



Office of the Public Access Ombudsman

Confidentiality of Ombudsman Mediations

LISA A. KERSHNER
Public Access Ombudsman

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."*

Office of the Public Access Ombudsman

Twitter: @MPIA_Ombuds ❖ Website: <http://news.maryland.gov/mpiaombuds> ❖ Email: pia.ombuds@oag.state.md.us

200 Saint Paul Place ❖ Baltimore, Maryland 21202-2021

Telephone Number 410-576-6560