

LARRY HOGAN

Governor

BOYD K. RUTHERFORD

Lt. Governor



**STATE OF MARYLAND
OFFICE OF THE
PUBLIC ACCESS OMBUDSMAN**

LISA A. KERSHNER
Public Access Ombudsman

CONFIDENTIALITY OF OMBUDSMAN MEDIATIONS

These confidentiality requirements apply only to materials, information, and communications made and/or received in connection with a potential or actual mediation. They do not apply to any records produced by the agency to the requester under the Public Information Act (“PIA”), nor do they apply to the PIA request itself, or any written PIA response issued by the agency to the requester. Likewise, the Ombudsman’s Office does not view these restrictions as applying to the bare fact that mediation is occurring or to the Final Determination required by Md. Code Ann., Gen. Provisions (“GP”) § 4-1B-04(b) and (d)(3).

THE OMBUDSMAN’S CONFIDENTIALITY RESPONSIBILITIES

By law, the Ombudsman cannot disclose information received from the parties in the mediation without their written consent. *See* GP § 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 counsel, staff, and any others working under her supervision 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 communications or information in any court, administrative, or other proceeding. *See* CJP § 3-1803(b).

The parties are expected to abide by the same confidentiality restrictions and guidelines regarding mediation information and communication as outlined in this document. If you are not willing to abide by these restrictions, which are the usual custom and practice in mediations, the Ombudsman asks that you notify our Office and the other party so that an informed decision can be made by all concerned as to whether the mediation should go forward under those circumstances.