What's New in the 2026-2 Edition

Among many other updates, the 2026-2 edition adds nine important new sections addressing *reverse* Freedom of Information Act litigation and the classification of FOIA requesters for purposes of assessing fees, including the following:

- **A new section on reverse freedom of information claims** that explains how businesses and other information submitters may challenge an agency's proposed disclosure of confidential information, including the legal avenues available to prevent disclosure.
- **A new section on reverse freedom of information claims that** examines the framework for reverse FOIA litigation, including the burden on parties opposing disclosure, final agency action, mootness, and Chrysler Corp. v. Brown's holding that challenges to agency disclosure decisions generally proceed under the Administrative Procedure Act rather than FOIA itself.
- **A new section on reverse freedom of information claims that deals with the standard of review** and discusses the APA's deferential arbitrary-and-capricious standard, the general restriction of judicial review to the administrative record, limited circumstances for de novo review, and judicial treatment of incomplete records and inadequately supported disclosure decisions.
- **A new section on reverse freedom of information claims and Executive Order 12,600** that addresses predisclosure notification procedures for information potentially protected by Exemption 4, including notice to submitters, opportunities to object, agency consideration of confidentiality claims, and advance written notice of a decision to disclose.
- **A new section on requester categories** that introduces FOIA's three requester classifications for fee purposes: commercial use requesters; educational institutions, noncommercial scientific institutions, and representatives of the news media; and all other requesters.
- **A new section on commercial use requesters** that explains that commercial use classification turns primarily on the intended use of requested records rather than the requester's identity and discusses agency requests for clarification when the intended purpose is uncertain.
- **A new section on educational institutions, noncommercial scientific institutions, or news media request-**

ers that examines preferred fee status for professors, students, noncommercial scientific researchers, journalists, freelancers, and alternative media organizations, including the scholarly-purpose requirement and judicial interpretation of news gathering, editorial activity, and public dissemination.

- **A new section dealing with all other requesters** that describes the residual fee category for requesters who do not fall within either the commercial use or preferred educational, scientific, and news media categories.
- **A new section on fee category considerations** that explains classification of requests submitted on behalf of others, including attorney-filed requests; the agency's ability to seek fee-related clarification and toll its response period; and why requester classifications may differ from one request to another.