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December 7, 2022

CONTACT

Patrick M. Brenner
press@southwestpolicy.com
855-411-7774 x 5001

New Mexico Secretary of State: “IPRA Does Not Apply”

Rio Rancho, NM—On November 28, 2022, the New Mexico Secretary of State (NMSOS) filed a motion to dismiss the case SPPI v. New Mexico Secretary of State. The grounds? Through its counsel, the Secretary of State alleges that “IPRA does not apply”.

The outrageous argument stems from the NMSOS’s wrongful interpretation of the original request under the Inspection of Public Records Act (IPRA). NMSOS incorrectly qualified the request in its entirety as a request for voter data. SPPI affirms that the original request, self-evident by the plain language used in the request, was for a database of contact information.

While the original request was properly filed, it was improperly interpreted and wrongfully denied. This constitutes a series of failures throughout this process, despite repeated attempts by SPPI to communicate with NMSOS. Attempts to amicably resolve the problem concluded when NMSOS failed to respond altogether. From the New Mexico Attorney General’s IPRA Compliance Guide:

“If a custodian does not deliver or mail a written explanation of denial within 15 days of receiving a request to inspect, an action to enforce the Act may be brought and damages awarded to the requester.”

SPPI has provided NMSOS ample opportunity to respond. Now that the NMSOS has failed to respond and action has been brought to compel a response, the NMSOS has made the outrageous assertion that the office itself answers only to the Elections Code, rather than the Inspection of Public Records Act itself. All requests were filed by SPPI citing IPRA.

Should the court accept this colorful and creative interpretation of the law, a treacherous precedent would allow NMSOS and other state entities to circumvent future public records requests under the guise that “[c]onflicts between general and specific statutes are resolved by giving effect to the specific statute.”

“If the court dismisses this case, they are granting the Secretary of State permission to use the untenable legal premise that a request for public record can be deemed as a ‘conflict’ under another statute on a case-by-case basis, effectively negating the public body’s obligation to respond,” says Patrick Brenner, president of SPPI. “Invoking this argument is a dangerous threat to transparency and our very democracy.”

“Nothing we have requested is outlandish, and the Attorney General explicitly identifies specific procedures for inspecting databases,” continued Brenner. “The Secretary of State should remember 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.”

The Southwest Public Policy Institute implores that the New Mexico Secretary of State fulfill its obligations under the law with a stern reminder that access to public records is one of the fundamental rights afforded to people in a democracy.

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