PIA Tips for Requestors & MD Agencies

Our advice for MAKING OR RESPONDING TO A PIA REQUEST:

Requestors
Keep it Simple & Specific

Do’s:
- Make requests simple and straightforward.
- Make requests specific and precise.
- Treat people as you want to be treated. Always be polite and respectful.
- Identify your request as a PIA request.

Follow agency procedures for submitting PIA requests.

Don’ts:
- Do not make complicated or convoluted requests.
- Do not use vague and imprecise language in your request.
- Do not be inconsiderate or antagonistic.
- Do not submit stealth requests. Do not embed a PIA request in your other correspondence.

Agencies
Communicate & Follow Through

Do’s:
- Communicate with the requestor. When in doubt, ask.
- Calculate actual costs to estimate fees and explain the basis for the estimate to the requestor.
- Treat people as you want to be treated. Always be polite and respectful.

Don’ts:
- Do not ignore requests that are submitted outside of your standard procedures. A PIA request does not have to say “MPIA Request” to be one; a PIA request does not have to be submitted via designated agency forms or portals to be one.
- Do not ignore or deny fee waiver requests without consideration. “Indigence” can be a basis for waiver of fees to individuals.
- Do not be inconsiderate or antagonistic. Do not wait until the 30th day to respond to PIA requests.

WITH THESE GUIDELINES IN MIND, REQUESTORS AND AGENCIES CAN SIMPLIFY THE PIA PROCESS AND AVOID UNNECESSARY CONFLICT. IF YOU HAVE ISSUES OR PROBLEMS, WE ARE HERE TO HELP. YOU CAN ASK FOR OMBUDSMAN ASSISTANCE BY EMAIL AT PIA.OMBUDS@OAG.STATE.MD.US, OR BY CALLING 410-576-6560.

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Our advice for participating in a successful mediation of a PIA dispute:

Requestors & Agencies

Both Parties Do:

• Recognize/perceive a problem;
• Genuinely wish to resolve the problem;
• Participate in open discussion/consideration of options;
• Agree upon an approach;
• Agree upon the terms of resolution; and
• Follow through on a timely basis to fulfill your commitment.

Both Parties Don’t:

• Ignore the problem;
• Hold fast to your perspective without listening to alternatives;
• Refuse to participate in the discussion of options;
• Support an approach that only benefits you;
• Agree to the terms of resolution with no intention of following through; and
• Fail to follow through on your commitment in a timely manner.

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The Basics

What is an Ombudsman?

- The term “ombudsman” comes from a Scandinavian word meaning “representative.” It is now used worldwide to describe independent, impartial, and confidential officials designated to address complaints and achieve fair outcomes.

- The Public Access Ombudsman is directed by law to make reasonable attempts to resolve disputes between applicants and governmental custodians relating to requests for public records. *Md. Code, General Provisions Article, § 4-1B-04(a).*

The Ombudsman is Independent.

- The Ombudsman is not part of or aligned with any governmental agency.

The Ombudsman is Neutral.

- The Ombudsman does not take sides; she remains neutral during the mediation process and seeks to facilitate agreement between the participants.

The Ombudsman is Confidential.

- The Ombudsman by law cannot disclose information received from the mediation participants without their prior written consent. *See “Confidentiality of Ombudsman Mediations” one-pager.*

The Ombudsman is Informal.

- The Ombudsman’s mediation process is an efficient and free way to address PIA disputes without resorting to the costly and time-consuming judicial process.

- The Ombudsman cannot force anyone to participate in mediation, and cannot order a governmental custodian to disclose records or information.
These confidentiality requirements apply only to materials, information, and communications made and/or received as part of the mediation and decision to pursue mediation, not to documents or information released by an agency under the PIA.

The Ombudsman’s Confidentiality Responsibilities

- By law, the Ombudsman cannot disclose information received from the parties in the mediation without their written consent. *Md. Code Ann., Gen. Prov. Article, § 4-1B-04(b)(1)(ii).*

- The Ombudsman has read and will abide by the Maryland Standards of Conduct for Mediators during the mediation, and will follow the specific confidentiality requirements of the Maryland Mediation Confidentiality Act, *Md. Code Ann., Courts and Judicial Proceedings (“CJP”) § 3-1803,* including:
  - The Ombudsman will maintain the confidentiality of all mediation materials, communications, and information;
    - The Ombudsman may share information received by one participant with the other participant to facilitate mediation, unless the participant has told the Ombudsman to keep that information private.
  - The Ombudsman will not, and cannot be compelled to, disclose any mediation materials, communications, or information in any court, administrative, or other proceeding.

- The Ombudsman may disclose mediation materials, communications, and/or information only:
  - to staff, including the Assistant Attorney General, to carry out the duties of the office;
  - where the parties have consented in writing to the disclosure;
  - where the disclosure is necessary to prevent bodily harm or death; OR
  - where the disclosure is necessary to respond to an allegation of misconduct or malpractice.

Your Confidentiality Responsibilities

- The parties in the mediation may not, and cannot be compelled to, disclose any mediation materials, communications, or information in any court, administrative, or other proceeding. *See CJP § 3-1803(b).*

- The parties are encouraged to agree in writing to further maintain the confidentiality of all mediation materials, communications, and information. *See “Voluntary Confidentiality Agreement.”*