

**IN THE CIRCUIT COURT OF [NAME] COUNTY, ARKANSAS
[DIVISION]**

[Student's Name])	
)	
Plaintiff,)	
)	Case No.:
v.)	
)	
[Name of Agency or Entity])	
)	
Defendant.)	
)	

**COMPLAINT FOR VIOLATION OF THE ARKANSAS FREEDOM OF
INFORMATION ACT OF 1967**

This is a complaint to enforce Plaintiff's right to inspect and copy public records pursuant to the Arkansas Freedom of Information Act of 1967 ("FOIA"), Ark. Code Ann. §§ 25-19-101, *et seq.* Plaintiff alleges as follows:

PARTIES

1. Plaintiff [Student Name] is a journalist, and was [title] of the student newspaper at [college or university], [newspaper name], during most of the events at issue in this action. Plaintiff is a resident of [Name] County, Arkansas, and a citizen of the State of Arkansas.
2. Defendant [Name of Agency or Entity] is [describe the nature of the entity (e.g., agency of the State of Arkansas; agency of a local government; agency that is wholly supported or expends public funds) and the entity's role]. Defendant is required by law to keep or otherwise keeps records relating to the performance of its official duties.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to Ark. Code Ann. § 25-19-107(a).

4. Venue is proper in this judicial district pursuant to [Use one of the following alternatives:
(a) If defendant is a state agency, and suit is being filed in Pulaski County Circuit Court: Ark. Code Ann. § 25-19-107(a), because Defendant is an agency, department or institution of the State of Arkansas; (b) If defendant is a state agency, and suit is being filed in the county where Plaintiff resides: Ark. Code Ann. § 25-19-107(a), because Defendant is an agency, department or institution of the State of Arkansas and Plaintiff resides in this judicial district; (c) If defendant is a public school district: Ark. Code Ann. § 16-60-109, because Defendant is a public school district and Defendant is located in this judicial district; (d) if defendant is a local government agency or non-governmental entity: Ark. Code Ann. § 16-60-101(a), because Defendant resides in this judicial district; OR Ark. Code Ann. § 16-60-101(a), because Plaintiff resides in this judicial district.]

FACTUAL ALLEGATIONS

5. Defendant maintains “public records” within the meaning of Ark. Code Ann. § 25-19-103(6)(a) and is subject to the provisions of the Arkansas FOIA, Ark. Code Ann. §§ 25-19-101, *et seq.*
6. On [date], Plaintiff submitted a written request for certain public records to [name of Custodian], who is an employee of Defendant and the “custodian” of the requested records within the meaning of Ark. Code Ann. §§ 25-19-103(1)(A) and 25-19-105(a)(2). Plaintiff’s request asked [Custodian’s name] to [Alternatives: (1) make the following public records available for inspection and copying; or (2) provide Plaintiff with copies of the following public records]: [describe the records that were requested]. A true and correct copy of Plaintiff’s request is attached to this Complaint as Exhibit 1.

7. [Alternative 1 (if Defendant responded to the records request): By [electronic mail/letter/facsimile] dated [date], Defendant responded to Plaintiff's request for public records by [describe key aspects of response, including (a) which documents, if any, Defendant agreed to produce, (b) which documents Defendant refused to produce; and (c) Defendant's expressed reason(s) for not producing documents.] A true and correct copy of Defendant's response is attached to this Complaint as Exhibit 2.]
8. [Alternative 2 (if Defendant has not responded to the records request): Defendant has not responded to Plaintiff's request for public records, and has therefore deprived Plaintiff of the rights granted by Ark. Code Ann. §§ 25-19-105(a), 25-19-105(d) and 25-19-105(e).]
9. [If applicable, describe any further communication with Defendant in chronological order, and the substance of communications. The communications may show the agency's unreasonable delay in responding to the request, its denial of all or part of the request, or the charging of excessive fees. If the communications were in writing, attach copies as additional exhibits to the complaint.]
10. Defendant has not given Plaintiff access to all requested public records in Defendant's custody or control that are subject to disclosure under the Arkansas FOIA. In particular, Plaintiff knows, or believes based on the best available information, that Defendant possesses but has not produced the following; [describe what has been withheld].

CLAIMS FOR RELIEF

Count One: Violation of the Arkansas FOIA

11. The allegations set forth in the foregoing paragraphs are incorporated herein by reference.
12. The Arkansas FOIA, Ark. Code Ann. § 25-19-105(a)(2), provides: "A citizen may make a request to the custodian to inspect, copy, or receive copies of public records." The statute

provides that “[a]ll records maintained in public offices or by public employees within the scope of their employment shall be presumed to be public records.” Ark. Code Ann. § 25-19-103(6)(A).

13. The records that Plaintiff requested in Exhibit 1 are public records within the meaning of Ark. Code Ann. §§ 25-19-103(6)(A) and 25-19-105(a)(1)(A), and are not subject to any exemption from disclosure.
14. Defendant has refused to give Plaintiff access to or copies of [Alternative 1: any of the records Plaintiff requested. Alternative 2: the following documents that Plaintiff requested: [describe what was withheld].]
15. [If there is an unreasonable delay in responding, rather than an outright refusal to produce, describe the delay: Defendants violated the Arkansas FOIA, Ark. Code Ann. §§ 25-19-105(a) and 25-19-105(e), by not producing the requested records promptly, by not producing the requested records within three working days, and by not producing the requested records within a reasonable time.]
16. [If there is a complaint about the amount of costs charged for copies: Under the Arkansas FOIA, upon a citizen’s request for copies and payment of any required fees, the agency must furnish copies of public records if it has the necessary duplicating equipment. Ark. Code Ann. § 25-19-105(d)(2)(A). Except as provided by statute, “any fee for copies shall not exceed the actual costs of reproduction . . .” Ark. Code Ann. § 25-19-105(d)(3)(A)(i).]
17. [If applicable, describe how the Agency charged more than the actual costs of copying for any production it did make.]
18. In refusing to timely produce requested public records, Defendant asserted that [describe any rationale provided, and why the rationale is unfounded].

[Note: The Arkansas FOIA exempts specified records and contains a “catch-all” exemption that incorporates confidentiality provisions of other statutes. Ark. Code Ann. § 25-10-105(a)-(c). If a record does not fall squarely within an exemption, it must be disclosed.]

19. By failing to give Plaintiff access to and copies of requested public records within a reasonable time, Defendant has violated and is continuing to violate Plaintiff’s rights under Ark. Code Ann. § 25-19-10-105.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court:

1. Order Defendant to provide Plaintiff with the requested public records;
2. Award Plaintiff reasonable attorneys’ fees and costs; and
3. Order such additional relief as the Court may deem just and proper.

DATED this the ___ day of [month], [year].

Respectfully submitted,

[Plaintiff’s Lawyer], Esq.
(Arkansas Bar No. [#])

Lawyer’s Firm
Street Address
City, State Zip
Phone
Email

Exhibit 1
[[Student Last Name]'s request letter]

Attachment 2

[[Name of Defendant]'s response to [Student Last Name]'s request]