

# MDH POLICY

<https://health.maryland.gov/Pages/mdhpolicies.aspx>

OFFICE OF THE SECRETARY – Office of Governmental Affairs

MDH Policy 01.04.01  
Effective: August 2, 2023

## PUBLIC INFORMATION ACT (PIA) POLICY

### I. EXECUTIVE SUMMARY

The Maryland Department of Health (Department) is committed to accountability, transparency, and compliance with the State's Public Information Act (PIA). This policy is intended to facilitate appropriate and timely access by the general public or a governmental unit to the public records maintained by the Department.

This version dated August 2, 2023, replaces the earlier July 14, 2016, version. This version includes routine edits, updated template letters, and clarification on the PIA process.

### II. POLICY STATEMENTS

#### A. DEFINITIONS

In this policy, the following words have the meaning indicated.

1. **"Applicant"** means a person or governmental unit that requests to inspect a public record of the Department.
2. **"Custodian"** means the official custodian or the Department employee who has physical custody and control of public records.
3. **"Department"** means the Maryland Department of Health.
4. **Entity.**
  - a. **"Entity"** means any administration, division, office, unit, or program within the Department.
  - b. **"Entity"** does not include Local Health Departments, the Maryland Health Care Commission (MHCC), Health Services Cost Review Commission (HSCRC), Health Occupation Boards, Maryland Medical Cannabis Commission (MMCC), or Community Health Resources Commission (CHRC).
5. **"Final Response"** means the communication to the applicant completing the request whether that be a full denial, partial denial, or full disclosure.

### MARYLAND DEPARTMENT OF HEALTH

OFFICE OF REGULATION AND POLICY COORDINATION (ORPC)  
201 West Preston Street - Suite 512 – Baltimore Maryland 21201-2301  
Phone 410 767-6499 FAX 410 767-6483

- a. **“Full denial”** means all of the documents responsive to the request have been deemed exempt from disclosure pursuant to a specific statute.
  - b. **“Partial denial”** means at least one of the documents responsive to the request has been deemed exempt from disclosure pursuant to a specific statute or information has been redacted pursuant to a specific statute.
  - c. **“Full disclosure”** means all of the documents responsive to the request are releasable without exemption from disclosure or redaction and have been provided to the applicant.
6. **“Official custodian”** means the Secretary of Health or the Secretary’s designee.
  7. **“PIA”** means the Maryland Public Information Act, General Provisions Article, §§4-101—4-601, Annotated Code of Maryland (2022), as amended from time to time.
  8. **“PIA Contact”** means the Department employee designated by the Secretary of the Department to receive all PIA requests submitted to the Department.
  9. **“PIA Officer”** means the Department employee designated by an individual entity of the Department to coordinate all PIA requests for that entity.
  10. **“PIA request”** means a request submitted by a person or governmental unit for specific public records presumed to be in the custody of the Department.

**B. PIA CONTACT**

1. The Secretary shall designate an employee of the Department to receive notification of all PIA requests submitted to the Department.
2. The contact information for the PIA contact shall be posted in a user-friendly format on the Department’s website. The contact information shall include the PIA contact’s name, business address, business phone number, and email address. This information shall be updated whenever a change(s) occurs.
3. The Department shall submit the contact information for the PIA contact to the Office of the Attorney General at [PIA.Custodians@oag.state.md.us](mailto:PIA.Custodians@oag.state.md.us) on an annual basis, or more frequently whenever change(s) occur.

**C. DESIGNATION OF PIA OFFICER**

1. Each entity shall designate a primary and secondary PIA officer.
  - a. The PIA contact shall maintain a list of each entity’s PIA officers and their email addresses and phone numbers.

- b. The list shall be updated at the beginning of each fiscal year (July 1) or as needed when changes occur.
2. The supervisor of each entity shall provide the names and contact information of the entity's PIA officers to the PIA contact at [mdh.pia@maryland.gov](mailto:mdh.pia@maryland.gov). The PIA contact shall have the responsibility of maintaining and circulating a central list of PIA officers.
3. Each entity shall post the contact information for the entity's PIA officers in user-friendly format on the entity's website. The contact information shall include the PIA contact's name, business address, business phone number, and email address. This information shall be updated whenever a change(s) occurs.
4. Each entity shall submit the contact information for the PIA contact to the Office of the Attorney General at [PIA.Custodians@oag.state.md.us](mailto:PIA.Custodians@oag.state.md.us) on an annual basis, or more frequently whenever change(s) occur.
5. The Office of the Attorney General (OAG) will periodically offer training to the PIA contact, the PIA officers, and other interested MDH employees. The OAG will provide the PIA contact and PIA officers with the contact information for the OAG trainers and will rely on the PIA contact and PIA officers to schedule and arrange for all training.
6. The PIA officer shall coordinate responses to all PIA requests received and are responsible for notifying the PIA contact of all PIA requests received directly by the entity.

**D. DESIGNATION OF IMMEDIATELY AVAILABLE RECORDS**

1. The Official Custodian shall designate types of public records within their control that can be made available to any applicant immediately on request.
2. The Official Custodian shall designate types of public records of the governmental unit that are to be made available to any applicant immediately on request; and maintain a current list of the types of public records that have been designated as available to any applicant immediately on request and shall post that list on MDH's website.

**E. RECEIPT AND ROUTING OF PIA REQUESTS**

1. If a request is received by the PIA contact, the PIA contact shall immediately log the request according to the requirements in Section J and forward the request to the appropriate PIA officer(s).
  - If the request is from the media, the PIA contact shall also forward the request to the Department of Communications for awareness.
2. If the request is received by a PIA officer, the PIA officer shall forward the request to the PIA contact at [mdh.pia@maryland.gov](mailto:mdh.pia@maryland.gov) and the PIA contact shall

follow the process in Section E(1).

3. If the request is received by a Department employee who is not the PIA contact or a PIA officer, the employee shall forward the request to the PIA contact at mdh.pia@maryland.gov and the PIA officer for the employee's entity. The PIA officer shall then follow the process in Section E(1).

4. If the request is made orally, the recipient of the request shall ask the applicant to make the request in writing that clearly identify the records being sought by the applicant.

a. Please note, according to General Provisions Article, § 4-202, Annotated Code of Maryland the PIA request must be in writing unless the custodian of records waives the need for the request to be in writing.

5. The Department must respond to all PIA requests pursuant to General Provisions Article, § 4-203, Annotated Code of Maryland (i.e., an initial response within 10 business days and a final response within 30 calendar days, unless an extension is mutually agreed upon by the applicant and Department).

**F. INITIAL REQUEST SCREENING**

1. Upon receipt of the request, the PIA officer shall immediately determine:

a. If the PIA request should be denied for any reason such as:

- The request requires the creation of a record (which is not required under General Provisions Article, § 4-203);
- The entity does not have any documents responsive to the request;
- The entity is not the custodian of records requested; or
- The PIA request seeks records such as medical records or personnel records to which, under the provisions of the PIA, the applicant is not entitled.

b. If the request seeks records previously identified as immediately available, and if so, deliver those documents promptly; or

c. If the request is overly broad or vague, and if so, contact the applicant to narrow or clarify the request.

2. If the request will take longer than 10 business days to complete, the PIA officer shall provide a 10-day letter. (See Section G for additional details, see also Attachment 1 for a template letter)

3. If the PIA Officer has reason to believe that the PIA request relates to a pending lawsuit in which the entity is involved, the PIA Officer shall forward

the request to the Office of the Attorney General.

**G. RESPONSIVE DOCUMENTS**

1. The PIA officer will collect or designate an individual to collect the documents responsive to the request.
2. The PIA officer will review the records to determine whether any PIA exemptions apply and whether the records must be redacted before making them available. The officer shall apply all relevant redactions according to the PIA manual.
3. Each entity shall have a process for review and approval of proposed responses to PIA requests.
4. Any request that requires legal advice to be provided to the entity shall be forwarded to the Office of the Attorney General.
5. The PIA officer shall provide draft responses for review before responding to the applicant if requested by the PIA Contact. (See Attachments 1 and 2 for a response template letters)
6. If a request requires documents from multiple units, the PIA contact will identify and forward the request to the appropriate units and coordinate the responses to the applicant.

**H. COPIES**

1. If the applicant seeks copies, provide them within a reasonable time. If the PIA request response is voluminous, discuss a mutually agreeable schedule – for example, providing copies on a rolling basis.
2. Under the provisions of General Provisions Article, §4-206(b)(1)(ii), Annotated Code of Maryland, MDH may charge “the actual costs of the search, for preparation for, and reproduction of a public record in a standard format.”
  - As determined by the Department of Central Services, the actual costs for copies are \$0.17 per page.
3. If copies are requested in an electronic or other special format, honor that request if it is possible to do so without significant cost or burden on the agency. In some circumstances, the applicant may have a right to an electronic copy. Whenever possible, electronic documents should be distributed in pdf format. Consider whether metadata should be removed from the electronic copy to be provided to the applicant. If electronic documents contain personal health information, consider encryption and password protection.

**I. FEES**

1. General Provisions Article, §4-206, Annotated Code of Maryland govern the fees that the Department may charge for responses to PIA requests.
2. When the PIA request will require more than two (2) hours to respond,

provide the applicant an estimate of the charges for response time General Provisions Article, §4-206, Annotated Code of Maryland and copying and obtain agreement from the applicant that the actual charges will be paid. The entity's PIA officer shall request an initial deposit or full payment before providing any responsive documents.

3. In accordance with General Provisions Article, §4-206(e), Annotated Code of Maryland, the entity's PIA officer, with the approval of the Official Custodian, may waive charges for responses to PIA requests.

**J. PIA REQUEST TRACKING LOG**

1. The PIA contact shall maintain a PIA database to track and log all PIA requests, which shall be updated at least daily.

a. The Log shall include:

- i. A tracking number;
  - The format shall be the last two digits of the calendar year – sequential count of requests received (i.e., 22-001, 22-002, 22-003, etc.)
- ii. The name and contact information of the applicant requester;
- iii. The information/documents being requested;
- iv. The responsible entity and PIA officer name and contact information;
- v. The date the request was received;
- vi. The date the 10-day letter is due;
- vii. The date the final response is due;
- viii. The disposition or the final response (i.e., full disclosure, partial denial, full denial);
- ix. If any information was withheld, a supporting justification and/or statutory citation;
- x. The amount of fees imposed, if any;
- xi. A designation the applicant requester agreed to an updated PIA response timeline, if appropriate; and
- xii. Notes to include all updates and important information about the request.

2. 10-day Letter Tracking

- a. The PIA contact shall review the tracking log at least daily and follow up with the PIA officer three (3) days before the 10-day letter is due to ensure it will be sent out before the deadline.
    - If applicable, request a draft of the 10-day letter to ensure the fee request is accurate.
  - b. If the PIA officer is unable to send out the 10-day letter in the allotted time and makes a request to the PIA contact, the PIA contact shall send out the letter.
3. Final Response Tracking
- a. The PIA contact shall review the tracking log and follow up with any PIA officer three (3) days before the final response is due to ensure the final response will be provided to the applicant within 30 days or by the mutually agreed upon extended deadline.
  - b. If the PIA officer determines the final response will not be available within the timeline, they shall notify the PIA contact and ask for an extension from the applicant.
  - c. If the applicant agrees to an extension, the PIA contact shall update the tracking log with the new timeline and the acceptance by the applicant of the updated timeline.
  - d. If the applicant does not agree to an extension, the PIA officer shall produce the documents as soon as possible.
4. Completing a Request.
- a. Once a final PIA response has been provided to the applicant, the PIA contact shall enter the following in the tracking log:
    - Final response date;
    - Response disposition;
    - Supporting justification and/or statutory citation for any denials;
    - Whether fees were assessed and if so, how much;
    - Whether the applicant agreed to a timeline extension (if not already entered)
  - b. Once the above information is added to the tracker, the PIA contact shall color the final response date column green.

### **III. REFERENCES**

1. COMAR 10.01.08 Procedures for Access to Records
  - <https://dsd.maryland.gov/regulations/Pages/10.01.08.01.aspx>
2. Maryland Public Information Act, General Provisions Article, §§4-101—4-601, Annotated Code of Maryland (2014 & Supp. 2015)

- <https://casetext.com/statute/code-of-maryland/article-general-provisions/title-4-public-information-act>
- 3. Maryland Attorney General Public Information Act website
  - <https://www.marylandattorneygeneral.gov/Pages/OpenGov/pia.aspx>
- 4. Maryland Public Information Act Manual
  - <https://www.marylandattorneygeneral.gov/Pages/OpenGov/piaManual.aspx>

**IV. ATTACHMENTS**

- Attachment 1: 10-Day letter Template
- Attachment 2: Final Response letter Template

**APPROVED:**



---

**Laura Herrera Scott, Secretary**

August 02, 2023

---

**Effective Date**



**ATTACHMENT 1**

10-Day letter Template

*Date*

*Address*

*Name,*

The Maryland Department of Health (MDH) received your *Date Request Received* request under the Public Information Act, Md. Code Ann., Gen. Prov. ("GP") §§ 4-101- 4-601, seeking the following records and information:

*Insert Information Requested*

*If there is a fee please use the below paragraphs;*

This letter serves as notice, pursuant to §4-206(b)(1) of the General Provisions Article ("GP") of the Code of Maryland, there will be fees associated with responding to your request. The actual cost of a response must be calculated by prorating the salaries of the staff and attorneys involved in the response by the actual time they spent searching for and preparing the record for disclosure. GP § 4-206(b)(2). The hourly rate to produce, review and compile these documents will range between \$39.18 (staff level review) - \$72 (attorney review) depending on the level of staff required.

A total of (*Number of documents responsive to the request*) documents were returned as potentially responsive to your request. Each document must be reviewed for responsiveness and redactions which will take an estimated (*Number of hours*) hours to complete, *XX* hours for staff level review and *XX* hours for attorney review. Omitting charges for the first two hours of searching and preparation, as required by GP § 4-206(c) – the anticipated cost is \$*XXX.XX* to \$.*XXX.XX*. This estimate does not include the fees associated with copying documents.

We will wait for your initial payment before we continue to process your request. If you would like us to complete the review and prepare responsive, non-privileged, and non-exempt records for production, please reimburse the State for the minimum anticipated cost by preparing a check payable to the Maryland Department of Health in the amount of \$*XXX.XX* and sending it to the Office of Governmental Affairs, 201 West Preston Street, Baltimore, Maryland 21201.

If the actual cost of providing a response exceeds the amount paid, you will be notified and payment in full must be received before the documents are released. Conversely, if you have overpaid, a refund will be issued. Upon receipt of payment, MDH will begin processing your request and will provide an anticipated date of completion.

The purpose of this letter is to inform you that MDH is reviewing internal records to see if there are

responsive documents. Should responsive records be found, they will need to be reviewed for any necessary redactions. The anticipated completion date is (*Date of Anticipated Completion*).

If you have any questions or concerns regarding the processing of your request, you may contact me at [*insert contact information*].

Sincerely,

[insert e-signature]

XXX

PIA Officer

[insert unit/administration]

Maryland Department of Health

## ATTACHMENT 2

Final Response letter Template

*Date*

*Name*

*Address*

*Contact information*

Dear *Requester's name*,

The Maryland Department of Health (MDH) received your (*Date request received*) request under the Public Information Act, Md. Code Ann., Gen. Prov. ("GP") §§ 4-101- 4-601, seeking the following records and information:

*"(requested information)"*

*Choose one of the following responses:*

*Full disclosure response - (Please see the attached documents).*

*Partial Denial response - (Please see the attached documents).*

*The following documents (list documents that are exempt) have been withheld due to GP §X-XXX for (insert reason here)*

*or;*

*The MDH has determined there are no documents responsive to your request for (list requested documents)*

*Full Denial response - (The Maryland Department of Health found (XX) number of documents responsive to your request. The documents have been withheld as they were determined to be exempt pursuant to GP §X-XXX for (insert reason here)).*

*No Responsive Documents response - (The Maryland Department of Health does not have any responsive documents to your request.)*

*Not the Custodian of Records - (The Maryland Department of Health has determined that we are not the custodian of Record. The (name entity who might have responsive documents) can be reached at(enter contact information for that entity).*

Pursuant to GP § 4-362, you are entitled to seek judicial review of this decision. Alternatively, you may file a request for mediation with the Public Access Ombudsman at [pia.ombuds@oag.state.md.us](mailto:pia.ombuds@oag.state.md.us) or 410-576-6560 and, if the Ombudsman is unable to resolve the matter, may subsequently seek a

resolution from the Public Information Act Compliance Board for those matters within the Compliance Board’s jurisdiction. See GP §§ 4-1A-01 et seq. and 4-1B-01 et seq.

Sincerely,

XX

XX

Maryland Department of Health