

(c) *Request denied.* If the disclosure officer determines that the request should be denied, the requester shall be so advised in writing with a brief statement of the reasons for the denial, including a reference to the specific exemption(s) authorizing the denial and an explanation of how each such exemption applies to the matter withheld. The denial shall also include the name and title or position of the person(s) responsible for the denial and outline the appeal procedure available.

(d) *Records not promptly located.* As to records that are not located in time to make an informed determination, the disclosure officer may deny the request and so advise the requester in writing with an explanation of the circumstances. The denial shall also include the name and title or position of the person(s) responsible for the denial, outline the appeal procedure available, and advise the requester that the search or examination will be continued and that the denial may be withdrawn, modified, or confirmed when processing of the request is completed.

§4901.15 Appeals from denial of requests.

(a) *Submittal of appeals.* If a disclosure request is denied in whole or in part by the disclosure officer, the requester may file a written appeal within 30 days from the date of the denial or, if later (in the case of a partial denial), 30 days from the date the requester receives the disclosed material. The appeal shall state the grounds for appeal and any supporting statements or arguments, and shall be addressed to the General Counsel, Pension Benefit Guaranty Corporation. See §4000.4 of this chapter for information on where to file. To expedite processing, the words “FOIA appeal” should appear prominently on the request.

(b) *Receipt and consideration of appeal.* The General Counsel shall note the date and time of receipt on each appeal and notify the requester thereof. Promptly and in any event within 20 working days after receipt of an appeal (subject to extension under §4901.16), the General Counsel shall issue a decision on the appeal.

(1) The General Counsel may determine de novo whether the denial of dis-

closure was in accordance with FOIA and this part.

(2) If the denial appealed from was under §4901.14(d), the General Counsel shall consider any supplementary determination by the disclosure officer in deciding the appeal.

(3) Unless otherwise ordered by the court, the General Counsel may act on an appeal notwithstanding the pendency of an action for judicial relief in the same matter and, if no appeal has been filed, may treat such an action as the filing of an appeal.

(c) *Decision on appeal.* As to each item (or portion of an item) whose nondisclosure is appealed, the General Counsel shall either—

(1) Grant the appeal and so advise the requester in writing, in which case the records with respect to which the appeal is granted shall be promptly made available to the requester; or

(2) Deny the appeal and so advise the requester in writing with a brief statement of the reasons for the denial, including a reference to the specific exemption(s) authorizing the denial, an explanation of how each such exemption applies to the matter withheld, and notice of the provisions for judicial review in paragraph (a)(4) of FOIA. The General Counsel’s decision shall be the final action of the PBGC with respect to the request.

(d) *Records of appeals.* Copies of both grants and denials of appeals shall be collected in one file available in the PBGC’s public reference room under §4901.4(d)(1) and indexed under §4901.4(e).

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§4901.16 Extensions of time.

In unusual circumstances (as described in subparagraph (a)(6)(B) of FOIA), the time to respond to a disclosure request under §4901.14(a) or an appeal under §4901.15(b) may be extended as reasonably necessary to process the request or appeal. The disclosure officer (with the prior approval of the General Counsel) or the General Counsel, as appropriate, shall notify the requester in writing within the original time period of the reasons for the extension and the date when a response is