

# TITLE 62 OFFICE OF THE PUBLIC ACCESS COUNSELOR

## ARTICLE 1. FORMAL COMPLAINTS

### Rule 1. General Provisions

#### 62 IAC 1-1-1 Definitions

Authority: IC 5-14-5-10

Affected: IC 5-14-1.5; IC 5-14-3; IC 5-14-5

Sec. 1. The following definitions apply throughout this rule:

(1) "Complainant" means a person who files a complaint under IC 5-14-5.

(2) "Formal complaint" means a complaint filed under IC 5-14-5.

*(Office of the Public Access Counselor; 62 IAC 1-1-1; filed May 26, 2000, 8:43 a.m.: 23 IR 2409; readopted filed Aug 2, 2006, 4:08 p.m.: 20060816-IR-062060149RFA; readopted filed Jul 3, 2012, 8:16 a.m.: 20120801-IR-062120217RFA; readopted filed Nov 29, 2018, 12:07 p.m.: 20181226-IR-062180419RFA)*

#### 62 IAC 1-1-2 Formal complaints that have priority; procedure

Authority: IC 5-14-5-10

Affected: IC 5-14-1.5; IC 5-14-3; IC 5-14-5

Sec. 2. (a) Formal complaints may be filed with the public access counselor by hand delivery, United States mail, facsimile, or electronic mail.

(b) A complainant shall file a formal complaint on the form prescribed by the public access counselor. If any of the criteria for priority enumerated in section 3 of this rule are met, the complainant shall include that information in the complaint.

(c) A formal complaint is considered received when date stamped by the office of the public access counselor.

(d) If a formal complaint meets any of the criteria for priority listed under section 3 of this rule, the public access counselor shall issue a written advisory opinion within seven (7) days of receipt of that complaint. *(Office of the Public Access Counselor; 62 IAC 1-1-2; filed May 26, 2000, 8:43 a.m.: 23 IR 2409; readopted filed Aug 2, 2006, 4:08 p.m.: 20060816-IR-062060149RFA; readopted filed Jul 3, 2012, 8:16 a.m.: 20120801-IR-062120217RFA; readopted filed Nov 29, 2018, 12:07 p.m.: 20181226-IR-062180419RFA)*

#### 62 IAC 1-1-3 Priority complaints; criteria

Authority: IC 5-14-5-10

Affected: IC 5-14-1.5-7; IC 5-14-3; IC 5-14-5

Sec. 3. A formal complaint has priority if one (1) of the following criteria are met:

(1) The complainant intends to file an action in circuit or superior court under IC 5-14-1.5-7 to declare void any policy, decision, or final action of a governing body or seek an injunction that would invalidate any policy, decision, or final action based upon a violation of IC 5-14-1.5. A formal complaint must be filed under this subsection:

(A) before the delivery of any warrants, notes, bonds, or obligations if the relief sought would have the effect of invalidating those warrants, notes, bonds, or obligations; or

(B) within thirty (30) days of either:

(i) the date of the act or failure to act complained of; or

(ii) the date that the complainant knew or should have known that the act or failure to act complained of had occurred.

(2) The complainant has filed a complaint concerning the conduct of a meeting or an executive session of a public agency for which notice has been posted, but the meeting or executive session has not yet taken place.

(3) The complainant has filed a complaint concerning denial of access to public records and at least one (1) of the public records requested was sought for the purpose of presenting the public record in a proceeding to be conducted by another

public agency.

*(Office of the Public Access Counselor; 62 IAC 1-1-3; filed May 26, 2000, 8:43 a.m.: 23 IR 2409; readopted filed Aug 2, 2006, 4:08 p.m.: 20060816-IR-062060149RFA; readopted filed Jul 3, 2012, 8:16 a.m.: 20120801-IR-062120217RFA; readopted filed Nov 29, 2018, 12:07 p.m.: 20181226-IR-062180419RFA)*

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