**Section 1828.505 Requests for Review of Denials − Public Access Counselor**

a) *A person whose request to inspect or copy a public record is denied by* the Agency *may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. The request for review must be in writing, signed by the requester, and include:*

1) *a copy of the request for access to records; and*

2) *any responses from the* Agency. (Section 9.5(a) of FOIA)

b) If the Agency *receives a request for records and asserts that the records are exempt under* Section 1828.202(a)(1)(C) or Section 1828.202(a)(1)(E) of this Part, it *shall, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor of its intent to deny the request in whole or in part. The notice shall include:*

1) *a copy of the request for access to records;*

2) *the proposed response from the* Agency; *and*

3) *a detailed summary of the* Agency's *basis for asserting the exemption.* (Section 9.5(b) of FOIA)

c) *Upon receipt of a notice of intent to deny from* the Agency*, the Public Access Counselor shall determine whether further inquiry is warranted.* The Public Access Counselor will process the notification of intent to deny as detailed in Section 9.5(b) of FOIA. *Times for response or compliance by the* Agency under Section 1828.501 of this Part *shall be tolled until the Public Access Counselor concludes his or her inquiry.* (Section 9.5(b) of FOIA)

d) *Within 7 working days after receipt of the request for review, the* Agency *shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor.* (Section 9.5(c) of FOIA)

e) *Within 7 working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor,* the Agency *may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy.* (Section 9.5(d) of FOIA)

f) *The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to the* Agency. (Section 9.5(d) of FOIA)

g) *In addition to the request for review, and the answer and response thereto, if any, a requester or* the Agency *may furnish affidavits or records concerning any matter germane to the review.* (Section 9.5(e) of FOIA)

h) A binding opinion from the Attorney General pursuant to Section 9.5(f) of FOIA *shall be binding upon both the requester and the* Agency, *subject to administrative review under Section* 1828.506 of this Part. (Section 9.5(f) of FOIA)

i) If the Attorney General decides to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the *decision not to issue a binding opinion shall not be reviewable.* (Section 9.5(f) of FOIA)

j) *Upon receipt of a binding opinion concluding that a violation of* FOIA *has occurred, the* Agency *shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section* 1828.506 of this Part. *If the opinion concludes that no violation of* FOIA *has occurred, the requester may initiate administrative review under Section* 1828.506 of this Part. (Section 9.5(f) of FOIA)

k) If the Agency *discloses records in accordance with an opinion of the Attorney General,* the Agency *is immune from all liabilities by reason thereof and shall not be liable for penalties under* FOIA. (Section 9.5(f) of FOIA)

l) *If the requester files suit under* Section 1828.506 of this Part *with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall take no further action with respect to the request for review and shall so notify the* Agency. (Section 9.5(g) of FOIA)

m) *The Attorney General may also issue advisory opinions to* the Agency *regarding compliance with* FOIA. *A review may be initiated upon receipt of a written request from the* Director of the Agency or the Agency's Chief Legal Counsel, *which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the* Agency *in order to assist in the review.* If the Agency *relies in good faith on an advisory opinion of the Attorney General in responding to a request,* the Agency *is not liable for penalties under* FOIA, *so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor.* (Section 9.5(h) of FOIA)

(Source: Amended at 34 Ill. Reg. 9028, effective June 22, 2010)