Firm; Art Melendres, Modrall Law Firm; file



---

**From:** Chandler, Johnny  
**Sent:** Tuesday, August 26, 2014 11:25 AM  
**To:** Chavez\_ri@aps.edu; armenta\_m@aps.edu  
**Subject:** KOB Eyewitness News 4 IPRA Request - Winston Brooks Investigation Report

To whom it may concern,  
KOB Eyewitness News 4 IPRA Request:

For the investigation report prepared for the Albuquerque Public School Board by attorney Agnes Padilla of Butt, Thornton & Baehr, P.C. about former Superintendent Winston Brooks.

KOB Eyewitness News 4 is also requesting any communication between an APS Board Member or employee and Agnes Padilla. Any and all emails and documents to or from any APS Board Member or employee or representative in regards the investigation report

Sincerely,

Johnny Chandler  
Managing Editor  
KOB Eyewitness News 4  
505-764-2453 (newsroom)  
505-290-0625 (cell)



---

**From:** Chavez, Rigo F [[mailto:chavez\\_ri@aps.edu](mailto:chavez_ri@aps.edu)]  
**Sent:** Thursday, August 28, 2014 9:46 AM  
**To:** Chandler, Johnny  
**Subject:** Winston Brooks Investigation Report

Johnny Chandler, managing editor  
KOB-TV  
4 Broadcast Plaza SW  
Albuquerque, NM 87102

Aug. 28, 2014

*-Sent via e-mail & U.S. Mail-*

Dear Mr. Chandler:

/ [SIC]

This letter is in response to your e-mail received on Aug. 25, 2014, requesting information under the NM Inspection of Public Records Act regarding an investigation by the Butt Thornton & Baehr law firm for the Albuquerque Public Schools.

With regard to your request for "the investigation report prepared for the Albuquerque Public School Board by attorney Agnes Padilla of Butt, Thornton & Baehr, P.C. about former Superintendent Winston Brooks," I have asked APS Board of Education President Analee Maestas for any information related to this request and she responded that the only investigation conducted by the Butt Thornton and Baehr law firm involves a personnel matter. Therefore, your request is denied by me as custodian of records for the Albuquerque Public Schools and by Dr. Maestas as president of the Albuquerque Public Schools Board of Education under the provisions of the NM Inspection of Public Records Act 14-2-1. Right to Inspect Public Records Exceptions. "A. Every person has a right to inspect public records of this state except: (3) letters or memorandums which are matters of opinion in personnel files or students' cumulative files;" and "(8) as otherwise provided by law." In this case, the law would be Supreme Court Rules of Evidence: Rule 11-503. Lawyer-client privilege "A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications between himself and his

lawyer, and between other specified persons, made to facilitate the rendition of professional legal services to the client.”

Finally, because the report by Ms. Padilla is an attorney work product, it is therefore exempt from disclosure under the Act.

With regard to your request for “any communications between any APS board member or employee and Agnes Padilla,” I have asked the APS Board of Education Office and the APS Information Technology Department for any communications and will let you know within the 15 days allowed by the Act of any documents located.

With regard to your request for “any and all emails and documents to or from any APS Board Member or employee or representative in regards the investigation report (sic),” I have asked the APS Board of Education Office and the APS Information Technology Department for any communications and will let you know within the 15 days allowed by the Act of any documents located.

Should you want copies of any documents located, the district charges \$.50 (50 cents) per page.

Also, I should note that under the NM Inspection of Public Records Act, anyone requesting is required to provide their, name, address and telephone number. Future requests made under the Act should contain this information: “14-2-8. Procedure for Requesting Records. C. A written request shall provide the name, address and telephone number of the person seeking access to the records...” Your request received on Tuesday, did not contain this information.

If you have any additional questions, you may call me at 880-3730.

Sincerely,

Rigo Chavez, director  
Albuquerque Public Schools Communications/  
Custodian of Records  
Suite 630-E, 6400 Uptown Blvd. NE  
P.O. Box 25704  
Albuquerque, NM 87125-0704  
(505) 881-8421 ext. 2  
(505) 872-8864 (fax)

---

**From:** Chavez, Rigo F [mailto:chavez\_ri@aps.edu]  
**Sent:** Wednesday, September 17, 2014 3:42 PM  
**To:** Chandler, Johnny  
**Subject:** Request for Butt, Thornton & Baehr Investigation

Johnny Chandler, managing editor  
KOB-TV  
4 Broadcast Plaza SW  
Albuquerque, NM 87102

Sept. 16, 2014

*-Sent via e-mail & U.S. Mail-*

Dear Mr. Chandler:

This letter is a follow up to my letter of Aug. 28, 2014, regarding your request for information under the NM Inspection of Public Records Act regarding an investigation by the Butt Thornton & Baehr law firm for the Albuquerque Public Schools.

With regard to your request for "any communications between any APS board member or employee and Agnes Padilla I asked the APS Board of Education Office and the APS Information Technology Department for any communications and they did not locate any documents responsive to your request.

With regard to your request for "any and all emails and documents to or from any APS Board Member or employee or representative in regards the investigation report (sic)," I asked the APS Board of Education Office and the APS Information Technology Department for any communications and they provided me with five documents that were responsive to your request. You may call my office at 880-3730 to schedule a mutually agreeable time for you to review these documents or I can mail you a CD with a copy of these documents. Should you want a copy of the CD, the district charges \$5 per CD.

Should you want copies of any documents located, the district charges \$.50 (50 cents) per page.

If you have any additional questions, you may call me at 505-880-3730.

Sincerely,  
Rigo Chavez, director  
Albuquerque Public Schools Communications/  
Custodian of Records  
Suite 630-E, 6400 Uptown Blvd. NE  
P.O. Box 25704



---

**From:** Chandler, Johnny  
**Sent:** Wednesday, September 03, 2014 11:22 AM  
**To:** Chavez\_ri@aps.edu  
**Subject:** KOB Eyewitness News 4 IPRA Request

Rigo Chavez,

**KOB Eyewitness News 4 IPRA request for all emails between Superintendent Winston Brooks and Communications Director Monica Armenta from the last 4 months of Winston Brooks employment.**

Sincerely,

Johnny Chandler  
Managing Editor  
KOB Eyewitness News 4  
505-764-2453 newsroom  
505-290-0625 cell



---

**From:** Chavez, Rigo F [mailto:chavez\_ri@aps.edu]  
**Sent:** Thursday, September 11, 2014 8:06 AM  
**To:** Chandler, Johnny  
**Subject:** Request for Brooks,Armenta e-mails

Johnny Chandler, managing editor  
KOB-TV  
4 Broadcast Plaza SW  
Albuquerque, NM 87102

Sept. 10, 2014

*-Sent via e-mail & U.S. Mail-*

Dear Mr. Chandler:

This letter is in response to your e-mail received on Sept. 3, 2014, requesting information under the NM Inspection of Public Records Act regarding e-mails between the Albuquerque Public Schools superintendent and Monica Armenta.

With regard to your request for "all emails between Superintendent Winston Brooks and Communications Director Monica Armenta from the last 4 months of Winston Brooks employment," I have asked the APS Information Technology Department for any documents responsive to your request and will let you know within the 15 days allowed by the Act of any documents located.

Also, as I have noted before under the NM Inspection of Public Records Act, anyone requesting is required to provide their, name, address and telephone number. Future requests made under the Act should contain this information: "14-2-8. Procedure for Requesting Records. C. A written request shall provide the name, address and telephone number of the person seeking access to the records..." Your request received on Wednesday did not contain this information.

If you have any additional questions, you may call me at 880-3730.

Sincerely,

Rigo Chavez, director  
Albuquerque Public Schools Communications/  
Custodian of Records  
Suite 630-E, 6400 Uptown Blvd. NE  
P.O. Box 25704



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**From:** Chavez, Rigo F [mailto:chavez\_ri@aps.edu]  
**Sent:** Wednesday, September 17, 2014 3:44 PM  
**To:** Chandler, Johnny  
**Subject:** Request for Brooks,Armenta e-mails

Johnny Chandler, managing editor  
KOB-TV  
4 Broadcast Plaza SW  
Albuquerque, NM 87102

Sept. 17, 2014

*-Sent via e-mail & U.S. Mail-*

Dear Mr. Chandler:

This letter is in response to your e-mail received on Sept. 3, 2014, requesting information under the NM Inspection of Public Records Act regarding e-mails between the Albuquerque Public Schools superintendent and Monica Armenta.

With regard to your request for "all emails between Superintendent Winston Brooks and Communications Director Monica Armenta from the last 4 months of Winston Brooks employment," I asked the APS Information Technology Department for any documents responsive to your request and they have provided me with documents that are responsive to your request. Please call my office at 880-3730 to schedule a mutually agreeable time for you to review these documents.

Should you want copies of any of the documents located, the district charges \$.50 (50 cents) per page.

If you have any additional questions, you may call me at 880-3730.

Sincerely,

Rigo Chavez, director  
Albuquerque Public Schools Communications  
Suite 630-E, 6400 Uptown Blvd. NE  
P.O. Box 25704  
Albuquerque, NM 87125-0704  
(505) 881-8421 ext. 2  
(505) 872-8864 (fax)



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**From:** Chavez, Rigo F [mailto:chavez\_ri@aps.edu]  
**Sent:** Thursday, September 11, 2014 8:08 AM  
**To:** Chandler, Johnny  
**Subject:** Request for Agnes Padilla bills

Johnny Chandler, managing editor  
KOB-TV  
4 Broadcast Plaza SW  
Albuquerque, NM 87102

Sept. 10, 2014

*-Sent via e-mail & U.S. Mail-*

Dear Mr. Chandler:

This letter is in response to your e-mail received on Sept. 3, 2014, requesting information under the NM Inspection of Public Records Act regarding bills from Agnes Padilla to the Albuquerque Public Schools.

With regard to your request for "the bills from Agnes Padilla, the attorney who conducted the investigation on behalf of the APS Board President," I am assuming you mean the investigation regarding former APS Superintendent Winston Brooks. If this is correct, please let me know. If these is some other "investigation" you are referring to, please let me know that as well. You can call me at 880-3730

Also, as I have noted before under the NM Inspection of Public Records Act, anyone requesting is required to provide their, name, address and telephone number. Future requests made under the Act should contain this information: "14-2-8. Procedure for Requesting Records. C. A written request shall provide the name, address and telephone number of the person seeking access to the records..." Your request received on Wednesday did not contain this information.

If you have any additional questions, you may call me at 880-3730.

Sincerely,

Rigo Chavez, director  
Albuquerque Public Schools Communications/  
Custodian of Records  
Suite 630-E, 6400 Uptown Blvd. NE  
P.O. Box 25704





**From:** Chandler, Johnny  
**Sent:** Wednesday, September 17, 2014 1:21 PM  
**To:** Chavez\_ri@aps.edu  
**Subject:** KOB Eyewitness News 4 IPRA Request

Rigo Chavez,

**KOB Eyewitness News 4 IPRA request for the bills from Agnes Padilla, the attorney who conducted the investigation regarding former APS Superintendent Winston Brooks on behalf of the APS Board President.**

Sincerely,

Johnny Chandler  
Managing Editor  
4 Broadcast Plaza SW  
Albuquerque, NM 87104  
505-764-2453 newsroom  
505-290-0625 cell

