**Section 2251.405 Requests for Review of Denials − Public Access Counselor**

a) As indicated in Section 9.5 of FOIA*, a person whose request to inspect or copy a record is denied by the Board 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) *If the Board asserts that the records are exempt under* Section 2251.202(a)(4) or (a)(6)*, it will, 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 will include:*

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

2) *The proposed response from the Board; and*

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

c) *Upon receipt of a notice of intent to deny from the Board, the Public Access Counselor shall determine whether further inquiry is warranted.* The Public Access Counselor shall process the notification of intent to deny as detailed in Section 9.5(b) of FOIA*. Times for response or compliance by the Board under* Section 2251.401 *will be tolled until the Public Access Counselor concludes his or her inquiry.* (Section 9.5(b) of FOIA)

d) *Within 7 working days after the Board receives a request for review from the Public Access Counselor, the Board will provide copies of records requested and will 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 Board 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 Board.* (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 Board 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 Board, subject to administrative review under* Section 2251.407*.* (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 Board will either take necessary action immediately to comply with the directive of the opinion or will initiate administrative review under* Section 2251.407*. If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under* Section 2251.407*.* (Section 9.5(f) of FOIA)

k) *If the Board discloses records in accordance with an opinion of the Attorney General, the Board 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 2251.406 *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 so notify the Board.* (Section 9.5(g) of FOIA)

m) *The Attorney General may also issue advisory opinions to the Board regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the Executive Director of the Board or the Board'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 Board in order to assist in the review. If the Board relies in good faith on an advisory opinion of the Attorney General in responding to a request, the Board 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. 10168, effective July 1, 2010)