



## Fact Sheet: Public Information Act

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Additional, more detailed information about Maryland’s Public Information Act (PIA) and interpretation of the act by the courts, the Attorney General, and the Public Information Act Compliance Board (PIACB) can be found in the *Public Information Act Manual* and other materials on the website of the Office of the Attorney General (OAG) [here](#).

### **In General**

PIA establishes that “all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees.” PIA establishes procedures for the request and inspection of that information subject to certain exceptions where information may or must be kept privileged and confidential for purposes of protecting individuals’ personal privacy or for other public policy reasons. Each governmental unit that maintains public records must identify a representative whom a member of the public may contact to request a public record. OAG must post all such contact information on its website and in the PIA manual it publishes.

### **Applicability**

As explained in the *Public Information Act Manual*, the Act is applicable to virtually all public agencies or officials in the State (any “unit or instrumentality of the State or of a political subdivision”) – including counties, municipalities, school districts, and special districts. The Judiciary, however, has adopted its own rules to govern access to judicial records, which the Maryland Supreme Court has clarified are the exclusive method for obtaining access to judicial records. PIA can also apply to entities that may not be typically thought of as government agencies but are considered a “unit or instrumentality” of the State or a local government due to a certain amount of control by, or other nexus with, the State or the local government.

PIA applies to any public records made or received in connection with the transaction of public business, in any form, including computerized records, correspondence, drawings, maps, photographs, or recordings.

## **Inspection of Public Records**

PIA assigns “custodians” the responsibility for compliance with the Act – who must allow for inspection of public records and determine whether inspection can or must be denied. “Custodian” includes an “official custodian” and any other authorized individual who has physical custody and control of a public record. An “official custodian” is the officer or employee of an agency who has the overall legal responsibility for the care and keeping of public records, whether or not the officer or employee has physical custody and control of the public records.

A custodian of a public record must permit inspection of any public record at any reasonable time unless inspection of the public record is subject to denial as discussed below. Each official custodian must adopt reasonable rules or regulations that govern timely production and inspection of a public record. The official custodian may charge a reasonable fee for costs incurred in producing a public record for inspection.

A custodian must approve or deny an application for inspection promptly but not more than 30 days after receiving the application and, if the application is approved, must produce the record either immediately or within a reasonable period needed to retrieve the public record but not more than 30 days after receipt of the application. These time limits may be extended for no more than 30 additional days with consent of the applicant. The custodian must also notify the applicant within 10 working days of the receipt of the request if the custodian reasonably believes it will take more than 10 working days to produce the requested records.

An official custodian must designate types of public records that are to be made available to any applicant immediately on request and maintain a current list of those types of records. An official custodian must also adopt a policy of proactive disclosure of public records that are available for inspection under PIA, which may (1) vary as appropriate to the type of public record and to the staff and budgetary resources of the governmental unit and (2) include publication of public records on the website of the governmental unit, to the extent practicable, or publication of prior responses to PIA requests.

## **Denials**

A custodian is required to deny inspection of a public record or any part of a public record if (1) the public record or part of the public record is privileged or confidential by law (including under attorney-client, executive, or legislative privilege) or (2) the inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. PIA itself also specifies various types of records and information for which inspection must be denied (unless another law requires public access), many related to personal privacy (*e.g.*, personnel records, student records, and medical and financial information) and some to other public policy (*e.g.*, any business trade secrets or other confidential commercial information obtained from any person or governmental unit, information about the security of an information system, and school safety plans, policies, or guidelines).

In addition, several other types of records and information for which a custodian *may* deny inspection, if a custodian believes inspection would be contrary to the public interest, are specified in PIA. An official custodian may also temporarily deny inspection of any other record that otherwise must be open to inspection under PIA if the official custodian (1) believes that inspection would cause substantial injury to the public interest and (2) petitions a court within 10 working days to authorize the continued denial of inspection.

A custodian who denies inspection of a public record must, within 10 working days of the denial, provide a written statement to the applicant that gives (1) the reason for denial; (2) if denying a part of a record on a discretionary basis, a brief explanation of why the denial is necessary and why redacting information would not address the reasons for the denial; (3) the legal authority for the denial; (4) a brief description of the undisclosed record (without disclosing the protected information); and (5) notice of the available statutory remedies for review of the denial.

## **Dispute Resolution and Judicial Review**

The Public Access Ombudsman, an attorney appointed by the Attorney General, is charged with making reasonable attempts to resolve disputes between applicants and custodians over requests for public records. The ombudsman serves only as a mediator and may not compel a custodian to disclose public records or redacted information, either to the applicant or the ombudsman.

PIACB is a five-member board appointed by the Governor that is authorized to resolve complaints by applicants regarding denials, fees, and failures to respond to requests in a timely manner, as well as complaints by custodians that requests or patterns of requests are frivolous, vexatious, or in bad faith. PIACB is authorized to order a custodian to provide appropriate remedies if the board finds that a custodian acted in violation of PIA. Resolution through the Public Access Ombudsman must be sought before filing a complaint with the board.

OAG serves as staff for both the ombudsman and board.

An applicant or a custodian may appeal a decision of PIACB to the circuit court, and an applicant that is denied inspection of a public record or is not provided with a copy, printout, or photograph of a public record as requested can also file a complaint with the circuit court without first seeking resolution of the denial through the Public Access Ombudsman and/or PIACB. The court may order the production of the public record or a copy, printout, or photograph of the public record that was withheld from the applicant, and a defendant governmental unit is liable to the applicant for statutory damages and actual damages that the court considers appropriate if the court finds that the defendant knowingly and willfully violated PIA.