

1 [Lawyer's Name], State Bar No. [#]
2 [Firm Name]
3 [Address]
4 [City, State Zip]
5 [Phone] [Fax]
6 [E-mail]

7 Attorney for [STUDENT NAME]

8 SUPERIOR COURT OF CALIFORNIA,
9 COUNTY OF [NAME]

10	[Student Name])	CASE NO.:
11)	
12	Plaintiff,)	COMPLAINT FOR DECLARATORY AND
13	v.)	INJUNCTIVE RELIEF AND VERIFIED
14	[California State Agency])	PETITION FOR WRIT OF MANDATE
15	Defendant.)	

16
17 **INTRODUCTION**

18 This is a lawsuit to enforce the right to inspect public records pursuant to Article I, § 3, of
19 the California Constitution and the California Public Records Act (“CPRA”), Cal. Gov’t Code
20 § 6250 *et seq.* Plaintiff [Student Name], a California journalist, requested records from
21 Defendant, [California State Agency], relevant to [description of issue]. [Describe the issue’s
22 importance]. Through [his/her] reporting, [Student Name] seeks to inform the public about
23 [description of events that caused the issue]. Regrettably, [California State Agency] has met
24 [Mr./Ms.] [Student Last Name]’s requests for records with obstruction, delay, and at times
25 outright misrepresentations. Fully [#] months after [Mr./Ms.] [Student Last Name] first
26 requested the public records necessary for [his/her] reporting, Defendant [California State
27 Agency] continues without lawful justification to withhold records that indisputably are subject
28 to timely production under the California Public Records Act (“CPRA”). [Student Last Name]
29 consequently requires this Court’s intervention and an award of attorney fees and costs.

1 **JURISDICTION AND VENUE**

- 2 1. This Court has jurisdiction under Cal. Gov't Code § 6258 and Cal. Civ. Proc. Code
3 §§ 1060, 1085.
4 2. Venue is proper in this Court pursuant to Cal. Gov't Code § 6259 and Cal. Civ. Proc.
5 Code §§ 393, 394(a).
6

7 **PARTIES**

- 8 1. Plaintiff [Student Name] is a journalist, and was [title] of the student newspaper at
9 [college or university], [newspaper name], during most of the events at issue in this
10 lawsuit. [Description of Plaintiff's work as a journalist]. [Mr./Ms.] [Student Last Name]
11 is a resident of [Name] County, California.
12 2. Defendant [California State Agency] is [description of agency's role in state, including
13 why it maintains the relevant records]. The [California State Agency] is the legal
14 custodian of the records at issue in this lawsuit. Defendant [California State Agency]
15 maintains its primary place of business at [address], is a legal resident of [Name] County,
16 California, and is amenable to service of process in [Name] County.
17

18 **FACTUAL ALLEGATIONS**

- 19 1. The [California State Agency] is an agency of the State of California, and as such, is
20 governed by the public disclosure requirements of Article I, § 3, of the California
21 Constitution and the CPRA, Cal. Gov't Code § 6250 *et seq.*
22 2. [Agency Employee] is the [title] at [California State Agency]. The agency designated
23 this position as a responsible authority to receive and respond on behalf of [California
24 State Agency] to requests for public records under the California Public Records Act.
25 [Mr./Ms.][Student Last Name]'s CPRA Request to [California State Agency]
26 3. On [date], Plaintiff [Student Name] submitted a written CPRA request to [Agency
27 Employee] seeking the disclosure of [#] categories of public records. (A copy of
28 [Student Last Name]'s request letter is attached to this Complaint as Attachment [letter].)
29 4. *[If Applicable]* By electronic mail dated [date] (attached as Attachment [letter]), [Agency
30 Employee] responded to [Student Last Name] that fulfilling the request would cost [\$] for

1 [list of services]. The letter asserted that some documents would not be produced
2 because [exemption claimed].

3 5. [If Applicable] [Student Last Name] requested that the public records be provided in
4 electronic format pursuant to § 6253.9(a), but the agency instead provided paper copies
5 and charged the student for the cost of producing the hard copies, in violation of §
6 6253.9(a)(2).

7 6. [If Applicable] [Student Last Name] visited [California State Agency] on [date] asking
8 for access to the documents, only to be told that no documents were available.

9 7. [Use additional space to detail any further communication on this issue in chronological
10 order. If there has been a partial production of documents, use the following two
11 paragraphs in the appropriate place in the timeline:]

12 8. It was not until [date], nearly [#] months after [Student Last Name]'s initial request, that
13 [California State Agency] provided the first batch of responsive documents to [Student
14 Last Name]. This initial production represented only a partial response to the [#]
15 enumerated requests in [Student Last Name]'s original CPRA request letter of [date].
16 [Note any further production of documents on later dates.]

17 9. [Student Last Name] sent at least [#] follow-up emails to [California State Agency]
18 asking when [he/she] could expect to receive the balance of documents, but received no
19 reply.

20 10. Defendant's production remains incomplete and does not encompass all non-exempt
21 documents or portions of documents in Defendant's custody or control that are subject to
22 the CPRA. In particular, Plaintiff knows, or believes based on the best available
23 information, that Defendant possesses documents responsive to items [#]'s from the
24 original request letter] that they have yet to produce.

25
26 **CLAIMS FOR RELIEF**

27 Count One: Violation of the California Constitution and California Public Records Act
28 ("CPRA")

29 11. Plaintiff incorporates herein by reference the allegations set forth in paragraphs 1 through
30 10.

- 1 12. The California Constitution, Art. I, § 3(b)(1), declares that “[t]he people have the right of
2 access to information concerning the conduct of the people’s business, and, therefore, the
3 meetings of public bodies and the writings of public officials and agencies shall be open
4 to public scrutiny.”
- 5 13. The CPRA, Cal. Gov’t Code § 6250, declares that “access to information concerning the
6 conduct of the people’s business is a fundamental and necessary right of every person in
7 this state.”
- 8 14. The CPRA provides, Cal. Gov’t Code § 6253(a), that “[p]ublic records are open to
9 inspection at all times during the office hours of the state or local agency and every
10 person has a right to inspect any public record, except as hereafter provided.” The CPRA
11 further provides that each agency must respond “within 10 days.” *Id.* § 6253(c). The
12 CPRA further requires that “the head of the agency or his or her designee” may make
13 extensions “in unusual circumstances,” but only by written notice to the person making
14 the request, “setting forth the reasons for the extension and the date on which a
15 determination is expected to be dispatched.” *Id.* The CPRA also limits extensions: “[n]o
16 notice shall specify a date that would result in an extension for more than 14 days.” *Id.*
- 17 15. [Describe the delay in receiving a denial or in receiving access to documents if
18 applicable. For example, Defendant did not produce the first document responsive to
19 [Student Last Name]’s [date] request until [#] days from the date of the request.]
- 20 16. The CPRA, Cal. Gov’t Code § 6253(b), also authorizes an agency to require “payment of
21 fees covering direct cost of duplication. . . .” For documents, this provision means that
22 the agency can only charge for photocopying and not for retrieval or other ancillary tasks.
23 *North County Parents Org. v. Dept. of Ed.*, 23 Cal. App. 4th 144, 148 (1994).
- 24 17. [Describe how the agency charged more than the direct cost of duplication.]
- 25 18. [If the agency claimed exemption under Cal. Gov’t Code § 6255, that public interest in
26 nondisclosure outweighed public interest in disclosure:] The [California State Agency]’s
27 asserted public interest in nondisclosure is outweighed by the constitutional right to the
28 information. California Constitution, Art. I, § 3(b)(1). Furthermore, the public has an
29 interest in disclosing these specific documents because [describe how the documents
30 illuminate the situation previously discussed.]

- 1 19. [If the agency’s exemption applies to only part of the records:] [California State
2 Agency]’s claim of exemption based on [exemption type] only applies to part of the
3 requested records. CPRA requires, at Cal. Gov’t Code § 6253, that “[a]ny reasonably
4 segregable portion of a record shall be available for inspection by any person requesting
5 the record after deletion of the portions that are exempted by law.”
- 6 20. [If there is any evidence that someone other than a government official has received one
7 or more of the documents:] [California State Agency] has previously disclosed
8 documents responsive to the [#] enumerated requests. CPRA states that prior disclosures
9 constitute a waiver of exemptions. Cal. Gov’t Code § 6254.5.
- 10 21. [Response to the “draft” exemption:] [California State Agency]’s claim of exemption for
11 drafts does not apply to the requested records. Only “preliminary” drafts “that are not
12 retained by the public agency in the ordinary course of business” are exempt. Cal. Gov’t
13 Code § 6254(a). Furthermore, even those drafts that “have not in fact been discarded as
14 is customary . . . must be disclosed.” *Citizens for A Better Environment v. Department of*
15 *Food and Agriculture*, 171 Cal. App. 3d 704, 714 (1985).
- 16 22. [For other exceptions:] In refusing to timely produce records, Defendant relied on
17 [exemption]. [Describe why that exemption is not applicable to the requested
18 documents.]
- 19 23. By their refusal to provide timely compliance with the CPRA, by their reliance on
20 fictitious exemptions, by their assessment of charges beyond actual costs, by their
21 continuing willful refusal to provide documents responsive to [#] of [Student Last
22 Name]’s [#] requests, and by their production of only a partial subset of the documents in
23 their custody responsive to the remaining [#] requests, Defendant has violated the
24 California Constitution, Art. I, § 3, and the California Public Records Act, Cal. Gov’t
25 Code § 6250 *et seq.*, and thereby caused [Student Last Name] to obtain legal counsel to
26 obtain the desired relief.

27
28
29 **PRAYER FOR RELIEF**

30 WHEREFORE, Plaintiff respectfully prays that this Court:

- 1 24. Issue a writ of mandate directing Defendant to comply fully and without further delay
2 with the California Public Records Act and to furnish Plaintiff all public documents
3 meeting the description in [his/her] requests;
- 4 25. In the alternative, issue an order to Defendant to show cause why the court should not
5 issue such a writ and thereafter issue a peremptory writ compelling Defendant to perform
6 its public duty as set forth above;
- 7 26. Declare that Defendant has violated Plaintiff's rights under the California Constitution,
8 Art. I, § 3, and under Cal. Gov't Code § 6250 *et seq.*, by failing to produce the requested
9 documents;
- 10 27. Enter an injunction directing that, because Defendant's delay in complying with their
11 obligations under the CPRA was without substantial justification, Defendant must waive
12 all fees associated with Plaintiff's requests;
- 13 28. Enter judgment in Plaintiff's favor for nominal damages;
- 14 29. Award Plaintiff reasonable attorneys' fees and costs as authorized by Cal. Gov't Code
15 § 6259, and;
- 16 30. Order such additional relief as the Court may deem just and proper.

17 DATED this the ___ day of [month], [year].
18
19

20 Respectfully submitted,
21

22
23 _____
24 [Plaintiff's Lawyer], Esq.
25 Attorney for [Student Name]
26
27
28
29

VERIFICATION

I, [STUDENT NAME], have read the foregoing Petition for Writ of Mandate and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and I also believe those matters to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this the ___ day of [month], [year].

[STUDENT NAME]