



4. Relator therefore asks this Court to find that [Nebraska State Agency] has acted contrary to law in refusing to describe and disclose the records sought, and to order [Nebraska State Agency] immediately to (a) offer a full description of the withheld records and (b) disclose in whole or in part those records that are not properly withheld.

### **NATURE OF THE ACTION**

5. This is a petition for a Writ of Mandamus pursuant to the Public Records Act, Neb. Rev. Stat. § 84-712.03(1)(a), against the [Title of Nebraska State Agency Official], who in [his/her] official capacity is responsible for the [Nebraska State Agency]’s failure to comply with the Act in response to Relator’s request for records.

6. Relator seeks expedited treatment of this case pursuant to Neb. Rev. Stat. § 84-712.03(3).

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over the matter pursuant to Neb. Rev. Stat. § 84-712.03(2) to enjoin the Respondent from withholding records, to order the disclosure of records, and to grant such other equitable relief as may be proper.

8. Venue is proper in this district pursuant to Neb. Rev. Stat. § 84-2.03(1)(a) because Respondent is located within this district and may be served in this district.

### **PARTIES**

9. Relator [Student Name] is a journalist, and was [title] of the student newspaper at [college/university], [newspaper name], during most of the events at issue in this matter.

[Description of Relator's work as a journalist]. [Mr./Ms.] [Student Last Name] is a resident of [Name] County, Nebraska.

10. Respondent [Official's Name] is [Title] of the [Nebraska State Agency]. Respondent denied Relator's requests for records, and is the custodian of [Nebraska State Agency]'s records for purposes of the Public Records Act, Neb. Rev. Stat §§ 84-712, 712.03(1)(a). [He/She] is sued in [his/her] official capacity.

### **FACTS**

11. On [date], Relator submitted a Public Records Act request to the [Nebraska State Agency] seeking disclosure of [#] categories of public data. (A true and correct copy of Relator's [Date] request is attached as Exhibit [letter].)

12. The public data sought by Relator do not fall within the limited exemptions to disclosure under the Public Records Act enumerated in Neb. Stat. Ann. § 84-712.05. [If all or some of the data arguably fall within an exemption, keep in mind that the exemption does not apply if the data has been publicly disclosed in open court, open administrative proceeding, or open meeting, or disclosed by a public entity pursuant to its duties. If one of these criteria apply, note so here, providing relevant dates and venues.]

13. By electronic mail dated [date] (attached as Exhibit [letter], [Agency Employee] responded to Relator that fulfilling the request would cost [\$] for [list of services]. The letter asserted that some documents would not be produced because [exemption classification claimed by Agency.] (See Exhibit [letter]).

14. By letter dated [date], an official from the [Nebraska State Agency], writing on behalf of Respondent, approved in part and denied in part Relator's request. (A true and correct

copy of Respondent's [date] letter, [as well as the released records], are attached as Exhibit [letter].)

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

16. On [date], nearly [#] months after Relator's initial request, [Nebraska State Agency] provided the first batch of responsive documents to Relator. This initial production represented only a partial response to the [#] enumerated request in Relator's original request letter of [date]. [Note any further production of documents on later dates].

17. Relator sent at least [#] follow-up e-mails to [Nebraska State Agency] asking when [he/she] could expect to receive the balance of documents, but received no reply. (True and correct copies of Relator's [date] e-mails are attached as Exhibit [letter].)

18. Respondent's production remains incomplete because [provide explanation addressing all grounds agency raised in its denial, stating why each ground is incorrect]. In addition, Relator knows, or believes, based on the best available information, that Respondent possesses documents responsive to items [#]'s from the original request letter] that it has yet to produce.

19. [If an appeal was filed with the attorney general: On [date], Relator filed a timely appeal to the Attorney General pursuant to Neb. Rev. Stat. § 84-712.03(1)(b). Relator asserted that Respondent's withholding was unlawful because [state basis for assertion]. (A true and correct copy of Relator's [date] letter to the Attorney General is attached as Exhibit [letter].)

20. The Attorney General denied Relator's appeal in its entirety on [date]. (A true and correct copy of the Attorney General's [date] letter to Relator is attached as Exhibit [letter].)

21. Relator now brings this petition for a Writ of Mandamus in order to compel the Respondent to comply with the law, and to produce the withheld records that relate to [#s from the original request letter], or any portions thereof that are not properly exempt. Respondent must also provide a detailed description of any records that are withheld, along with specific explanations for why each record (or portion thereof) falls under a particular basis for withholding. Relator has no available remedies other than this proceeding, and Relator has not previously applied for the relief requested herein.

### **FIRST CLAIM FOR RELIEF**

#### **(FAILURE TO DISCLOSE RECORDS)**

22. Relator repeats and re-alleges paragraphs 1 through 21 as if set forth in full.

23. Under the Nebraska Public Records Act, all of the documentary materials in possession of the [Nebraska State Agency] are presumptively open and available for public examination, unless otherwise provided by law. Neb. Rev. Stat. §§ 84-712, 712.01(1).

24. [If applicable, describe the delay in receiving the denial or in receiving access to documents. For example, Respondent did not produce the first document responsive to Relator's [date] request until [#] days from the date of the request.]

25. In refusing to timely produce data, Respondent relied on [exemption classification claimed by Agency]. [Describe why that classification is not applicable to the requested documents.]

[Keep in mind that certain public records may be kept confidential at the discretion of their custodian or as expressly provided by statute. Neb. Rev. Stat. §§84-712(1), 712.01(1), 712.05]

26. [By Respondent's refusal to provide timely compliance with the Act,] by [his/her] reliance on an inapplicable exemption classification, by [his/her] continuing willful refusal to provide documents responsive to [#] of Relator's [#] requests, and by [his/her] production of only a partial subset of the documents in [his/her] custody responsive to the remaining [#] requests, Respondent violated the Nebraska Public Records Act, Neb. Rev. Stat. § 84.712 *et seq.*, and thereby caused Relator to obtain legal counsel to obtain the desired relief.

### **SECOND CLAIM FOR RELIEF**

#### **(FAILURE TO DESCRIBE RECORDS AND JUSTIFY REFUSAL TO DISCLOSE)**

27. Relator repeats and re-alleges paragraphs 1 through 21 as if set forth in full.

28. The Public Records Act requires that when a public body denies a request for records, it must provide a full description of the contents of the records withheld and a statement of the specific reasons for denial, correlating specific portions of the records to specific reasons for denial. Neb. Rev. Stat. § 84-712.04.

29. [If applicable, describe Agency's failure to describe records and justify its refusal to disclose. For example, Respondent has not provided a description of the contents of the records or specific reasons for denial, stating only that [describe Agency's response]. Respondent has therefore failed to justify [his/her] refusal to disclose the withheld records as specifically required by law. In the absence of such a justification, the withheld records must be released.]

**WHEREFORE,** Relator respectfully asks this Court to issue a Writ of Mandamus:

- a) Enjoining Respondent from withholding the records requested by Relator;
- b) Declaring that Respondent has violated the Public Records Act in failing to properly justify its refusal to disclose all of the records requested by Relator;
- c) Declaring that Respondent has violated the Public Records Act in withholding the records requested by Relator;
- d) Ordering the Respondent to disclose the requested records to the Relator;
- e) Awarding Relator's costs and reasonable attorneys' fees pursuant to Neb. Rev. Stat. § 25-2165 and §84-712.07;
- f) Granting Relator such other and further relief as this Court deems just and proper.

Dated: \_\_\_\_\_

Respectfully Submitted,

By: \_\_\_\_\_  
[Relator's Lawyer, Nebraska Bar No.]  
[Lawyer's Firm]  
[Street Address]  
[City, State, Zip]  
Phone:  
Facsimile: