

Access to Government Records Under the Maryland Public Information Act

What is the Public Information Act?

Maryland's Public Information Act ("PIA") gives the public the right to access government records without unnecessary cost and delay.

The PIA applies to all three branches of Maryland state government as well as local government entities. The PIA is found in the General Provisions Article ("GP"), §§ 4-101 through 4-601, Annotated Code of Maryland.

It is similar to the federal Freedom of Information Act which applies to federal executive branch agencies and independent federal regulatory agencies.

The PIA grants you the right to review the available records that are disclosable and to obtain copies of those records. It does not require an agency to answer informational questions or to create a record to satisfy your request.

What is a public record?

A public record is defined as the original or copy of any documentary material in any form created or received by an agency in connection with the transaction of public business. Included in this definition are written materials, books, photographs, photocopies, films, microfilms, records, tapes, computerized records, maps, drawings and other materials.

Who can submit a PIA request?

Anyone.

Are all government records available?

No. The PIA attempts to balance the public's right to access government records with other policies that respect the privacy or confidentiality of certain information.

For example, some public records are confidential under federal or state statutes, under court rules, or under various common law privileges such as attorney-client privilege and executive privilege. GP § 4-301. The PIA itself also protects certain records from disclosure (for example, adoption records, personnel records, certain personal information in Motor Vehicle Administration records). In addition, some information contained in public records must remain confidential (for example, an individual's medical information, confidential commercial information and trade secrets). GP §§ 4-304 to 4-327 (Part II), §§ 4-328 to 4-342 (Part III). In some cases, these protections may be waived.

Other records may be withheld if the agency decides that disclosure of those records would be "contrary to the public interest." Examples of records subject to discretionary disclosure include investigatory records, information related to academic, licensing, and employment examinations, and documents of a pre-decisional and deliberative nature. GP §§ 4-343 to 4-357 (Part IV).

Do I have a right to obtain a record about me even if it is otherwise confidential under the PIA?

In some cases, yes. The PIA grants a "person in interest" a right to access some records that are otherwise not available to the public under the PIA. A person in interest is usually the person who is the subject of the record.

Whom do I contact to get access to a record under the PIA?

There is no central agency that is responsible for PIA requests. You should contact the agency that has the type of record you are seeking. If you are uncertain about what agency would have the record, you might review the "Maryland Manual" (available online at www.mdarchives.state.md.us/msa/mdmanual/html/mmtoc.html), check

agency web sites, or contact your local library where the reference staff might be able to help identify the agency that has the particular type of record. As for to whom to direct your request, check the agency's website; it should have the relevant contact information. You can also check the Attorney General's website and Appendix J to this Manual, both of which have a list of the PIA representatives for various State, county, and municipal bodies.

Is there a particular form that I must use?

No, although some agencies have created request forms to help the agency respond to PIA requests.

In some cases, a telephone call to the appropriate person in a government agency may satisfy your request for a document. In other cases, you will need to submit your request in writing. Address your request to the individual the agency identifies as its PIA contact. If you do not know who that is, address your request to the agency's public information officer or to the head of the agency.

It is important that you specifically describe the records you seek so that the agency can research your request. Sometimes discussions with agency personnel will clarify your request and help the agency find the records you are seeking.

How long will it take for an agency to respond to my request?

In many instances, an agency will be able to respond to your request immediately. In fact, for some frequently requested records, an agency may already have records available on its web site. (For example, the State Department of Assessments and Taxation makes property assessment information publicly available through its web site). Otherwise, an agency is normally expected to comply with a PIA request within 30 days, but there may be instances where an agency needs additional time to locate and review the requested records.

Is there a charge for obtaining records under the PIA?

The PIA allows an agency to charge a “reasonable fee” for copies of public records.

An agency may also charge a reasonable fee for searching for a public record – a charge that may include the time required for locating and reviewing the record. The first two hours of search time are free, but an extensive search may prove time-consuming and therefore expensive. Thus, it is in both your interest and the agency’s interest to ensure that a PIA request clearly and accurately describes the records sought. Sometimes discussing your request with agency staff is the best way to gain access to the records you seek promptly and at little or no cost.

Actual fee schedules may be found in agency regulations. Agencies may choose to waive fees in particular cases.

What happens if I am dissatisfied with the agency’s response?

If an agency denies all or part of your request, it must provide you with a written explanation that includes the reason for the denial, the legal authority justifying the denial, and your appeal rights.

You have three options if you are dissatisfied with the agency’s response: (1) You can go to court if you wish to challenge any aspect of the agency’s decision and, if you prevail, potentially receive attorneys’ fees and damages; (2) If the agency has charged you more than \$350 and you believe that fee to be unreasonable, you can file a complaint with the Public Information Act Compliance Board; and (3) You can initiate informal mediation of the dispute through the Public Access Ombudsman within the Office of the Attorney General.

How can I learn more about the PIA?

The Office of the Attorney General publishes a detailed legal analysis of the PIA in the Maryland Public Information Act Manual. The Manual also includes the text of the PIA and a sample request letter to help you make a PIA request. The Manual is available for purchase for \$10 by sending a check to the Office of Attorney General,

Opinions and Advice Division, 200 St. Paul Place, Baltimore, Maryland 21202. The manual is also available without charge on the Attorney General's website, <http://www.oag.state.md.us/Opengov/pia.htm>.