**Section 1301.405 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.* (Section 9.5(a) of FOIA)

b) *A person whose request to inspect or copy a public record is made for a commercial purpose as defined in* Section 1301.120 *may not file a request for review with the Public Access Counselor. A person whose request to inspect or copy a public record was treated by* the Agency *as a request for a commercial purpose under Section 3.1 of* FOIA *may file a request for review with the Public Access Counselor for the limited purpose of reviewing whether* the Agency *properly determined that the request was made for a commercial purpose.*

c) *A person whose request to inspect or copy a public record was treated by the* Agency *as a voluminous request under Section 3.6 of* FOIA *may file a request for review with the Public Access Counselor for the purpose of reviewing whether* the Agency *properly determined that the request was a voluminous request.* (Section 9.5(b) of FOIA)

d) *Within 7 business days after receipt of the request for* review from the Public Access Counselor*,* 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 business 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 business 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 *shall be binding upon both the requester and the Agency, subject to administrative review under* Section 1301.407. (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 1301.407. *If the opinion concludes that no violation of* FOIA *has occurred, the requester may initiate administrative review under* Section 1301.407. (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 1301.406 *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 48 Ill. Reg. 10197, effective June 28, 2024)