

[Student/Attorney Name]
[Address]
[City, State, Zip]
[Phone]

IN THE MONTANA [DISTRICT #] JUDICIAL DISTRICT COURT
[COUNTY]

[STUDENT NAME],)	
)	
Plaintiff,)	CASE NO. _____
)	
v.)	COMPLAINT AND
)	PETITION FOR
)	DECLARATORY RELIEF
[MONTANA PUBLIC AGENCY],)	
)	
Defendant)	
)	

Petitioner [Student Name] hereby petitions for the release of public documents, pursuant to Article II, Section 9, of the Constitution of the State of Montana, and the Montana Open Records Act, MCA § 2-6-101, *et seq.* For its petition against [Public Agency], the Petitioner states:

PARTIES AND JURISDICTION

1. Petitioner [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 lawsuit. [Description of Plaintiff's work as a journalist]. As the agent of a news gathering organization in the region, [Student Name] has a legitimate interest in [Public Agency]'s actions, in access to

public documents generally and to these documents in particular. Petitioner [Student Name] is a resident of [County], Montana.

2. Respondent [Public Agency] is a public body or agency of the state government subject to Article II, Section 9 of the Montana Constitution and Section 2-6-102 MCA, and is the legal custodian of the public records at issue in this petition. Respondent [Public Agency] maintains its primary place of business at [address], and is a legal resident of [Name] County.

3. The Respondent's actions described below adversely affected Petitioner and prejudiced [his/her] right to know, guaranteed by Article II, Section 9 of the Montana Constitution and Section 2-6-102(1) MCA.

4. This Court has jurisdiction over this action pursuant to Article II, Section 9 of the Montana Constitution.

FACTS

5. On [Date], Petitioner sent a letter to Respondent requesting to inspect or obtain copies of public records concerning [Detailed Description of Issue]. A copy of the request for information is attached as Exhibit 1.

6. On [Date], Respondent denied Petitioner's request for disclosure, stating that [state reasons given for denial]. A copy of the denial is attached as Exhibit 2.

[Provide details regarding any further communication or interactions with the public agency. Include information regarding undue delay and excessive fees.]

COUNT I: CONSTITUTIONAL VIOLATION

7. Petitioner hereby incorporates the allegations contained in the previous paragraphs of this Complaint.

8. The request for documents was made pursuant to Article II, Section 9 of the Montana Constitution, which provides that “no person shall be deprived of the right to examine documents of all public bodies or agencies of state government and its subdivisions except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.” Further, section 2-6-102(1), MCA states that “every citizen has a right to inspect and take a copy of any public writings of this state.”

9. The Montana Supreme Court asserts a broad definition of “documents.” “Documents of public bodies” are defined as “documents generated or held by a public body or somehow related to the function and duties of a public body.” *Becky v. Butte-Silverbow School District 1*, 274 Mont. 131,138 (1994). Such documents are not limited to those generated by the agency, but include all documents *used* by the agency. *Worden v. Montana Board of Pardons and Parole*, 289 Mont. 459, 467 (1998).

10. Section 2-6-101(3)(d), MCA defines “all public writings” as including “public records, kept in this state, of private writings, including electronic mail.”

11. The documents sought do not meet one of the limited exceptions to disclosure set forth in section 2-6-102(3) and (4) [If the state claimed an exemption, note the exemption claimed, for which documents, and explain why it does not apply.]

12. The public’s right to know about [Issue] clearly outweighs any privacy interests which might be asserted against these records. Any privacy interests of third parties named in

the requested documents can be protected by redaction of their names, addresses and social security numbers, where appropriate. Other identifying information may also be redacted.

[If privacy rights are asserted as a reason for the denial, explain why the affected individual does not have a “reasonable expectation of privacy.”]

13. By Respondent’s refusal to disclose the requested records [and any other egregious actions], Petitioner has been deprived of his right to examine documents of a public body and agency, and the public’s right to know has been violated.

WHEREFORE, Petitioner respectfully requests the Court grant relief as follows:

1. An order compelling Respondent [Public Agency] to permit Petitioner to inspect and take copies of the requested documents.
2. Reimbursement of attorney fees and cost incurred by the Petitioner for enforcing the public’s right to know pursuant to both Section 2-3-221 MCA and Section 27-26-402 MCA.
3. Such other and further relief as this Court may deem just and appropriate.

DATED this _____ day of _____, 20__.

[Attorney Name]
[Attorney Address]

[Signature]