

[JANE DOE],
[Street Address]
[City, ST 00000],

Plaintiff,

v.

Case No. _____
30952 Petition for Writ of Mandamus

[BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM],
[1860 Van Hise Hall, 1220 Linden Dr.]
[Madison, WI 53706]

Defendant.

VERIFIED COMPLAINT

This is an action seeking to enforce the right to inspect public records pursuant to Wisconsin's Public Records Law, Wis. Stat. § 19.31 *et seq.* Plaintiff [Jane Doe], a Wisconsin journalist, requested records from Defendant [Board of Regents of the University of Wisconsin System] in [October, 2014]. The requested records are relevant to [the reason you want the documents], and [Ms. Doe]'s reporting seeks to inform the public about [the subject of the article that the documents are relevant to]. [Ms. Doe]'s records request[s] [were not answered/were denied without cause/etc.]. These records are subject to timely production under the Wisconsin Public Records Law, and Defendant [Board of Regents] continues to withhold the requested records without lawful justification. This Court's intervention [and the sanction of an award of attorney fees] [is/are] therefore required.

PARTIES

1. Plaintiff [Jane Doe] is a Wisconsin journalist, and is [a staff editor/the Editor-in-Chief/etc.] of [*The Badger Herald*], the student newspaper at [the University of Wisconsin—Madison]. [She] is a “requester” as defined in Wis. Stat. § 19.32(3) and used in Wis. Stat. § 19.31 *et seq.* [Ms. Doe] is a resident of [Dane County, Wisconsin].

2. Defendant [Board of Regents is the governing body for the University of Wisconsin System and is appointed by the Governor. The Board of Regents is an agency of the State of Wisconsin and] is an “authority” as defined by Wis. Stat. § 19.32(1) and used in Wis. Stat. § 19.31 *et seq.*

JURISDICTION & VENUE

3. Jurisdiction and venue are proper under Wis. Stat. §§ 801.50(2)(a) and 801.50(3).

FACTUAL ALLEGATIONS

4. [Provide a sentence or two of background information about what lead you to request the records. For example: In September 2014, Ms. Doe began investigating what she perceived as a disconnect between publicly-announced uses of tuition dollars and actual use. She intended to report on how more tuition dollars than usual were going towards unnecessary construction projects, which is of interest to the public.]

5. [Provide a complete sentence including the following information about your first letter requesting records to the Defendant: the date you sent the request, a brief summary of the records requested, and who you sent the request to. For example: On October 22, 2014, Ms. Doe requested in writing that the Board of Regents produce copies of agendas,

minutes, and audio recordings from a meeting in which the Board discussed future construction projects to be completed at University of Wisconsin—Madison. A true and correct copy of Ms. Doe’s letter is attached as Attachment A.]

6. [Provide a complete sentence discussing what the Defendant did after you requested records. For example: On December 17, 2014, the Board of Regents denied Ms. Doe’s request because they claimed that the materials Ms. Doe requested are copyrighted, which they stated exempted them from disclosure.]
7. [Continue to enumerate complete sentences describing further communications you had with the Defendant, including letters you sent reiterating your request and their responses. Attach the relevant correspondence, and when describing each document, include an allegation stating that the attachment is a true and correct copy, as above.]

CLAIM: VIOLATION OF PUBLIC RECORDS LAW, WIS. STAT. § 19.31 et seq.

8. Plaintiff incorporates herein all allegations set forth in the preceding paragraphs.
9. The Wisconsin Public Records Law declares a strong public interest in favor of disclosure: “it is declared to be the public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government” Wis. Stat. § 19.31. The law “shall be construed in every instance with a presumption of complete public access” *Id.*
10. Under Wis. Stat. § 19.35, “any requester has a right to inspect any record” and “to make or receive a copy of a record.”

11. Once it has received a request, an authority must respond “as soon as practicable and without delay” pursuant to Wis. Stat. § 19.35(4)(a).
12. **[{note: include the following language if the Defendant denied the request without explanation}** Under *Oshkosh Northwestern Co. v. Oshkosh Library Bd.*, 125 Wis. 2d 480 (Wis. Ct. App. 1985), an authority that denies a request must offer specific public policy reasons for the denial. Defendant has violated the Wisconsin Public Records Law because it delayed granting access to the requested records without a reason.]
13. **[{note: include the following language in ¶¶ 13-14 if the Defendant states that they are refusing to disclose records because they are copyrighted}** The exclusion of “materials to which access is limited by copyright, patent or bequest” under Wis. Stat. § 19.32(2) is construed in light of federal copyright law. *Zellner v. Cedarburg School Dist.*, 300 Wis.2d 290, 303-04 (2007). “Materials” that would be disclosed for a use that qualifies as “fair use” under 17 U.S.C. § 106(1) cannot be excluded.
14. Disclosure to Plaintiff constitutes “fair use” because “fair use” includes use for “criticism, comment, news reporting, scholarship or research,” 17 U.S.C. § 107, and Plaintiff will use the requested records for news reporting that is in the public interest.]
15. **[{note: include the following language if the Defendant states that they refuse to disclose records due to privacy concerns under FERPA}** The requested records are not “education records” of students as that term is defined in the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g(a)(4)(A)-(B). The requested records are governmental records that must be disclosed under the Wisconsin Public Records Law.]

16. **[{note: include the following language if the Defendant seeks to make you pay for redaction or separation costs}** Under *Milwaukee Journal Sentinel v. City of Milwaukee*, 341 Wis.2d 607 (2012), authorities cannot charge for redaction or separation fees. Wis. Stat. § 19.35(3) allows charges for only: “reproduction and transcription,” “photographing and photographic processing,” “locating,” and “mailing or shipping.” Defendant exceeded the scope of the statute by attempting to charge for redaction and separation.]
17. The Defendant’s actions have caused and will continue to cause injury to [Ms. Doe]; its actions also continue to deprive the public of its rights under the Public Records Law.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests a judgment of mandamus pursuant to Wis. Stat. § 19.31 *et seq.* that:

1. Compels Defendant to produce the requested records for the Plaintiff without further delay, pursuant to § 19.37(1)(a);
2. Awards Plaintiff [her] reasonable attorney’s fees, actual costs and damages of not less than \$100, pursuant to Wis. Stats. § 19.37(2);
3. Finds Defendant acted arbitrarily and capriciously in [denying the request / failing to respond to the request / seeking excessing fees] and awards Plaintiff punitive damages, pursuant to Wis. Stats. § 19.37(3); and

4. Awards such other relief as the Court deems just and equitable.

DATED this [##th] day of [Month, Year].

Respectfully submitted,

[Name of person submitting]
[Company, if applicable]
[Address]
[Phone number]
[e-mail address]

ATTACHMENT A

[Jane Doe] v. [Board of Regents of the University of Wisconsin System]
[Dane] County Circuit Court – File [Month, Date, Year]
[Copy of original request letter]

ATTACHMENT B

[Jane Doe] v. [Board of Regents of the University of Wisconsin System]
[Dane] County Circuit Court – File [Month, Date, Year]
[Copy of Defendant's original response]