

Re: In SUPPORT of HB0183 Public Information Act – Revisions (Equitable Access to Records Act)

Maryland General Assembly  
Health and Government Operations Committee  
Room 241  
House Office Building  
Annapolis, Maryland 21401

February 9, 2021

Dear Chair Pendergrass, Vice-Chair Pena-Melnyk, and Committee Members,

I am writing in support of [HB0183 Public Information Act – Revisions \(Equitable Access to Records Act\)](#). I hope that your committee will favorably review this important, overdue effort to protect the public interest, provide greater transparency in governmental operations, create a higher level of agency accountability, and enhance the ability of the Maryland PIA Ombudsman's office to better facilitate and expedite the sharing of critical public information documents.

This bill gives the public the representation it has lacked when pursuing what is owed, without question, and as soon as possible: public information from governing agencies. The PIA Ombudsman's office has served amazingly well, especially given that it has essentially been bound and gagged thus far. This bill corrects that situation, finally giving the Ombudsman's office some firm policies to apply, while simultaneously holding reluctant agency representatives accountable for handing over the documents that already belong to citizens, fundamentally reducing the political interference that plagues the process now.

My experience with the PIA process reflects the Ombudsman's office findings, reported in [their illuminating study](#) in December, 2019: various agencies at both the local and state levels respond to PIA requests with widely disparate attitudes and abilities. The posture of their attorneys varies widely as well, as does the agencies' and the attorneys' knowledge of the Maryland Public Information Act itself. Some agencies are not only non-compliant, their attitude can be described as belligerent. It's sometimes difficult to distinguish between an agency's failure to understand the law, and their outright antagonism toward fulfilling the PIA request.

As noted on page 8: "Depending on the material requested, the PIA may require an agency to withhold all or part of the record, or it may permit, on a discretionary basis, an agency to withhold all or part of a record." On several occasions in the past few years, agencies I've contacted have used this as an opportunity to withhold whatever they choose: many have initially deemed responsive documents "protected."

It has only been through the efforts of the Ombudsman's office that multiple responsive documents were ultimately provided to me in several different instances. Indeed, in the case of several MSDE and MDH inquiries, a complete reversal of definitions was achieved and I was provided stacks of documents that had previously been withheld. This illustrates the

capriciousness of the current PIA process within these large, powerful agencies, and speaks to the concerns raised on page 19 regarding the agencies' culture and leadership participation.

The report also notes how varied the responses between agencies are, pointing out, for instance, the vast differences in fee waivers between "DNR and DJS, in which a waiver was requested in 72% and 100% of their requests, respectively. DNR did not grant any of those waiver requests, while DJS granted all of them."

Similarly, I've found vast differences in the request requirements among agencies, both local and state. Some require a printed, written request with payment in advance for not very much work, while others ask for no fee, and send voluminous documents by email, and still others send responsive documentation by mail without anything but an email request.

The result is a very tippy lifeboat for citizens who have legal rights for timely access to public information, but rarely know what to expect, or what's legally owed by any given agency. Format requirements for requests, the timing of the agencies' responses, the scope of the responsive documents are basically on a "Mother, may I?" basis.

The requestor often faces indifferent or impatient attitudes from staff, while having no recourse or options in this process. Most citizens are uncomfortable challenging government agencies in the first place - and that is especially true when dealing with local government agencies, where the requestor lives, works, or has kids in school. Nearly any pushback, reluctance or impatience from a local agency is sufficient to deter further inquiries for most people who don't want to be labeled a troublemaker.

I can't stress enough the critical role played by the Ombudsman's office in upholding this pivotal law and protecting this fundamental American right: to know what the government is doing. Nothing more eloquently enables that right than the Public Information Act. But it needs the expansion and enforcement teeth this bill provides to realize its full potential.

Many thanks,

Cindy Eckard

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