

March 2024

FOG Light

CLE

The 2024 Continuing Legal Education (CLE) seminar will be held on Nov. 1, 2024, at the State Bar Association Building. Amanda Lavin, FOG legal director, and the legal committee are working on the agenda. In addition to the on-site sessions, the CLE will be available online.

Dixon

The Dixon planning committee has set Oct. 15, 2024, as the date for the William S. Dixon Award luncheon. FOG will send out notices soon for sponsorship opportunities.

Nominations for the 2024 awards will open in June.

Trainings

- Do you know how many records are subject to inspection in New Mexico?
- Have you ever received a denial to a request to inspect a record?
- Do you want to know more about your rights regarding the Inspection of Public Records Act and the Open Meetings Act?

Register today for the New Mexico Foundation for Open Government's free live virtual Bootcamp to acquaint you and provide with updates about the Inspection of Public Records Act and the Open Meetings Act. The live session is free and takes about one hour to complete. It will help you understand some of the basics of open meetings, what is and is not a public record, and exemptions to the transparency laws and lots of tips to help you do your job better. The session gets underway at 10 a.m. on Tuesday, April 26. To register, send an email to info@nmfog.org.

FOG spent a recent morning in Santa Fe. FOG presented to members of the Santa Fe County Sheriff's Office. Ten members of the office attended the overview focused on IPRA. Also, this month, FOG presented Bootcamp training for The Paper, the Edgewood Independent, the Sandoval Signpost and the Corrales Comment employees. Pat Davis, owner, thanked FOG for the presentation to his staffs and then he officially joined FOG.

FOG conducted the monthly online Bootcamp in late February with 10 participants including individuals from KUNM and SkyPack Media. Bootcamp was also presented during an NMBA media training session in February.

Call or go online at info@nmfog.org to schedule a training at your facility.

Sunshine Thank yous

Thank you to everyone who participated in Sunshine Week '24. Thank you to all of the publications that ran the FOG print ad. Your donation was very much appreciated.

A big thank you to everyone who attended the FOG mixer on March 12 at the ABQ Press Club. Thirty-two like-minded souls came to mix, talk and visit. We have already started discussions concerning holding a similar event in Santa Fe this summer.

Op-eds and articles appeared in papers all across the state. We added a new video to the Instagram account with Greg Williams, former FOG president.

FOG was featured on Tuesday with Bob Clark at KKOB Radio. FOG was also on the radio with Richard Eeds in Santa Fe, KVSF on Wednesday, March 13. You can still catch a listen on each station's respective websites.

Thanks to Chris Keller for creating an IPRA request letter generator. See it here.

<https://nmfog.org/ipra-letter-creator/>

Transparency and the Courts

Henry v NM Livestock Board

The state Court of Appeals issued a favorable (memorandum) IPRA opinion earlier this month in the case of Nancy Henry v New Mexico State Livestock Board No.

A-1-CA-40127. The court reversed the district court's denial of Petitioner's requests for statutory per diem damages, compensatory damages, attorneys' fees, and costs, and remanded for reconsideration of those requests as follows. "Because Respondents wrongfully denied Petitioner's IPRA request and she was successful in her mandamus action, Petitioner is entitled to reasonable attorneys' fees and costs and, if proven by Petitioner, compensatory damages under Section 14-2-12(D)."

PNM v The Santa Fe New Mexican

The state Supreme Court heard oral arguments recently in an ongoing legal case involving the Santa Fe New Mexican and the Public Service Company of New Mexico (PNM). While the information in the records was published many years ago in *The New Mexican*, PNM and two coal companies argued against the newspaper's First Amendment, counterclaims by pointing to rules that protect citizens' rights to influence the passage or enforcement of laws.

Court records show a district judge granted PNM's motion to dismiss the case and the state Court of Appeals upheld the dismissal in 2022, finding the *New Mexican* had failed to prove the companies' initial claims were baseless.

The newspaper then asked the state Supreme Court to review the case and overturn the Court of Appeals decision, which the paper argued misapplied a law designed to protect citizens' right to petition their government — not private companies seeking to protect private interests.

"If left undisturbed, the Court of Appeals' decision risks imposing a nearly insurmountable pleading burden on future litigants which, like *The New Mexican*, must

defend against litigation brought to suppress public debate,” Charles Peifer, attorney for the newspaper, wrote in his October 2022 petition asking the state’s high court to consider the case. Peifer is a FOG board member.

“The decision also incentivizes litigants to file groundless lawsuits against media organizations knowing that they can use [a rule] itself intended by this Court to be a vehicle to protect the First Amendment, to impose significant litigation costs on the media, knowing that they will be immunized from liability for filing baseless lawsuits,” he wrote. The case is New Mexico Public Regulation Commission; Public Service Company Of New Mexico; Westmoreland Coal Company; And Bhp Billiton New Mexico v. The New Mexican, Inc, No. A-1-CA-38898 9.

Upcoming Board Meeting

The next meeting of the FOG board of directors will be held on Friday, April 26, 2024, at 12 p.m. Meetings are open to the public. Should you want to attend, send a request to info@nmfog.org.

Open-government questions? Call 505-764-3750