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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-10
November 12, 2025
Maryland Department of Health, Custodian
Justin Holder, Complainant

Complainant Justin Holder alleges that the Maryland Department of Health (“MDH”) violated the Public Information Act (“PIA”) by failing to respond to his PIA request within the required time limitations. As explained below, we find no violation of the PIA.

Background

On November 20, 2024, the complainant received an email from an MDH employee named Kimmie Armstrong advising him that, if he had a “septic system in need of repair,” MDH had “in consultation with other agencies” determined that “public sewer would not be considered available” to certain properties in Washington County, presumably including the complainant’s. The subject line of this email was “Re: Judicial Review of Final decision.”¹ On November 22, 2024, the complainant sent an email to an attorney representing MDH, to which he attached a “screenshot of yesterday’s email,” which appears to have been the email sent to the complainant by Ms. Armstrong on November 20, 2024, regarding septic and sewer systems.² The subject line of this email was “Fwd: C-24-CV-24-003504 – VM from Ethan?” The complainant stated that he had “asked for the communications in the MPIA at issue, which Ms. Armstrong referred to as a ‘consultation,’” and took the position that “[t]here must be a public record of this ‘consultation,’ and that is what [he] was looking for in [his] request.” Counsel for MDH responded and asked the complainant to “specify by date the MPIA request” to which he referred, or to indicate whether “this is a new request for any documents referencing the

¹ We do not have the email correspondence that precedes this, but we take it that the complainant sought a sewer permit of some sort from the Washington County Health Department and was denied. *See also* PIACB 25-83 (Sept. 18, 2025) (concerning this same complainant’s PIA request to the Washington County Health Department for copies of interim sewer permits).

² If there was an additional email, sent on November 21, 2024, referencing the November 20 email from Ms. Armstrong, we do not have it in the record before us.

consultation.” The complainant responded that “[t]he MPIA request stated in Complaint ¶8 was broad enough to capture the ‘consultation.’”³

On December 11, 2024, the complainant sent another email to counsel for MDH, stating that he had “attached a chat with DOIT^[4] for an email search,” and suggested that his PIA request “was broad enough to capture these types of records related to [his] search.” The complainant asked counsel for MDH to “please provide those in response to [his] MPIA searches,” or “alternatively, if no chat history with DOIT exist[s], [he] must presume a search was never requested at all.” Counsel for MDH responded the same day, asking the complainant to “specify which MPIA [he was] referring to, and which custodian of records (or agency) [he’d] like [counsel] to direct this to.” The complaint replied, telling counsel to “[d]irect that message as broadly and comprehensively as possible, because the MPIA subject of the suit in the subject line was vastly broad to capture all records.” In response, counsel for MDH advised that she could not “act as a custodian of records or distributor of MPIA requests to MDH or local health departments,” and that this was why she asked the complainant to “direct [his] request to the agency directly, and specify which of [his] current outstanding requests [he was] referring to.”

The complainant then sent counsel for MDH an email stating that counsel was “the agent of the parties to [his] suit in the subject line,^[5] and therefore notice to [her] is notice to them, (agency 101).” The complainant stated that he was “notifying the defendants of [their] obligations and [his] expectations, by notifying their agents,” and that “[t]he law requires nothing more.” Counsel replied that she could not “take on the custodian role for [her] client,” pointing out that under § 4-202 of the PIA, a PIA request must be made by written application to the custodian. Counsel for MDH asked the complainant to “direct any MPIA requests to the relevant agency.” The complainant, in response, sent counsel for MDH an email asking whether she no longer represented “the custodian and/or MDH,” and whether he should “direct all communications to the director of MDH, or the Governor himself.” Quoting agency law, the complainant stated that he would “like to have one point of contact, to avoid confusion in this transaction,” and asked counsel to let him know “what

³ We understand that, prior to exchanging these emails with counsel for MDH, the complainant filed a complaint in the Circuit Court for Baltimore City regarding a PIA request to MDH. *See In the Matter of Justin Holder*, Case No. C-24-CV-24-003504 (Cir. Ct. Balt. City) (filed Oct. 22, 2024). As noted above, this is the case number reflected in the subject line of the complainant’s emails with counsel for MDH. That complaint is not in the record before us. As of the date of this decision, that suit is still pending. We can take no position as to whether MDH complied with the PIA as to the PIA request subject to that suit.

⁴ We take this acronym to refer to Maryland’s Department of Information Technology, which supplies and manages email services for many State agencies.

⁵ *See supra*, note 3.

you are and are not authorized by your master to do or not do, or if you even have a master at all.”

On December 18, 2024, the complainant sent an email to a different attorney in MDH, with a copy to others including MDH counsel with whom he had been corresponding and the general MDH PIA email address. The subject line of this email continued to be “Fwd: C-24-CV-24-003504 – VM from Ehtan?” That email advised, “[a]mended complaint being drafted in time for Christmas,” and that the complainant was “[d]one fooling around” and needed his records “with the least cost and least delay possible!” Thereafter counsel for MDH with whom the complainant had been corresponding as to his court case sent the complainant an email explaining that she “remain[ed] counsel for purposes of advising MDH,” and that she “represent[ed] them in [the complainant’s] MPIA lawsuit,” if the complainant had “communications about that.” Counsel reiterated that she was “asking [the complainant] to direct new MPIA requests to the custodian of records for the agency, not to [her],” and that if he did not know the agency PIA contact, counsel could “help out.” But, counsel stressed, she wanted to make sure she was not “giving the impression that [she was] the custodian for any MDH agencies.” In response, the complainant stated that he understood that counsel was “the agent/servant of the master/principal custodian, and by law notice to [counsel] is notice to the custodian, whom said custodian is responsible for the conduct of [counsel].” The complainant continued: “In other words I ask you, you tell custodian, custodian gets sued, custodian files 3rd party practice against you for negligence. That is how I understand agency to operate. Let me know if you disagree.”

On February 4, 2025, the complainant sent an email to the general MDH PIA email address, with a copy to counsel for MDH. The subject line of this email was, “MPIA – Communications and Chat search.” The email stated:

I made a request to [counsel] for public records specifically any records that inform me of the “consultation” that Kimmie Armstrong had with other local and state agencies, (or civilian 3rd parties even), related to an interim sewer permit for 25, 28 and 30 Antietam Dr in Keedysville, MD. I also requested the “chat” record from DOIT where the custodian made a reasonable search for the above described records.

My attached emails with [counsel] inform me that my MPIa [sic] requests were received, but as of today I have not had any response to them. I need the public records by the end of the week, or I have to assume this is a knowing and willful violation of the law.

That same day, the complainant also contacted the Public Access Ombudsman to request dispute resolution assistance.⁶ The Ombudsman's office opened a file on March 17, 2025. On August 4, 2025, the Ombudsman issued a final determination stating that the dispute—described as MDH's "failure to issue a final response and/or produce records"—was not resolved, and the complainant filed this complaint with our Board.

In his complaint, the complainant states that he made a request for "[t]he public record that informs [him] of the 'consultation' between Kimmie Armstrong and other local/state agencies or private citizens regarding an interim sewer permit," and the "'chat' with DOIT where the custodian requested a 'reasonable' search to locate the above named records." The complainant states that, "after mediation expired, on June 20, 2025, MDH issued a final written response . . . advising there were no records responsive to [this] request." Thus, the complainant contends, MDH's response was untimely. The complainant also disagrees that there are no responsive records and advises that he is requesting documents such as "employee timesheets, cctv footage, etc."

In response to the complaint, counsel for MDH states that "[t]his matter stems from a request made to one of the [MDH] attorneys during the course of negotiations regarding a separate [PIA] lawsuit." Noting that the complainant filed suit against MDH in October, *see supra*, note 3, counsel for MDH advises that she contacted the complainant by email to "discuss the case and attempt a resolution." During the course of those communications, counsel states, the complainant sent an email referring to the November 20, 2024, email from Ms. Armstrong and making "a request for the records of the 'consultation' with other agencies." Counsel for MDH advises that email exchanges followed in which she and the complainant "attempted to clarify the scope of what was being asked, and whether it constituted a new MPIA request (and if so, to which agency) or an attempted resolution of the existing lawsuit." Included among these emails was the complainant's December 11, 2024, email regarding the DoIT "chats." Counsel for MDH states that, "[e]ventually, the Complainant directed his request to the MDH Custodian of Records" in the email sent on February 4, 2025. According to counsel, "[b]efore MDH could issue its response, the Complainant referred the matter to the Public Access Ombudsman's office for mediation." As a result of mediation, "MDH explained that the documents the Complainant is requesting do not exist."⁷

⁶ The Public Access Ombudsman is charged under the PIA with making "reasonable attempts to resolve disputes between applicants and custodians relating to requests for public records." Md. Code Ann., Gen. Provisions § 4-1B-04(a). Before submitting a complaint to our Board, a complainant must attempt to resolve a dispute through the Ombudsman and receive a final determination stating that the dispute was not resolved. *Id.* § 4-1A-05(a).

⁷ Counsel for MDH briefly explains, in MDH's response, why the records of the "consultation" and the DoIT "chats" do not exist. However, as explained below, we lack jurisdiction to review any allegations about the substance of MDH's response. We therefore do not detail counsel's representations to that effect.

The complainant, in reply, states that “[t]his is a crystal clear violation of the MPIA.” Noting that “MDH acknowledges that the instant MPIA is not being litigated in the Baltimore City Court Case,” the complainant states that his complaint deals with a “very narrow issue” as to his requests for records of the “consultation” and DoIT “chats.” The complainant contends that, even if our Board accepts the “MDH representation that no records exist, that response was not provided to [the complainant] for at least six months after he made the MPIA.” This the complainant asserts, is a violation of § 4-202(d). The complainant states, however, that there are responsive records, and argues that MDH is therefore in violation of § 4-203(b). The complainant contends that “MDH offers no excuse for ignoring the MPIA request [he] made to its agent, [counsel], and then directly to the custodian.”

Analysis

We are authorized to review and resolve complaints alleging certain violations of the PIA’s provisions, including that a custodian failed to respond to a request within the time limitations specified in § 4-203(a) or (d) of the PIA. § 4-1A-04(a)(1)(iii).⁸ If we determine that a custodian has failed to respond within those time limitations, we must order the custodian to “promptly respond,” and have discretion to waive any associated fees if our written decision states the reasons why. § 4-1A-04(a)(3)(iii).

When custodians receive PIA requests, they must “grant or deny the [requests] promptly, but not more than 30 days after receiving the [request].” § 4-203(a)(1). “If the custodian reasonably believes that it will take more than 10 working days to produce the public record,” the custodian must state so in writing and provide certain information, including how long it will take to produce the records, an estimate of any fees that may be associated with production, and the reason for the delay.⁹ § 4-203(b). A custodian who denies a PIA request must, within ten working days, provide a written statement that explains, among other things, “the reasons” and “legal authority” for the denial, a brief description of the undisclosed records, and a notice of remedies. § 4-203(c)(1). When a custodian determines that no responsive records exist, the custodian must inform the complainant of that fact either “immediately,” if the determination is reached after initial review of the request, or “not more than 30 days after receiving the [request],” if the determination is reached after a search for records. § 4-202(d).

⁸ Statutory citations are to the General Provisions Article of Maryland’s Annotated Code unless otherwise stated.

⁹ Notably, we lack authority to review and resolve complaints about a custodian’s failure to comply with this provision. *See* § 4-1A-04(a)(1)(iii) (Board has authority to resolve complaints that a custodian “failed to respond to a request for a public record within the time limits established in § 4-203(a) or (d),” but not § 4-203(b)).

After review of the submissions, we cannot find that MDH violated § 4-203(a) or (d) of the PIA. Though we suspect we do not have the full compliment of emails that the complainant has exchanged with counsel for MDH and MDH employees over the last year or so, we discern that counsel and the complainant were exchanging emails following the complainant's PIA suit against MDH, filed in Baltimore City in October 2024, *see supra*, note 3. During those exchanges, which occurred with counsel exclusively, the complainant told counsel for MDH that he "asked for communications in the MPIA at issue, which Ms. Armstrong referred to as a 'consultation.'" When counsel asked if this was a new PIA request, the complainant replied that "[t]he MPIA request stated in Complaint ¶8," i.e., the PIA request at issue in the lawsuit, was "broad enough to capture the 'consultation.'" Although the complainant now states that this suit concerns a different PIA request, we find that the complainant's email to counsel for MDH on November 22, 2024, was not a new PIA request, but rather a discussion about the records the complainant expected MDH to produce in response to the PIA request subject to his lawsuit.

On December 11, 2024, while counsel and the complainant were still exchanging emails under the subject line "Fwd: C-24-CV-24-003504 – VM from Ethan?," the complainant suggested that his "MPIA request was broad enough to capture [the DoIT chats] related to [his] search." The complainant asked counsel to "[p]lease provide those in response to MPIA search[es]." When counsel for MDH again asked for clarity as to "which MPIA [he was] referring to, and which custodian of records (or agency) [he wanted her] to direct this to," the complainant told counsel to "[d]irect that message as broadly and comprehensively as possible, because the MPIA subject of the suit in the subject line," i.e., C-24-CV-24-003504, was "vastly broad to capture all records." We therefore find that the complainant's email to counsel for MDH on December 11, 2024, was also not a new PIA request to MDH, but again an explanation of the records the complainant expected MDH to produce in response to the PIA request subject to his lawsuit. As with the emails regarding the "consultation," counsel asked the complainant to state whether his emails to her constituted new PIA requests. The complainant did not directly answer that question, and instead maintained that the PIA request subject to his lawsuit was broad enough to include the "consultation" records and the DoIT "chats."¹⁰ As explained *supra*, note 3, we can take no position on whether MDH complied with the PIA as to the PIA request subject to the complainant's lawsuit, as the circuit court will determine the answer to that question.

¹⁰ The PIA requires a person who wishes to inspect a public record to "submit a written application to the custodian." § 4-202(a). The complainant's November 22 and December 11, 2024, emails were sent to counsel for MDH alone, and did not include the custodian. Counsel for MDH takes the position that she cannot serve as the custodian of records for MDH, while the complainant asserts that counsel is MDH's agent and that therefore he can send his PIA requests to her and her alone. We do not need to definitely resolve this question. However, we note that it is probably best practice that, when an attorney for an agency receives what is clearly a "written application" to inspect a public record, the attorney forward that written application to the client custodian and inform the requester that this has been done.

The email the complainant sent on February 4, 2025, was, however, unambiguously a new PIA request that triggered the response obligations outlined in §§ 4-202 and 4-203 of the PIA. The email was sent to the MDH custodian via the general MDH PIA email address under the subject line “MPIA – Communications and Chat search.” Under normal circumstances, at that point MDH would have had thirty days to grant or deny the complainant’s PIA request. § 4-203(a). But, the complainant contacted the Public Access Ombudsman that same day and requested dispute resolution assistance. Thus, under § 4-203(d)(2), the time for MDH to respond to the February 4, 2025, PIA request was “extended pending resolution of that dispute.” The dispute was unresolved through the Ombudsman and remains unresolved pending our decision for this complaint. *See* § 4-203(d)(2) (provision applies when the applicant or custodian seeks dispute resolution through the Ombudsman or our Board). We therefore cannot find a violation of § 4-203(a) or (d) based on the facts before us.

The complainant states that, on June 20, 2025, MDH provided a response under § 4-202(d) that no records reflecting Ms. Armstrong’s “consultation” or DoIT “chats” exist. That response is not in the record before us.¹¹ Our conclusion here notwithstanding, we find it troubling that MDH apparently waited more than five months through the mediation process, and did not issue this response until *after* mediation had concluded. *Cf.* PIACB 24-30, at 3 (Feb. 8, 2024) (waiving fees for a violation of § 4-203(a) where a custodian did not produce a response until after a Board complaint was filed and suggesting that it was not the General Assembly’s intent that “so little progress be made toward resolving a dispute during the time the clock is tolled—especially not when the dispute is a custodian’s failure to timely respond”). It is somewhat hard to fathom that MDH needed that much time to determine that no responsive records existed, and MDH offers no explanation as to why it did. It is apparent from the correspondence the complainant attaches that there is some degree of acrimony between the parties. Such circumstances may make it difficult to engage in the “iterative process” that our State’s Supreme Court has endorsed. *See Glass v. Anne Arundel County*, 453 Md. 201, 233 (2017) (explaining that the PIA works best when “the agency reports on the type and scope of the files it holds that may include responsive records, and the requestor refines the request to reduce the labor (and expense) of searching those records”). However, MDH remains obligated to respond to the complainant’s PIA requests according to the timelines established in §§ 4-202 and 4-203.

¹¹ The complainant vigorously disputes MDH’s response to his PIA request and contends that responsive records exist. We cannot review this allegation, however, as it was not presented to the Ombudsman for dispute resolution first. *See* § 4-1A-05(a). Rather, the Ombudsman’s final determination states that the mediation “did not include or address any issue regarding the substance of MDH’s June 20, 2025, response.”

Conclusion

Based on the submissions, we find no violation of the PIA. Though we have some concerns about the timeline of MDH's response to the complainant's PIA request, the facts do not bear out a violation of § 4-203(a) or (d).

Public Information Act Compliance Board

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