

Federal Election Commission

§ 4.9

(2) Requesters for expedited processing must include in their requests a statement setting forth the basis for the claim that a "compelling need" exists for the requested information, certified by the requester to be true and correct to the best of his or her knowledge and belief.

(3) The Commission shall determine whether to grant a request for expedited processing and notify the requester of such determination within ten days of receipt of the request. Denials of requests for expedited processing may be appealed as set forth in § 4.8. The Commission shall expeditiously determine any such appeal. As soon as practicable, the Commission shall process the documents responsive to a request for which expedited processing is granted.

(h) Any person denied access to records by the Commission shall be notified immediately giving reasons therefore, and notified of the right of such person to appeal such adverse determination to the Commission.

(i) The date of receipt of a request under this part shall be the date on which the FOIA Officer actually receives the request.

[44 FR 33368, June 8, 1979, as amended at 45 FR 31292, May 13, 1980; 50 FR 50778, Dec. 12, 1985; 52 FR 39213, Oct. 21, 1987; 65 FR 9206, Feb. 24, 2000]

§ 4.8 Appeal of denial.

(a) Any person who has been notified pursuant to § 4.6(d) of this part that his/her request for inspection of a record or for a copy has been denied, or who has received no response within ten working days (or within such extended period as is permitted under § 4.7(c) of this part) after the request has been received by the Commission, may appeal the adverse determination or the failure to respond by requesting the Commission to direct that the record be made available.

(b) The appeal request shall be in writing, shall clearly and prominently state on the envelope or other cover and at the top of the first page "FOIA Appeal", and shall identify the record in the form in which it was originally requested.

(c) The appeal request should be delivered or addressed to the FOIA Offi-

cer, Federal Election Commission, 999 E Street, NW., Washington, DC 20463.

(d) The requester may state facts and cite legal or other authorities as he/she deems appropriate in support of the appeal request.

(e) For good cause shown, the Commission may disclose a record which is subject to one of the exemptions listed in § 4.5 of this part.

(f) The Commission will make a determination with respect to any appeal within twenty days (excluding Saturdays, Sundays and legal holidays) after receipt of the appeal (or within such extended period as is permitted under § 4.7(c) of this part). If on appeal, the denial of the request for a record or a copy is in whole or in part upheld, the Commission shall advise the requester of the denial and shall notify him/her of the provisions for judicial review of that determination as set forth in 5 U.S.C. 552(a)(4).

(g) Because of the risk of misunderstanding inherent in oral communications, the Commission will not entertain any appeal from an alleged denial or failure to comply with an oral request. Any person who has orally requested a copy of a record that he/she believes to have been improperly denied should resubmit the request in writing as set forth in § 4.7.

[44 FR 33368, June 8, 1979, as amended at 50 FR 50778, Dec. 12, 1985]

§ 4.9 Fees.

(a) *Exceptions to fee charges*—(1) *General*. Except for a commercial use requester, the Commission will not charge a fee to any requester for the first two hours of search time and the first 100 pages of duplication in response to any FOIA request.

(2) *Free computer search time*. For purposes of this paragraph, the term *search time* is based on the concept of a manual search. To apply this to a search conducted by a computer, the Commission will provide the equivalent dollar value of two hours of professional staff time, calculated according to paragraph (c)(4) of this section, in computer search time. Computer search time is determined by adding the cost of the computer connect time actually used for the search, calculated at the rate of \$25.00 per hour, to the