



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

June 30, 2022

Via electronic mail



RE: FOIA Requests for Review – 2022 PAC 72083; 2022 PAC 72085

Dear 

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2020)). For the reasons set forth below, the Public Access Bureau concludes that no further inquiry is warranted.

On April 13, 2022, and April 14, 2022, you submitted FOIA requests to the Illinois Department on Aging (Department) seeking records concerning two named individuals, one of whom you indicated is your brother. On April 14, 2022, and April 15, 2022, the Department denied your requests pursuant to section 7.5(y) of FOIA.¹ In its denial letters, the Department noted that it requires a written authorization from the subject of the records or their authorized agent for the release of the requested information. On June 10, 2022, this office received your completed Requests for Review contesting the Department's denial.

Section 7.5(y) of FOIA exempts from disclosure:

Confidential information under the Adult Protective Services Act and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated decision of abuse, neglect, or financial exploitation of an eligible adult maintained in the Registry established under

¹ 5 ILCS 140/7.5(y) (West 2020), as amended by Public Acts 102-036, effective June 25, 2021; 102-237, effective January 1, 2022; 102-292, effective January 1, 2022; 102-520, effective August 20, 2021; 102-559, effective August 20, 2021; 102-813, effective May 13, 2022; 102-1042, effective June 3, 2022.

Section 7.5 of the Adult Protective Services Act. (Emphasis added.)

Section 8 of the Adult Protective Services Act (320 ILCS 20/8 (West 2020), as amended by Public Act 102-244, effective January 1, 2022) states that "[a]ll records concerning reports of abuse, abandonment, neglect, financial exploitation, or self-neglect and all records generated as a result of such reports shall be confidential and shall not be disclosed except as specifically authorized by this Act or other applicable law." Section 8 lists the categories of individuals or entities permitted access to those records. Among the individuals eligible to receive copies of the records is "[a]n eligible adult reported to be abused, abandoned, neglected, financially exploited, or self-neglected, or such adult's authorized guardian or agent, unless such guardian or agent is the abuser or the alleged abuser[.]" 320 ILCS 20/8(4) (West 2020).

The administrative rules implementing section 8 of the Adult Protective Services Act further specify that the records may be released to a legal guardian or agent "who has current authority to act on behalf of the eligible adult when access to those records is relevant to representing the interests of the eligible adult, and a complete authorization for release of records is submitted, unless the guardian or agent is the substantiated abuser or is the alleged abuser in an open case[.]" 89 Ill. Admin. Code §270.275(d)(6) (2022), as amended at 42 Ill. Reg. 9226, effective July 1, 2018. (Italics removed.) The rules further explain:

An authorization for release of records by the Department or the APS provider agencies must be legally sufficient and include:

- 1) supporting documentation of the agency or guardianship evidencing current authority and the extent of the authority to act on behalf of the eligible adult or his or her estate; and
- 2) a sworn statement as to the purpose of the request and its relevance to representing the interests of the eligible adult or his or her estate.^[2]

Your FOIA requests to the Department did not include the required written authorization certifying that you are the named individuals' legal guardian or agent, the extent of your authority to act on behalf of those individuals, and a sworn statement describing the purpose of your request and its relevance to the interests of the named individuals. Because the rules implementing the Adult Protective Services Act prohibit disclosure of the responsive records

²89 Ill. Admin. Code §270.275(e) (2022), as amended at 42 Ill. Reg. 9226, effective July 1, 2018.

[REDACTED]
June 30, 2022

Page 3

without the required written authorization, this office concludes that the Department did not improperly deny your requests.

If you have any questions, you may contact me by e-mail at laura.harter@ilag.gov. This letter serves to close these matters.

Very truly yours,

[REDACTED]
LAURA S. HARTER
Deputy Bureau Chief
Public Access Bureau

72083 72085 f no fi war sa

cc: *Via electronic mail*
Ms. Linda Ballard
FOIA Officer
Office of General Counsel
Illinois Department on Aging
One Natural Resources Way, Suite 100
Springfield, Illinois 62702
aging.foia@illinois.gov