

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
\_\_\_\_\_-CVS-\_\_\_\_

[Plaintiff's name], )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 [Defendant's name], )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**COMPLAINT**

**INTRODUCTION**

This is a lawsuit seeking to enforce the right to inspect public records pursuant to North Carolina's Public Records Law, N.C. Gen. Stat. § 132 *et seq.* Plaintiff, [Student's name], a North Carolina student journalist, requested public records from Defendant, [North Carolina State Agency], relevant to [description of issue]. [Describe issue's importance]. Through [his/her] reporting, Plaintiff seeks to inform the public about [description of events that caused the issue]. Defendant has unlawfully impeded Plaintiff's efforts, responding to Plaintiff's requests for public records with [obstruction, delay, misrepresentations, etc.]. Over [time period of Defendant's refusal to produce] have passed since Plaintiff first requested the public data and records necessary for his/her planned reporting, and Defendant still continues without any lawful justification to withhold public records that are subject to timely production under North Carolina's Public Records Law.

This Court's intervention, including the imposition of appropriate sanctions against Defendant, is required to compel Defendant's disclosure of public records and its compliance with the law.

## **JURISDICTION AND VENUE**

1. This Court has jurisdiction over the action pursuant to N.C. Gen. Stat. § 132-9. Plaintiff has complied with N.C. Gen Stat. § 7A-38.3E.

2. Venue is proper in this Court, pursuant to N.C. Gen. Stat. § 1-82, because Plaintiff resides in [Name] County, North Carolina.

## **PARTIES**

3. Plaintiff is a student journalist. S/he is/was [title] of the student newspaper, [newspaper name], at [name of college or university] ], during the time of the events relevant to this lawsuit. [Description of Plaintiff's work as a journalist and connection to lawsuit].

4. Defendant is a [state agency] and [description of agency's role, including why it maintains the relevant public records at issue]. Defendant is also the legal custodian of the public records at issue in this action, and Defendant has designated [name/time of Defendant's designee/employee custodian] as the person to whom public records requests should be directed. Defendant maintains its primary/principal place of business at [street address], is a legal resident of [Name] County, North Carolina, and is amendable to service of process in [Name] County, North Carolina.

## **FACTUAL ALLEGATIONS**

5. Defendant is an agency of the State of North Carolina, and, as such, is governed by the public disclosure requirements of the North Carolina Public Records Law, N.C. Gen. Stat. § 132 *et seq.*

6. [Agency employee] is the [title of custodian] at Defendant. [He/She] maintains possession, custody, and/or control of the public records at issue and, therefore, is the responsible authority to receive and respond to public records requests on behalf of Defendant.

7. On [date], Plaintiff [orally requested and/or submitted a request in writing] to [Agency employee], seeking disclosure of [#] public records. (A copy of Plaintiff's letter setting forth each request is attached hereto as Exhibit A).

8. By [electronic] mail dated \_\_\_\_\_ [date], [Agency employee] responded to Plaintiff indicating that [identify pertinent substance of response] and that fulfilling the request would cost [\$] to produce the documents. (A copy of Agency employee's e/mail containing the Defendant's response is attached hereto as Exhibit B).

9. On [date], Plaintiff visited/communicated with Defendant and requested access to the public records sought, only to be told by [Agency employee] that [state response received (e.g., that no documents were available)].

10. [Use additional space to detail any further pertinent communications 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:]

11. It was not until [date], nearly [#] months after Plaintiff's initial request, that Defendant provided the first batch of documents allegedly responsive to Plaintiff's request. However, Defendant's initial production represented only a partial response to the [#] enumerated requests set forth in Plaintiff's original request letter of [date].

[Set forth any further document productions on later dates and their responsiveness or not.]

12. Plaintiff has sent at least [#] follow-up emails to Defendant's custodian of records asking when Plaintiff could expect to receive the balance of documents responsive to the original request. Plaintiff has received no reply from Defendant to the follow-up emails [or state how

any reply was nonresponsive, incomplete, improper, etc.]. (A copy of Plaintiff's follow-up emails containing the request is attached hereto as Exhibit C).

13. [If the NC Attorney General has issued an opinion and the agency is not in compliance:] The Attorney General of North Carolina issued an opinion on [date] stating [description of substance of the opinion and why it compels Defendant's compliance with the request]. (A copy of the Attorney General's opinion is attached hereto as Exhibit D). Defendant has failed to comply with the Attorney General's opinion.

14. Defendant's document production to date remains incomplete and improper, and, upon information and belief, it does not encompass all nonclassified and nonconfidential documents in Defendant's possession, custody, or control that are subject to disclosure under North Carolina's Public Records Law. Upon information and belief, Defendant possesses documents responsive to items [#s from the original request letter] but it has not yet produced them.

**FIRST CLAIM FOR RELIEF**  
**(Violation of the North Carolina Public Records Law)**

15. The allegations stated in the preceding paragraphs are incorporated herein by reference as if fully set forth herein.

16. The North Carolina Public Records Law, N.C. Gen. Stat. § 132-1(b), states that all "public records and public information compiled by the agencies of North Carolina government . . . are the property of the people," and as such, "the people may obtain copies of their public records and public information for free or at a minimal cost."

17. The Public Records Law, N.C. Gen. Stat. § 132-6(a), provides that "[e]very custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person . . . ."

18. Under the Public Records Law, N.C. Gen. Stat. § 132-6(a), (c), the custodian must furnish requested public records “as promptly as possible,” and “[n]o request to inspect, examine, or obtain copies of public records shall be denied on the grounds that confidential information is commingled with the requested nonconfidential information.”

19. [Describe the delay in receiving a denial or in receiving access to documents, if applicable. For example, Defendant improperly delayed production of documents responsive to Plaintiff’s request, in that it failed to produce the first documents responsive to Plaintiff’s request until [#] days/months from the initial date of the request.]

20. The Public Records Law also does not allow an agency to charge a fee for “a public record that exceeds the actual cost to the public agency of making the copy.” N.C. Gen. Stat. § 132-6.2(b).

21. [Describe how/evidence Defendant charged more than the actual costs of producing the requested documents, if applicable.]

22. In refusing to timely produce data and records, Defendant improperly relied on [statutory exemptions]. [Describe why such exemption(s) is not applicable to the requested documents.]

23. By its refusal to comply timely with the North Carolina Public Records Law, by its reliance on fictitious exemptions, by its assessment of charges beyond actual costs, by its continuing willful refusal to provide documents responsive to [#] of Plaintiff’s [#] requests, and by its production of only a partial subset of the documents in its possession, custody, and/or control that are responsive to the remaining [#] requests, Defendant has violated the North Carolina Public Records Law, N.C. Gen. Stat. § 132 *et seq.*, and thereby caused Plaintiff to suffer damages and forced Plaintiff to obtain legal counsel to secure necessary and proper relief.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Assume jurisdiction over this action;
2. Enter an order compelling Defendant to comply fully and without further delay with the North Carolina Public Records Law and to furnish Plaintiff all public records satisfying the description in [his/her] requests;
3. Enter an order directing that, because Defendant's delay in complying with its obligations under the Public Records Law was without substantial justification, Defendant must waive all costs/fees associated with producing the public records responsive to Plaintiff's requests;
4. Enter an order granting Plaintiff all damages s/he has incurred in seeking to compel Defendant's compliance with the Public Records Law;
5. Award Plaintiff [his/her] reasonable attorneys' fees and costs, as authorized by N.C. Gen. Stat. § 132-9(c) and to the extent otherwise permitted by law; and
6. Grant Plaintiff such other and further relief as the Court deems just and proper.

This the \_\_\_\_\_ day of [month and year].

Respectfully submitted,

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[Plaintiff's Lawyer], Esq.  
(NC State Bar No. [#])  
Lawyer's Firm Name  
Street Address  
City, State, Zip  
Phone  
Email