**Section 1828.504 Denials of Requests for Public Records**

a) The Agency will deny requests for public records when:

1) Compliance with the request would be unduly burdensome on the Agency, as determined pursuant to Section 1828.502, and the requester has not reduced the request to manageable proportions;

2) The public records are exempt from disclosure pursuant to FOIA or Section 7 of the Act; or

3) The public records are not available for inspection pursuant to 2 Ill. Adm. Code 130 (Identification and Protection of Trade Secrets);

b) Where Section 1828.303(f) applies, the Agency may deny requests for public records when:

1) The requester fails to respond to an Agency request for additional information within 10 business days after the date of the Agency's request; or

2) The requester fails to provide sufficient information in response to the Agency's request.

c) The denial of a request for public records must be in writing by certified mail, return receipt requested. The notification shall include:

1) A description of the public records denied, the reason for the denial, *including a detailed factual basis for the application of any exemption claimed*, *and the names and titles or positions of each person responsible for the denial* (Section 9(a) of FOIA);

2) *Each notice of denial shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor* (Section 9(a) of FOIA); and

3) *When a request for public records is denied on the grounds that the records are exempt under Section 7 of* FOIA*, the notice of denial shall specify the exemption claimed to authorize the denial* *and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority.* (Section 9(b) of FOIA)

d) Unless the Agency has given written notice pursuant to Section 1828.501(d), a requester may treat the Agency's failure to provide the public records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.

e) If the Agency has given written notice pursuant to Section 1828.501(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.

f) *Any person making a request for public records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the* Agency *fails to act within the time periods provided in* Section 1828.501 of this Part. (Section 9(c) of FOIA)

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