**Section 2100.115 Agency Response to Requests for Records**

a) Timeline for Agency Response

1) Except as stated in subsection (b) or (c), the Agency will respond to any written *request for records within 5 business days after its receipt of the request. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Agency fails to respond to a request within the requisite periods in this* subsection (a) *but thereafter provides the requester with copies of the requested records, it will not impose a fee for those copies. If the Agency fails to respond to a request received, it will not treat the request as unduly burdensome as provided under* Section 2100.115(b). (Section 3(d) of FOIA) A written request from the Agency to provide additional information shall be considered a response to the FOIA request.

2) *The time limits prescribed in* subsection (a) *may be extended for not more than 5 business days from the original due date for any of the following reasons:*

A) *The requested records are stored in whole or in part at locations other than the office having charge of the requested records;*

B) *The request requires the collection of a substantial number of specified records;*

C) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*

D) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*

E) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions;*

F) *The request for records cannot be complied with by the Agency within the time limits prescribed by* subsection (a) *without unduly burdening or interfering with the operations of the Agency; or*

G) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request.* (Section 3(e) of FOIA)

3) *The person making a request and the Agency may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Agency agree to extend the period for compliance, a failure by the Agency to comply with any previous deadlines shall not be treated as a denial of the request for the records.*  (Section 3(e) of FOIA)

4) *When additional time is required for any of the reasons* set forth in subsection (b), *the Agency will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Agency fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records, it may not impose a fee for those copies. If the Agency issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under* Section 2100.115(b). (Section 3(f) of FOIA)

b) Requests for Records that the Agency Considers Unduly Burdensome

1) *The Agency will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Agency, there is no way to narrow the request, and the burden on the Agency outweighs the public interest in the information. Before invoking this exemption, the Agency will extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions.*  (Section 3(g) of FOIA) The amended request must be in writing.

2) If the Agency determines that a request is unduly burdensome, *it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Agency. The response shall be treated as a denial of the request for information.* (Section 3(g) of FOIA)

3) *Repeated requests from the same person for records that are unchanged or identical to records previously provided or properly denied under this Subpart A shall be deemed unduly burdensome.* (Section 3(g) of FOIA)

c) Recurrent Requesters

1) *Notwithstanding any provision of this* Subpart *to the contrary, the Agency will respond to a request from a recurrent requester, as defined in* Section 2100.100(b), *within 21 business days after receipt. The response shall:*

A) *provide to the requester an estimate of the time required by the Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;*

B) *deny the request pursuant to one or more of the exemptions set out in* Section 2100.105(b);

C) *notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*

D) *provide the records requested.*

2) *Within 5 business days after receiving a request from a recurrent requester, the Agency will notify the requester that the Agency is treating the request as a recurrent request, of the reasons why the Agency is treating the request as a recurrent request, and that the Agency will send an initial response within 21 business days after receipt in accordance with subsection (a). The Agency will also notify the requester of the proposed responses that can be asserted pursuant to subsection (a).*

3) *Unless the records are exempt from disclosure, the Agency will comply with a request within a reasonable period considering the size and complexity of the request.* (Section 3.2 of FOIA)

d) Requests for Records that Require Electronic Retrieval

1) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.

2) The Agency will retrieve and provide electronic records only in a format and medium that is available to the Agency.

e) Denials of Requests for Records

1) The Agency will deny requests for records when:

A) Compliance with the request would unduly burden the Agency, as determined pursuant to Section 2100.115(b), and the requester has not reduced the request to manageable proportions; or

B) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 2100.105(b).

2) The denial of a request for records must be in writing

A) The notification shall include a description of the 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);

B) *Each notice of denial shall also inform the 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

C) *When a request for records is denied on the grounds that the records are exempt under Section 7 or 7.5 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).

3) A requester may treat the Agency's failure to respond to a request for 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.

4) If the Agency has given written notice pursuant to Section 2100.115(a), 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.

5) *Any person making a request for 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 2100.115(a). (Section 9(c) of FOIA)

f) Requests for Review of Denials – Public Access Counselor

*A person whose request to inspect or copy a record is denied by the Agency may file a request for review,* under Section 9.5 of FOIA, *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)

g) Circuit Court Review

A requester also has the right to file suit for injunctive or declaratory relief in the Circuit Court for Sangamon County or for the county in which the requester resides, in accordance with the procedures set forth in Section 11 of FOIA.

h) Administrative Review

*A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law [735 ILCS 5/Art. III]. An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook County or Sangamon County. An advisory opinion issued to the Agency shall not be considered a final decision of the Attorney General for purposes of this Section.* (Section 11.5 of FOIA)

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