

**Illinois Freedom of Information Act**  
*Frequently Asked Questions*  
*By Public Bodies*

The Illinois Freedom of Information Act (FOIA) is designed to ensure that the public has access to information about their government and its decision-making process. As a public servant, you have a duty to ensure that Illinois residents can obtain information about their government.

In 2009, Attorney General Lisa Madigan worked with legislators and a diverse group of individuals and organizations to strengthen FOIA and hold government more accountable. On January 1, 2010, key changes to the Freedom of Information Act and the Open Meetings Act took effect to provide Illinois residents with a more open and accountable government. These Frequently Asked Questions describe the FOIA provisions that are currently in effect.

WHO'S WHO UNDER FOIA

**Public Access Counselor (PAC)** – is an attorney in the Attorney General’s office whose responsibility is to ensure compliance with FOIA. The Public Access Counselor is part of the Public Access Bureau in the Attorney General’s office, which includes several Assistant Attorneys General and professional support staff members working to respond to FOIA and Open Meetings Act issues raised by the public and government officials. Working under the direction and supervision of the Attorney General, the PAC has the authority to review requests for documents under FOIA and determine whether those documents should have been disclosed under FOIA. The PAC also has the authority to determine whether a public body has violated the Open Meetings Act. As part of this Public Access work, the Attorney General, through the PAC, may issue binding opinions in FOIA disputes, may sue to enforce binding opinions, and may issue advisory opinions to guide public bodies. The Public Access Counselor also creates the electronic training that all FOIA officers are required to complete annually.

**Public Body** – is defined in FOIA as “all legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State, any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees thereof and a School Finance Authority created under Article 1E of the School Code.” FOIA provides that “[p]ublic body’ does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act, or a regional youth advisory board of the Statewide Youth Advisory Board established under the Department of Children and Family Services Statewide Youth Advisory Board Act.” The Illinois courts have determined that the definition of “public body” under FOIA does not include the offices of the judicial branch of the state, including the Illinois circuit, appellate, and supreme courts, judges, and the circuit clerk’s offices.

**FOIA Officer** – is a person appointed by the “public body.” The FOIA officer’s responsibility is to receive FOIA requests from the public and to send responses in compliance with FOIA. FOIA requires that each public body appoint one or more FOIA officers who must complete an electronic training developed by the Attorney General’s PAC. Training must be completed annually. The Attorney General’s office has made the electronic training available to all FOIA officers.

**Public Records** – are defined in FOIA as “all records, reports, forms writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body.” A few examples of public records available under FOIA are: orders; rules; reports or studies; contracts; and rosters and salaries of public employees. Information can be available in electronic as well as paper format.

## GENERAL INFORMATION

### **What is FOIA?**

The Freedom of Information Act (FOIA) is a state statute that provides the public the right to access government documents and records. The premise behind FOIA is that the public has a right to know what the government is doing. The law provides that a person can request a copy of a public body’s records on a specific subject and the public body must provide those records, unless there is an exemption in the statute that protects those records from disclosure.

### **Who is subject to FOIA?**

Public bodies are subject to FOIA. The judicial branch is not subject to FOIA, but court records and proceedings generally are open to the public under other Illinois laws.

### **Who can submit a FOIA request?**

Anyone. Any person, group, association, corporation, firm, partnership or organization has the right to file a FOIA request to any state or local public body.

### **Is every public body required to have a designated FOIA officer?**

Yes. Every public body must designate at least one person to act as the FOIA officer. Public bodies may have more than one FOIA officer. In addition, every public body must prominently display at its office, and on its website if it maintains a website, certain information including a brief description of the methods available to the public to submit a FOIA request, a directory designating the FOIA officer(s), the address where FOIA requests should be directed, and any fees applicable to FOIA requests.

### **What are the consequences if a public body fails to designate a FOIA officer?**

FOIA requires that every public body designate a FOIA officer. Failure to do so is a violation of the Act and will be considered by the PAC, as well as courts, when a request for review or litigation is filed.

## RESPONDING TO FOIA REQUESTS

### **How many days does the public body have to respond to a FOIA request?**

5 business days from the day after the public body receives the request. However, that time period may be extended for an additional 5 business days from the date of the original due date if:

- The requested information is stored at a different location;
- The request requires the collection of a substantial number of documents;
- The request requires an extensive search;
- The requested records have not been located and require additional effort to find;
- The requested records need to be reviewed by staff who can determine whether they are exempt from FOIA;
- The requested records cannot be produced without unduly burdening the public body or interfering with its operations; or
- The request requires the public body to consult with another public body that has substantial interest in the subject matter of the request.

If additional time is needed, the public body must notify the requester in writing within 5 business days after the receipt of the request of the statutory reasons for the extension and the date on which it will provide a final response to the request.

### **What is a “business day” or “working day”?**

A “business day” or “working day” is a regular day of the week (Monday through Friday) when public offices and most businesses are open. Saturdays, Sundays and legal holidays are not business days and cannot be counted in the 5-business-day time period.

### **When does the 5-business-day time period start?**

Day 1 of the 5-day timeline is the first business day *after* the request is received by the public body. The date that the request was received by the public body does *not* count as “Day 1.”

### **Does the 5-business-day response period begin the day after the FOIA officer’s receipt of the request, or the day after receipt of the request by *any* of the public body’s employees or officials?**

The 5-business-day response timeline begins the day after any employee or official of the public body receives the request for information. Employees and officials of a public body must immediately forward all requests for information to the FOIA officer(s) to maximize the response time. In the relatively rare circumstances in which a request meets the definitions in FOIA of a "voluminous request" or a request submitted by a "recurrent requester," public bodies must provide an initial response within 5 business days after receipt of the request to notify the requester of that designation and provide certain other information, but extended periods for substantively responding to the request are applicable.

**When is a FOIA request *sent by e-mail* “received”? When it appears in the electronic mailbox or when it is opened by the recipient?**

If a FOIA request sent by e-mail appears in the recipient’s mailbox during normal working hours, it is received on that day. If it is e-mailed after business hours, including on a weekend or legal holiday, it is “received” on the following business day. It is considered received even if the e-mail is not opened on that business day because the FOIA officer is out of the office.

**If a public body’s office is closed for vacation (for instance, a public school is closed for winter break), are FOIAs submitted during that time considered received?**

Yes. FOIA does not have any exceptions for vacations or winter breaks, other than for Saturdays, Sundays and legal holidays.

**What are the consequences if the public body does not respond to the FOIA request within 5 business days (or 10 business days if extended)?**

Aside from the potential that a court ultimately could impose a civil penalty of between \$2,500 and \$5,000 per FOIA violation, public bodies have an additional incentive to respond within the time limits set forth in the statute: In the event a public body fails to respond within 5 business days (or 10 days if the extension was properly taken), it generally cannot charge a fee for the copies provided at a later time, or treat the request as unduly burdensome; this does not apply to voluminous requests and requests by recurrent requesters.

**Can a requester and a public body agree to extend the deadline to respond beyond 10 days?**

Yes, but the agreement must be in writing. The agreement will also relieve the public body of having to comply with other legal deadlines in FOIA.

**Can a public body require that a FOIA request be submitted on a certain form or in a certain format?**

No. Public bodies can require that FOIA requests be submitted in writing, but public bodies must accept requests by mail, personal delivery, fax, email, online portal, or other means available. Public bodies may create a FOIA form that requesters may use for convenience, but public bodies cannot require that requesters use a specific form for the request. Public bodies may choose to accept oral FOIA requests but are not required to do so by the law.

**To whom should the requester submit a FOIA request?**

To a designated FOIA officer. Every public body must designate at least one FOIA officer and prominently display at its office information describing the methods for delivering a FOIA request to the public body.

**Does the public body have to identify the FOIA officer?**

Yes. Each public body must prominently display and make available upon request a directory designating the FOIA officer(s) for that body and the address where FOIA requests should be sent. If the public body has a website, this information must also be posted on it.

**When is a request considered to be “unduly burdensome?”**

Under section 3(g) of FOIA a request is unduly burdensome when: (1) the request must be categorical in nature and incapable of being narrowed or reduced; and (2) the burden on the public body to respond to the request outweighs the public interest in the information.

**What steps should I take if I believe a request is “unduly burdensome?”**

If the public body receives a request it believes is unduly burdensome, the public body should first search for the responsive records (if possible) to estimate the number of records or pages potentially responsive to the request, and to determine the extent to which those records would need to be reviewed for possible redactions. The public body should then estimate the amount of time it believes it will take to collect, review, and redact the records. If, after collecting this information, the public body determines that the request as written is unduly burdensome, it must notify the requester and give the requester an opportunity to reduce the request to manageable proportions. It is helpful if that notification to the requester includes the detailed information it collected about the estimated number of responsive records and time required to complete the collection, review, and redaction of those records.

If the requester contacts the public body to discuss options for reducing the request to manageable proportions, the public body must confer with the requester.

**I have received a request that does not fit the “unduly burdensome” standard, yet cannot reasonably be completed within the maximum 10 working days’ response period. Does FOIA offer any options?**

Yes. The Act allows the public body and the requester to reach a written agreement to extend the time in which to respond to a request.

**I work for a public body that is being harassed by repeated FOIA requests from the same individual or entity. Does FOIA make any provisions for this?**

If the person has submitted another request for the same records, FOIA provides that repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied shall be deemed unduly burdensome and may be denied on that basis. However, if the same person has submitted requests for different records, the public body must respond to each request, either by providing responsive records, denying the request in whole or in part, or notifying the requester if it does not possess responsive records.

**What information must a public body withhold or redact under the Freedom of Information Act?**

Although there may be legitimate reasons to redact or withhold certain types of information, the only information that the Freedom of Information Act requires a public body to redact are (1) the home addresses, home/personal telephone numbers, and social security numbers of employees noted on certified payroll records that are required to be submitted to a public body under the Prevailing Wage Act; (2) home addresses, home/personal telephone numbers, and social security numbers of employees noted on demolition, repair, enclosure, or remediation records submitted to a county under Section 5-1121 of the Counties Code or to a municipality under Section 11-31-1 of the

Illinois Municipal Code; and (3) information exempt from disclosure under the Judicial Privacy Act. Additionally, other federal or state laws may require the withholding of certain information, including but not limited to social security numbers and juvenile law enforcement records. In particular, section 7.5 of FOIA contains many exemptions for types of records and information that is prohibited from being disclosed by various state laws.

**I am the designated FOIA officer for a public body. Will I be held personally liable for any civil penalties that a court may impose in a FOIA lawsuit?**

No. Only the public body may be liable for civil penalties under FOIA. If a court finds that a *public body* willfully and intentionally failed to comply with the Act or otherwise acted in bad faith, the court shall impose a civil penalty upon the *public body*.

**Does a requester need to specifically and accurately describe the document he or she is looking for?**

No. The requester does not need to describe the document specifically and accurately by the same name the public body uses. As long as the public body understands what is being requested, it must release that information, even if the requested information is not called by the same name the public body uses.

**What information is a public body required to make available immediately?**

Each FOIA officer for a public body must develop and make available upon request a list of documents or categories of records that the public body will immediately provide to a requester. In addition, each public body must maintain a reasonably current list of all types or categories of records under its control and this list should be reasonably detailed so that it aids people in obtaining access to public records. The public body must make this list available for inspection and copying.

**Can the public body ask why the requester wants the information?**

No, except to determine if the request is for commercial reasons or to determine if a fee waiver applies. *See below for more details on commercial requests and fee waivers.*

**Even though we cannot ask about the purpose of a request, can we assist the requester in narrowing their request so that they can get the information they are seeking?**

Yes. Public bodies are encouraged to work with a requester to clarify or narrow the scope of a request. A public body can ask “what” the requester is looking for in an attempt to ensure that responsive documents are produced. A public body cannot ask “why” the requester is seeking the documents.

**Can a request be made anonymously? For instance, e-mail requests are often submitted anonymously.**

Yes. A requester is not required to provide his or her name or sign a FOIA request form.

**Is a requester required to state that a request for public documents is being made pursuant to FOIA?**

No. If a request is made for copies of documents or records, the public body should treat it as a request pursuant to FOIA. A requester is not required to include the words “Freedom of Information Act” or the acronym “FOIA” in a request.

FEES

**Can the public body charge for copies?**

Yes, but the charges are limited. For black and white, letter or legal sized copies (8 ½ x 11 or 8 ½ x 14), the first 50 pages are free, and any additional pages can cost no more than 15 cents a page. For color copies or abnormal size copies, the public body can charge the actual cost of copying.

**Can a public body charge for electronic copies?**

Yes, but typically only for the actual cost of the recording medium. For example, if information is produced on a flash drive, the public body may only charge the actual cost of purchasing the flash drive. Separate fees apply based on the number of megabytes of responsive records if a request qualifies as a "voluminous request" under the definition of that term in FOIA.

**Is it possible for a public body to waive the copying fees?**

Yes. Public bodies may waive or reduce copying fees at any time if disclosure is in the public interest. For example, a waiver or reduction may be available if:

- The request is for information on the health, safety and welfare or the legal rights of the general public;
- There is an intent to disseminate the information; or
- No personal or commercial benefit will be received from document disclosure.

**Can we pass a vendor copy fee on to a requester?**

Only in certain circumstances. FOIA limits the copying charge to \$.15 per page for black and white copies on regular size paper, after the first 50 pages, which are free to the requester. A public body may only charge the actual cost of reproduction for oversized or color copies.

**Can the public body require receipt of the payment from the requester before making the requested copies?**

Yes. However, a requester is entitled to the first 50 pages for free, even if the requester declines to pay for the remaining records.

## GETTING INFORMATION IN AN ELECTRONIC FORMAT

### **Can the requester request the documents in electronic form?**

Yes, and the public body must provide the documents in the requested format if (1) it maintains the records in an electronic format, and (2) it is feasible for the public body to provide the records in the requested format. If that format is not available to the public body, it must provide the documents in the electronic format in which they are kept or in paper, at the option of the requester. A public body is not required to convert records maintained in paper format into an electronic format.

### **If a public body must purchase a program to make certain information available in the electronic format requested by the requester, does the public body have to make that purchase?**

No. When a person requests a copy of a record maintained in an electronic format, the public body must provide it in the electronic format specified by the requester, if it is feasible for the public body to do so. If it is not feasible to furnish the public record in the specified electronic format, then the public body must furnish it in the format in which it is maintained by the public body, or in paper format, at the option of the requester.

### **If the public body has a database and the requested information requires that the public body do a search of that database, does the public body have to conduct that search?**

Yes, and the public body cannot charge the requester for that search.

### **Are e-mails subject to FOIA?**

Yes. All electronic communications that pertain to the transaction of public business (as long as they do not fall within an exemption) are subject to FOIA.

## EXEMPTIONS – RECORDS AND INFORMATION THAT A PUBLIC BODY MAY WITHHOLD FROM DISCLOSURE

### **What is considered a “public record”?**

“Public records” are defined in FOIA as “all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body.” Given this broad definition, FOIA is intended to cover any document, regardless of form, that pertains to government business.

### **Does “public record” include electronic information?**

Yes. FOIA defines public records to include electronic documents and communications. When a person requests a record that is maintained in an electronic format, the public body must provide it in the electronic format specified by the request, if that is feasible for the public body. If it is not feasible, the public body must present the information in the format in which it is maintained by the public body or in a paper format at the option of the requester. If a public body can provide responsive records electronically through



e-mail or by uploading the records to its FOIA portal, it should attempt to do so. If it is necessary to provide electronic records on a recording medium, such as a flash drive, the public body may charge a fee for the actual cost of purchasing the recording medium but may not charge a fee for its search for or review of the information (except in rare circumstances applicable to certain commercial requests). As stated above, separate fees apply based on the number of megabytes of responsive records if a request qualifies as a "voluminous request" under the definition of that term in FOIA.

### **What kind of information is not public?**

The FOIA law has a presumption that all information is public, unless the public body proves otherwise, by clear and convincing evidence. There are a large number of exceptions to public disclosure. These are referred to as FOIA exemptions, and are listed in sections 7 and 7.5 of FOIA. Those exemptions are summarized generally below, and include but are not limited to:

- Private information, which is defined as “unique identifiers, including a person’s social security number, driver’s license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal e-mail addresses.” Under FOIA, “private information also includes home addresses and personal license plate numbers, except as otherwise provided by law or when compiled without possibility of attribution to any person.”
- Personal information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the person who is the subject of the information. Under FOIA, the “unwarranted invasion of personal privacy” means the “disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject’s right to privacy outweighs any legitimate public interest in obtaining the information.” Disclosing information that relates to the public duties of public employees is not considered an invasion of personal privacy.
- Law enforcement records that, if disclosed, would interfere with a pending or reasonably contemplated proceeding, obstruct an open investigation, or reveal the identity of a person who filed a complaint with or provided information to a law enforcement agency.
- Information that, if disclosed, might endanger anyone’s life or physical safety.
- Preliminary drafts or notes in which opinions are expressed or policies are formulated, unless the record is publicly cited and identified by the head of the public body.
- Business trade secrets or commercial or financial information that is proprietary, privileged or confidential and that if disclosed would cause a competitive harm to the person or business.
- Proposals and bids for any contract, until a final selection is made.
- As discussed above, requests that are “unduly burdensome.”

You can review sections 7 and 7.5 of FOIA [here](#).

**Can a public body remove or black out information from documents it provides?**

Yes, if a record contains information that is exempt from disclosure under FOIA, a public body can remove or black out that exempt information from the public records. This is called “redaction.” But the public body must produce the remaining information.

**Does the PAC have any educational resources discussing the FOIA exemptions applicable to records created by law enforcement and correctional agencies for law enforcement purposes?**

You may wish to review the PAC’s [FOIA Guide for Law Enforcement](#).

COMMERCIAL REQUESTS

**What is a request for information made for a commercial purpose?**

A commercial request is when the requester seeks to use part or all of the public records for sale, resale, or solicitation or advertisement for sales or services. A request from a business (like a law firm, consulting firm, or another commercial entity) does not necessarily have a commercial purpose. Only those requests for which the responsive records will be used for the reasons describe above have a commercial purpose. Additionally, requests by the news media, not-for-profit organizations, and scientific or academic institutions are not considered commercial information requests.

**Are commercial information requests treated differently?**

Yes. A public body has 21 business days to respond to a request for information that is made for a commercial purpose. The public body can either: (1) provide the requested records; (2) advise when the records will be provided and the costs; (3) deny the request (if it falls under an exception); or (4) advise the requester that the request is unduly burdensome.

**Can the public entity charge fees for copies of the information?**

Yes, but the fees are limited. For traditional black and white, letter or legal sized copies (8 ½ x 11 or 8 ½ x 14) , the first 50 pages are free, and any additional pages can cost no more than 15 cents a page. For color copies or abnormal size copies, the public body can charge the actual cost of copying. Additionally, a public body may charge up to \$10 for each hour spent by personnel in searching for and retrieving a requested record or examining the record for necessary redactions, except that the first 8 hours shall be free. This fee is applicable only to commercial requesters.

OTHER FOIA QUESTIONS

**Does a request for a copy of an ordinance require a FOIA request?**

No. Ordinances are public documents that should be immediately available to the public without a FOIA request.

**Can a requester be limited to inspecting public records when they request copies?**

No. If a person requests to copy a record, permitting inspection but refusing to provide a copy constitutes a denial, and is allowable only if the record is exempt from disclosure. In the rare circumstances where the public body is prohibited from copying a document for which it does not hold the copyright, the public body may deny the request for copies but should offer the requester the opportunity to inspect the record.

**Can a public body draft its own policies to define FOIA compliance? For example, can a public body require a FOIA response within 3 working days, instead of 5 working days?**

Yes. A public body may adopt its own policies and procedures to govern its implementation of FOIA as long as they are consistent with and do not conflict with FOIA. FOIA constitutes the minimum requirements for public disclosure and does not preclude a public body from adopting more transparent standards.

CONSEQUENCES FOR NOT COMPLYING WITH FOIA

**What are the penalties for a public body for not complying with FOIA?**

In addition to the potential that a court ultimately could impose a civil penalty of between \$2,500 and \$5,000 per FOIA violation, if a public body does not respond within the time limits provided, it cannot subsequently charge for reproduction costs or treat the request as unduly burdensome.

REQUESTER'S OPTIONS IF THE PUBLIC BODY FAILS TO RESPOND OR DENIES A REQUEST

**What happens if the public body doesn't respond to a FOIA request?**

If the public body does not respond to a request within 5 business days of receiving it, or extend the time for responding in writing, that inaction is considered a denial of the request. If that occurs, a requester can either file a Request for Review with the Attorney General's PAC or file a lawsuit in court.

**When a public body denies a request in whole or in part, what must the public body include in a denial?**

The denial must be in writing and reference a specific legal reason under FOIA to justify the withholding of a record or redaction of part of a record. A public body has the burden of proving by clear and convincing evidence that the information is exempt from disclosure. The denial also must inform the requester of the right to seek review of the issue by the Public Access Counselor in the Attorney General's office, with the PAC's contact information, as well as the right to seek judicial review by filing a court case.

**What can the requester do if the public body denies the request for information?**

The requester can file a Request for Review with the Attorney General's PAC within 60 calendar days from when the alleged violation occurred. Alternatively, the requester may file a civil action in the circuit court within two years after the alleged violation took place.

### **What is a Request for Review to the Public Access Counselor?**

A Request for Review is correspondence that a requester may submit to the PAC if their request to inspect or copy a public record has been denied in whole or in part, or if the public body has failed to respond. This letter or email is a formal way of asking the PAC to take a look at the request and the public body's response (or lack thereof) and determine if a FOIA violation has occurred. The request must be in writing, be signed by the requester, and include: (1) a copy of the FOIA request; and (2) any responses from the public body.

### **Is there a deadline for submitting a Request for Review?**

Yes. The requester must submit a Request for Review to the PAC within 60 calendar days after the date of the final denial from the public body (or the date upon which the response was due).

### **How do I contact the Public Access Counselor's Office?**

The Public Access Counselor is a member of the Public Access Bureau in the Attorney General's Office and may be contacted as follows:

Leah Bartelt  
Public Access Counselor  
Public Access Bureau  
500 S. 2nd Street  
Springfield, Illinois 62706  
E-mail: [public.access@ilag.gov](mailto:public.access@ilag.gov)  
FOIA Hotline: 1-877-299-FOIA (1-877-299-3642)

### **What happens if someone submits a Request for Review with the PAC and what are the responsibilities of the public body?**

The PAC will review all requests and will do one of three things:

1. Decide that no further action is necessary. If the PAC decides that the alleged violation is unfounded, the PAC will advise the requester and the public body of that decision in writing. At this point, the public body does need to take any further action.
2. Send a copy of the Request to the public body and request more information from the public body. If more information is needed to review the issue, the PAC may, within 7 working days after receipt of the Request for Review, send a copy of the Request to the public body and ask for any records the PAC needs to complete the review. At this point, the public body must submit the requested information to the PAC within 7 working days. Please note that the Attorney General's office has the authority to issue a subpoena for this information if the public body fails to respond fully to the PAC's request.
3. Attempt to informally resolve the matter. The PAC may also try to resolve the FOIA dispute through mediation or other informal means. The public body should work with the PAC and the requester to resolve the dispute.

### **What kind of information can the PAC request from the public body as part of the analysis of the Request for Review?**

The PAC can request any information that is necessary to decide whether a FOIA violation has occurred. This includes obtaining copies of the information that the public body claims is exempt from FOIA disclosure. If the PAC obtains information or documents that are claimed to be exempt from disclosure, the PAC is prohibited from disclosing the information or documents.

### **What are the different possible outcomes of a Request for Review by the PAC?**

There are multiple ways the PAC may respond to a Request for Review:

- Decide that no further action is necessary. If the PAC decides that the alleged violations of FOIA are unfounded, the PAC will advise the requester and the public body of that decision. The PAC will not conduct any further review.
- Resolve the FOIA dispute by mediation or by a means other than the issuance of a binding opinion. The PAC may choose to mediate the dispute or resolve the matter by means other than the issuance of a binding opinion, including the issuance of a non-binding determination letter. The PAC will choose to issue a non-binding determination letter after reviewing any information needed to analyze the FOIA dispute and any additional information provided by the requester or public body. The PAC's decision to decline to issue a binding opinion is not reviewable.
- Issue a binding opinion. The PAC will review any information needed to analyze the FOIA dispute and any additional information that the requester or the public body provides. If the PAC decides to issue a binding opinion, the PAC must issue that opinion within 60 calendar days after receiving the Request for Review. The PAC may extend the 60-day time period by 30 business days by sending a written notice to the requester and the public body, and must include the reasons for the extension.

If the opinion orders the public body to produce records, the public body may appeal the opinion to the circuit court. If the public body does not appeal the opinion and fails to disclose the records as ordered by the opinion, the Attorney General's office may sue the public body to enforce the opinion. If the opinion concludes that the records fall within a FOIA exemption and need not be disclosed, the requester may appeal the opinion to the circuit court.

### **What's the difference between a requester filing a Request for Review with the PAC and filing a suit in court?**

Most Requests for Review are resolved without the issuance of a binding opinion, but if the PAC does issue a binding opinion deciding a case, then that opinion carries significant weight. If the losing party decides to appeal it to court, the court must give deference to the PAC's opinion and can only overturn it if it is clearly erroneous. If the requester goes straight to court, the public body has the burden to show that its denial was correct through clear and convincing evidence. Also, if the requester goes to court and prevails against the public body, the requester shall recover reasonable attorney's fees and costs.