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GOVERNOR

ARUNA MILLER
LT. GOVERNOR



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SAMUEL G. ENCARNACION
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VACANT

STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-54 & 26-55

June 4, 2026

Maryland Department of Health, Custodian
Tyler Adamson, Complainant

These consolidated complaints¹ allege a variety of violations of Maryland's Public Information Act ("PIA") related to the Maryland Department of Health's ("MDH") responses to a June 2025 PIA request from complainant Tyler Adamson. The complainant contends that MDH has not produced all records responsive to his request,² has not provided adequate explanation for withholding or redacting certain records, has improperly withheld records, and has charged unreasonable and excessive estimated fees.³ In response to the complaints, MDH maintains that it has worked diligently and in good faith to respond to the complainant's PIA request. MDH asserts that it has justified all withholdings and redactions, and that it has no additional responsive records to produce. MDH also asserts that its fees comply with § 4-206⁴ of the PIA and that it has worked with the complainant to refine the scope of his request to reduce fees. After review of the submissions, we find that MDH failed to comply with the PIA in several ways, as detailed below.

Background

On June 13, 2025, the complainant sent the PIA request below to MDH asking for:

- Correspondence (e.g., email, google chat, text messages, phone records, etc.) related to [the complainant's] service on the Board of Nursing (January 2024-Present) between [six named individuals]
- Correspondence (e.g., email, google chat, text messages, phone records, etc.) between July 2024-February 2025 between any of [the same six named individuals]

¹ Because the complaints concern the same PIA requester and custodian, and relate to the same PIA request, we have consolidated them for purposes of our review and written decision.

² This allegation is contained in complaint PIACB 26-54.

³ These allegations are contained in complaint PIACB 26-55.

⁴ Statutory citations are to the General Provisions Article of Maryland's Annotated Code unless otherwise specified.

- A copy of the all [the complainant's] personal personnel records and related documents
- Notes from [the complainant's] 1:1 meeting w/ Erica Smith regarding:
 - Requests to be included in various Senior-level meetings (SB 938, HB 815, Legislative Meetings, Women's Health Metrics, etc.)
 - Requests to meet with Dr. Kromm regarding clarification of guidance
 - Concerns with not getting responses from other staff
 - Having a large workload and requesting support and assistance
- Notes from 1:1 between Erica Smith and Ken Lin Tai
 - Request to include [the complainant] in senior-level meetings
 - Requests to meet with Dr. Kromm regarding clarification of guidance
 - Concerns with not getting responses from other staff
 - Understaffing on the Epidemiology team and requesting support
- Emails and google chats between Erica Smith and [the complainant]
 - Regarding timesheet issues (corrections, edits, changes, etc.)
 - Support with unmanageable workload
 - Unresponsive staff
 - Between 6/28/2024-9/20/2025
- Correspondence in Google Chat and emails between [the complainant] and Erica Smith regarding calendar format, how to schedule meetings or display them in the calendar (between 8/2024-10/2024)
- CCPC Senior Meeting Staff Notes:
 - Patient Navigation [concerns]
 - Workplace concerns – safety (water, rates, etc.), parking, impact to individuals with disabilities
 - Concerns about not involving stakeholders in decision-making and not using data to drive decision-making (SB 938)
 - Not focusing on data-driven decision making
- SB 938 Action Plan Meeting Notes
- Documents and correspondence regarding [the complainant's] benefit change request (12/17/24-2/15/25)
- Copy of any 1:1 update documents between Erica Smith and [the complainant] after February 6th, 2025. Typically named Adamson XX.XX.XX Update
 - XX.XX.XX is date of [the] 1:1

MDH contacted the complainant on September 3, 2025,⁵ to provide instructions to arrange a meeting so that the complainant could obtain copies of records from his personnel file. Though several different appointments were made, it appears that the complainant did not appear in person to pick up copies of his personnel file at that time.

MDH eventually routed the complainant's PIA request to its Prevention and Health Promotion Administration ("PHPA"). Because the PIA request "consisted of ten (10) separate items, some of which required searches across six (6) different email addresses and involved multiple keywords," MDH contacted the complainant in an effort to refine the request. On September 29, 2025, MDH sent the complainant a letter confirming the narrowed scope of his PIA request. For some parts of the request, the letter indicated that MDH was "holding on processing [the] item pending further detail from [the complainant] regarding specific search keywords." For other parts, MDH indicated that it still needed a "search timeline" to process the request. In its letter, MDH also advised that search and review would "exceed the statutorily required two free hours,"⁶ but that MDH was providing "an additional 18 hours of document review and preparation at no cost."

On September 24, 2025, prior to receipt of MDH's September 29 letter, the complainant contacted the Public Access Ombudsman to request dispute resolution assistance.⁷ That office opened a file on October 1, 2025, concerning the complainant's belief that MDH's response to his PIA request was inaccurate. While the dispute was pending with the Ombudsman, MDH and the complainant continued to engage in correspondence regarding the PIA request, and MDH issued numerous responses to the complainant, as described below, throughout the process.

On October 8, 2025, MDH produced records in response to certain parts of the complainant's PIA request—specifically, his requests for notes of his "1:1" meetings with Erica Smith, the "update documents" from those meetings, and the "SB 938 Action Plan Meeting Notes." For the 1:1-related records, MDH produced sixty-four pages of typed notes and updates spanning a date range of September 2022 to October 2023. MDH advised that this constituted a "partial release," with additional documents to be produced

⁵ MDH acknowledges that its response was untimely under § 4-203(a) of the PIA, which requires a custodian to "grant or deny" a PIA request "promptly," but not more than thirty days after receiving the request. MDH states that the delay was due to an "initial misrouting" of the request to the Board of Nursing.

⁶ See § 4-206(c).

⁷ The PIA directs the Public Access Ombudsman to "make reasonable attempts to resolve disputes between applicants and custodians relating to requests for public records." § 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 that the dispute was not resolved. § 4-1A-05(a).

by October 16, 2025. For the “Action Plan Meeting Notes,” MDH advised that it had located twenty-four responsive documents, but denied inspection of twenty-three of them as “deemed deliberative” under § 4-344 of the PIA. MDH provided a “spreadsheet listing the file names and the dates of records being withheld, along with one record eligible for release.” MDH described that record as “notes from the SB938 Kick Off Meeting on August 5, 2024.” As to the other parts of the PIA request, for some MDH asked the complainant to pay a “previously discussed fee,” while for still others, MDH continued to ask for a “search timeline.”

MDH disclosed additional records responsive to the complainant’s request for the Erica Smith 1:1-related records on October 17, 2025. MDH disclosed forty-nine pages of records dating from December 2023 to July 2024. In addition, MDH produced “CCPC Senior Staff Meeting” notes from two meetings, one in November 2023 and another in December 2024. MDH advised that it would “provide the next installment of documents by October 31, 2025.”

On November 21, 2025, MDH sent another response letter and produced more records. MDH produced twenty-three pages of email records responsive to the first part of the complainant’s PIA request, which asked for records of correspondence between six named individuals related to the complainant’s service on the Board of Nursing, with certain keywords identified, e.g., “secondary employment” or “timesheet.” MDH stated that it expected to produce a second batch of responsive email records by December 5, 2025, and would continue to release batches of responsive records “on a weekly basis until [the] item [was] fulfilled.”

For the second part of the complainant’s PIA request, which sought correspondence between six named individuals, MDH split the request into two further parts, with different keywords and timeframes identified for each part. MDH advised that the searches for both parts (labeled by MDH as “2A” and “2B”) had returned large numbers of potentially responsive records—35,457 pages and 13,132 pages, respectively. MDH noted that the estimated fees for search and review were very high (more than \$17,000 and \$6,000). MDH advised similarly regarding some records responsive to part six of the PIA request (for records related to “working remotely while on leave”)—i.e., that there were 27,541 pages of records, generating an estimated fee of more than \$13,000. MDH provided guidance as to how the complainant might refine these parts of his PIA request. For part five of the request, seeking the “notes from 1:1 between Erica Smith and Ken Lin Tai,” MDH stated that there were 209 pages of records, and asked the complainant to prepay a \$100 fee before processing work would begin. MDH also advised that it had located no records responsive to other parts of the PIA request and that, for his request for records regarding his benefit change request, the complainant should contact the MDH Human Resources Officer and make an appointment.

MDH next sent the complainant a letter on December 5, 2025. With that letter MDH produced twenty-seven more pages of email records responsive to part one of the complainant's PIA request, stating that a third batch would be released by December 12, 2025. As with its previous letter, MDH advised that the searches for records responsive to certain parts of the complainant's PIA request had returned a high volume of records, thus generating high estimated fees. MDH continued to ask the complainant to refine the scope for those parts of his PIA request. MDH also again the complainant to prepay a \$100 fee for preparation of 209 pages of records responsive to his request for certain "1:1" notes. MDH stated that it would "pause on the production of records for items 2, 5, and 6 until [it] receiv[ed] a response from [the complainant]."

On December 12, 2025, MDH disclosed thirty-five more pages of records responsive to part one of the complainant's PIA request, i.e., the part asking for records of certain correspondence between six named individuals. MDH stated that it expected to release another batch of records by December 19, 2025. MDH also acknowledged receipt of revisions to "items 2A, 2B, 6A, and 6B," and advised that it would notify the complainant of "the number of potentially responsive records and any associated fees once the results [were] available." On December 19, 2025, MDH produced, as promised, seventy-three pages of additional records responsive to part one of the complainant's PIA request. Then, on December 23, 2025, MDH released twenty-one additional pages of records responsive to part one of the request, and advised that it expected to "release the final batch of records and list of withholdings" by December 31, 2025.

MDH sent a second letter to the complainant on December 23, 2025, in which it provided estimated fees for production of records for certain revised parts of the complainant's PIA request. Specifically, MDH advised that a search for correspondence records concerning "data requests" had returned 392 pages of potentially responsive records. MDH requested prepayment of a \$196 estimated fee, which it advised was "based on the MDH fee schedule set out" in COMAR and "an estimated review rate of 50 pages per hour." For the request for correspondence records related to PEPs, MDH advised that it had located 131 pages of potentially responsive records and asked the complainant to prepay a \$65 estimated fee. For correspondence records from a specific individual concerning timesheets or telework plans, MDH provided an estimated fee of \$1,329 for review of 2,658 pages of potentially responsive records. For correspondence records containing the keyword "attachment," sent between August 1 and September 30, 2024, MDH advised there were 1,141 pages of potentially responsive records, resulting in an estimated fee of \$570. For correspondence records regarding RFPs, registries, or leave, MDH advised that there were 1,467 pages of potentially responsive records and asked the complainant to prepay a \$733 estimated fee. For correspondence records containing search terms such as "program manager" and "interview" or "leave," MDH stated that it had located 581 pages of potentially responsive records, resulting in a \$290 estimated fee.

In addition to providing estimated fees, MDH also produced some records responsive to the complainant's revised requests on December 23, 2025. MDH disclosed twenty-eight pages of email records concerning "unresponsive staff" and redacted records, including calendar invites, concerning the "SB 938 Action Plan." MDH advised that redactions were applied under § 4-344, to "remove pre-decisional and deliberative information." As to the part of the request seeking "CCPC Senior Meeting Staff Notes," MDH asked for "clarification on the term 'all,'" asking the complainant to confirm whether he sought "all senior staff meeting notes produced by Ken Lin Tai (regardless of topic or date), or all senior staff meeting notes (regardless of author)." In addition, MDH stated that it had no further records responsive to the request for "1:1" meeting notes, specifying that Ms. Smith "followed the agendas that were emailed to her," and "did not take additional notes." MDH also advised that it had "met with staff and confirmed that there are no text messages or phone records," and that its search had included a search for Google Chats. MDH noted that "Google chat history is only permanently saved and searchable when the history setting is turned on by one of the participants in the chat."

On December 31, 2025, MDH produced the final batch of email records responsive to the complainant's request for certain email correspondence between six named individuals. MDH advised that the production totaled 193 pages and that redactions were applied to "remove personnel performance ratings and pre-decisional and deliberative intra-agency communications." MDH cited §§ 4-311 and 4-344 of the PIA. MDH denied inspection of twenty "email threads and/or attachments" as "deemed deliberative or confidential personnel records pertaining to other individuals." MDH again cited §§ 4-311 and 4-344 of the PIA. MDH also produced six pages of emails responsive to part six of the complainant's PIA request, asking for correspondence records "regarding timesheet issues." MDH stated that it had provided all records responsive to the first part of the complainant's PIA request, and had also "provided the agreed-upon complimentary 30 hours of review time, distributed across eight document releases." Thus, MDH stated, pending the complainant's response to the fee estimate information MDH provided on December 23, 2025, MDH had "fulfilled its commitments related to [the] PIA request."

The complainant still had questions about MDH's response and records production. Thus, on January 16, 2026, MDH sent yet another letter to the complainant in which it addressed those questions. The complainant questioned MDH's search for text messages, suggesting that MDH had simply asked staff to search, rather than having IT conduct a search. MDH advised that staff had "indicated that text messages are used only for leave and emergency-related purposes," and that there were thus no responsive text messages. As to his request for notes from his "1:1" with Erica Smith, the complainant pressed his position that Ms. Smith took notes, stating, "she had a spiral notebook she would take notes on." In response, MDH stated that the particular notes to which the complainant referred "were not retained as they are considered non-records materials, such as shorthand notes or reminders." MDH provided a link to its records management policy, and reiterated that all responsive records had been provided. MDH also acknowledged clarification that the

complainant sought “CCPC Senior Meeting Staff Notes” taken by Ken Lin Tai only, but asked the complainant to “provide a timeline for the search.” Finally, MDH addressed the complainant’s issues with its records production for part eight of his PIA request, seeking “SB 938 Action Plan Meeting Notes.” MDH attached “SB 938 Workplan spreadsheets,” which included “documents from 2024 and the updated workplan documents as of January 14, 2026.” MDH advised that it had also located “two additional SB 938 Action Plan Meeting calendar invites,” which it produced to the complainant. MDH stated that the records were redacted to “remove pre-decisional and deliberative information” under § 4-344 of the PIA.

The Ombudsman issued a final determination on January 28, 2026. Despite the parties’ efforts, the final determination indicated that disputes about certain specific records remained unresolved, namely disputes concerning: (1) “CCPC Senior Meeting Staff Notes not provided”; (2) “Erica Smith’s notes from 1:1 with the [complainant]”; (3) “Erica Smith’s Notes from 1:1 with Ken Lin Tai”; (4) “Google chats”; and (5) “Information from HR about benefits change request.” The complainant thus filed his first complaint with our Board on January 29, 2026.

As discussed in detail above, however, MDH issued numerous responses to the complainant’s PIA request throughout the course of mediation through the Ombudsman. Apparently, disputes about those responses arose during the course of mediation and, presumably because the initial mediation did not address them, the complainant, on January 27, 2026, requested further dispute resolution assistance. According to the final determination, those disputes were the complainant’s “belief that the [MDH’s] responses were partial/incomplete, that [MDH] did not provide an explanation for withholding or redacting documents, and that the fee estimates were excessive.” On February 3, 2026, the Ombudsman issued a second final determination stating that the disputes were not resolved. The complainant filed his second complaint with our Board on February 4, 2026.

In his first complaint, the complainant alleges that MDH has constructively denied inspection of certain specific records by failing to locate and/or produce them. The complaint focuses on notes from Senior Staff meetings that took place while the complainant was employed with MDH. The complainant states that he was “provided with two, despite scheduled monthly meetings, which would equate to at least 20 sets of notes.” The complaint also focuses on notes from the complainant’s meetings with his direct supervisor, Erica Smith (the “1:1” notes, we presume) and notes from Ms. Smith’s meetings with her supervisor, Dr. Ken Lin Tai, relating to issues the complainant raised in his meetings with Ms. Smith. MDH advised that those records do not exist, but the complainant states that Ms. Smith “worked with a spiral notebook and took all her notes on that, both during [his] meeting and others that [they] were in together.”

The complaint also alleges that MDH performed an insufficient search for responsive Google Chat records. The complainant asserts that it is clear to him that MDH

“simply ask[ed] the individuals for records” and “[took] their response at face value.” Though MDH clarified that the search for electronic records included Google Chats, and that such records are saved permanently and searchable only “when the history setting is turned on by one of the participants in the chat,” the complainant expresses concern that the retention of Google Chat records “related to more serious matters such as personnel, operations, or agency functions” depends on the individual user’s preferences. In addition, the complainant states that MDH “did not indicate if any of the other individuals had kept their history on/off.” Finally, turning to his request for records related to his “benefit change request,” the complainant states that MDH told him he would “need to reach out to a completely different agency” and that he has continued to “be unsuccessful in completing that request despite continual attempts to do so.”⁸

In his second complaint, the complainant alleges that MDH’s responses to his PIA request were “partial/incomplete.” He states that there was “no explanation for withholding or redacting documents.” Finally, the complainant alleges that “most of the fees were excessive.”

MDH responds to both complaints. At the outset, MDH acknowledges the delay in responding to the complainant’s PIA request and advises that, in recognition of that delay, MDH “provided over thirty (30) hours of staff time at no cost.” MDH states that “fulfillment of this extensive and voluminous request required [MDH] to submit twelve (12) email search requests to the MDH Office of Enterprise Technology (OET) and review thousands of potentially responsive email[] records, including their attachments.”

MDH also addresses the specific records identified in the first final determination and the complainant’s first complaint. As to the complainant’s request for the “CCPC Senior Meeting Staff Notes,” MDH states that parameters initially identified resulted in MDH’s production of two sets of notes. Referring to its January 16, 2026, letter to the complainant, MDH explains that once it became clear that the complainant asked for “all notes produced by Ken Lin Tai,” MDH asked the complainant for a timeframe for the search so that it could provide a fee estimate. MDH states that the complainant has not provided the timeframe. Turning to the records of the “1:1” meetings between (1) the complainant and Ms. Smith and (2) Ms. Smith and Dr. Tai, MDH asserts that it has produced all responsive records and that it has “no additional records in its possession responsive to this item.” According to MDH, the “particular notes the [complainant] referred to”—which we take to mean handwritten notes in Ms. Smith’s spiral notebook—

⁸ The complainant’s first complaint also contains allegations related to the timeliness of MDH’s response to his PIA request. We do not detail those allegations, however, because we lack jurisdiction to review them. As noted above, we are authorized to review only those allegations left unresolved after dispute resolution through the Ombudsman. § 4-1A-05(a). The Ombudsman’s final determination does not indicate that a dispute about a failure to respond was unresolved.

“were not retained as they were considered non-records material, such as shorthand notes or reminders.” MDH provides a link to an MDH records management policy.

As to the Google Chat records, MDH explains that “[b]y default, Google chat does not save the chat logs, meaning that if the history setting is not enabled, the chat logs will not be preserved.” MDH states that it “consulted with OET on the requested records including both emails and Google chat in the OET search requests,” and that “OET did not identify any responsive Google chats.” This indicates, MDH states, that “there were no saved Google chats that met the [complainant’s] search criteria.” Finally, as to the complainant’s request for records concerning his benefit change request, MDH advises that such records are “available through the State’s Employee Benefit Division (EBD),” and that MDH’s OHR Employment Services Unit “submitted a ticket on the [complainant’s] behalf” in December 2024, but the ticket was “denied.” MDH states that, if the complainant continues to have concerns, it can “facilitate outreach to connect [him] to EBD for further assistance.” At the same time, MDH advises that it has since identified “an email related to the [complainant’s] benefit change request,” which MDH attaches to its response to this complaint and has shared with the complainant.

In response to the second complaint, MDH reiterates its position that it “worked in earnest with the [complainant] to narrow the scope of the PIA request . . . where appropriate and to reduce potential fees.” MDH states that “for each and every instance in which records were withheld or redacted, [MDH] provided justification in accordance with the PIA and included a list with the title or subject line of the records withheld, the author, the date, and the statutory authority for withholding.” As to the estimated fees charged, MDH states that it is “required to review all responsive records to determine whether they are releasable, in whole or in part, regardless of whether the records are ultimately released,” and that this process “requires significant staff time and resources.” MDH further states that the estimated fees are “based on the MDH fee schedule set out by [COMAR] 10.01.08.04 of \$25 per hour of employee time (excluding the first two hours provided free of charge) and an estimated review rate of 50 pages per hour.”

In reply,⁹ the complainant states, regarding his request for “CCPC Senior Meeting Staff Notes,” that the “timeframe was provided in the original PIA request and was reiterated in [MDH’s] response.” The complainant asserts that he asked for “notes from [the] Senior Staff meeting during [his] tenure at [MDH].” The complainant reiterates his expectation that there are “at least 20 sets of notes,” and not just the two sets MDH

⁹ We note that the complainant’s reply contains communications exchanged with the Deputy Ombudsman during mediation, and includes an exhibit consisting entirely of emails that the complainant exchanged with the Deputy Ombudsman during mediation. We have not reviewed or considered those communications. See Md. Code Ann., Cts. & Jud. Proc. § 3-1803(b)(1) (prohibiting a party to a mediation from disclosing mediation communications in “any judicial, administrative, or other proceeding”).

produced. Turning to his request for the “1:1” meeting notes, the complainant advises that he was “only provided with notes that [he] had sent to [his] supervisor,” and that no notes taken by Ms. Smith or Dr. Tai have been produced. The complainant also expresses confusion regarding MDH’s representation, in its December 23, 2025, letter that there were eighty-eight additional records totaling 209 pages responsive to this part of the complainant’s PIA request.

Moving to the dispute about Google Chat records, the complainant asks about MDH’s policy regarding retention of Google Chat messages. Then, as to the records concerning his request for a benefit change, the complainant asks MDH to “[p]lease facilitate,” presumably referring to MDH’s offer to facilitate communication between the complainant and the State Employee Benefits Division. In addition, the complainant continues to dispute that MDH has justified all withholdings and redactions. Finally, addressing the fees, the complainant notes that the records produced to him contain numerous duplicative email records, thus implying that the estimated review time is excessive. The complainant states that, as of December 23, 2026, “there are currently a total of 7 outstanding requests, totaling potentially respons[ive] 1,381 records, nearly 5,000 pages, and \$3,283.” The complainant questions MDH’s math, stating that using the \$25 hourly rate and accounting for 50 pages of review per hour, “without considering duplicates, that would turn out to be around \$2,500.”

Analysis

The PIA directs us to review and resolve complaints that allege certain violations of its provisions, including that a custodian improperly denied inspection of a public record or charged an unreasonable fee higher than \$350 to produce public records. § 4-1A-04(a)(1). We have construed our authority to review denials broadly to include constructive denials, e.g., allegations that a custodian’s insufficient search led to a failure to locate all responsive records. *See, e.g.*, PIACB 23-05, at 3-5 (Nov. 23, 2022). After review of the parties’ submissions, if we determine that the alleged violation occurred, we must issue a written decision and order a remedy, as provided in the PIA. § 4-1A-04(a)(2) and (3). When we determine that a custodian improperly denied inspection of a public record, we must “order the custodian to . . . produce the public record for inspection.” § 4-1A-04(a)(3)(i). Where we determine that a custodian performed an unreasonable search and thus may have constructively denied inspection of a public record, we may direct the custodian to conduct an additional search and “produce any non-exempt responsive records to the complainant.” PIACB 24-08, at 6 (Sept. 28, 2023). If we determine that a custodian has charged an unreasonable fee, we are to direct the custodian to “reduce the fee to an amount determined by the Board to be reasonable and refund the difference,” if applicable. § 4-1A-04(a)(3)(ii).

Custodians of public records must allow inspection and copying of those records, unless the records are exempt from disclosure. §§ 4-201(a), 4-205(b). Upon receipt of a

PIA request, a custodian must “conduct a search in good faith that is reasonably designed to capture all responsive records.” *Glass v. Anne Arundel*, 453 Md. 201, 232 (2017). In doing so, a custodian is not required to “leave[] no stone unturned,” *id.* at 233, but rather must focus on “where responsive records are likely to be found,” *id.* at 232. Normally, a custodian must “grant or deny” a PIA request “promptly,” and no more than thirty days after receipt of the request. § 4-203(a). When a custodian denies inspection of a public record, the custodian must provide “the legal authority for the denial” and “a brief description of the undisclosed record that will enable the applicant to assess the applicability of the legal authority for the denial.” § 4-203(c)(1)(i). If the custodian has applied a discretionary exemption to deny inspection, then the custodian must also provide “a brief explanation of why the denial is necessary” and “an explanation of why redacting information would not address the reasons for the denial.” § 4-203(c)(1)(i)(2).

The PIA favors disclosure, § 4-103(b), but not all public records are subject to inspection. Instead, the PIA contains both mandatory and discretionary disclosure exemptions. If a mandatory exemption applies, a custodian ordinarily must deny inspection of the records or information subject to the exemption. *See, e.g.*, § 4-311 (individuals’ personnel records); § 4-336 (individuals’ financial information). If the applicable exemption is discretionary, however, a custodian may deny inspection only if inspection would be “contrary to the public interest.” § 4-343; *see, e.g.*, § 4-344 (intra- or inter-agency letters and memoranda, commonly referred to as the deliberative process privilege). A custodian has the burden of justifying the application of an exemption to deny inspection of a public record. *Lamson v. Montgomery County*, 460 Md. 349, 367 (2018).

The PIA’s provisions should be interpreted “in favor of allowing inspection of a public record with the least cost and least delay.” § 4-103(b). At the same time, the PIA also permits custodians to charge a “reasonable fee” for the work associated with responding to a PIA request. § 4-206(b). For purposes of the PIA, a “reasonable fee” is one that bears a “reasonable relationship to the recovery of actual costs incurred by a governmental unit” when responding to a PIA request. § 4-206(a)(3). Actual costs include the costs of searching for, preparing, and reproducing the responsive records. § 4-206(b)(1). To calculate actual labor costs, the PIA directs custodians to use the individual’s prorated salary and the “actual time attributable to the search for and preparation of a public record.” § 4-206(b)(2). A custodian may not charge a fee for the first two hours of labor needed to “search for a public record and prepare it for inspection.” § 4-206(c).

With that general background, we take the complainant’s allegations in the order presented, beginning with his contentions regarding the “CCPC Senior Meeting Staff Notes.” MDH has produced two sets of notes responsive to that part of the complainant’s PIA request, from meetings that took place in November 2023 and December 2024. Contrary to the complainant’s assertions, we do not see where, in his original PIA request or the email transmitting it, he indicated a timeframe for his request for “CCPC Senior

Meeting Staff Notes.” MDH’s letter of September 29, 2025, indicates, for this part of the request, that the timeline is “TBD.” MDH produced the two sets of notes on October 17, 2025. In response to that production, the complainant stated, “[b]etween 2022 and 2025, [they] had at least monthly CCPC Senior Staff Meetings.” The complainant expressed surprise that “only two notes from those meetings were included,” and asked whether the rest of the notes would be sent in the future, or if MDH was “not in possession of those notes.” Despite the complainant’s questions, several subsequent letters from MDH indicated its belief that this part of the PIA request had been fulfilled.

In its letter of December 23, 2025, there is a notation—presumably reflecting a request from the complainant—asking, “[p]lease re-run the search for all senior staff meeting notes.” In response, MDH asked for clarification of the term “all,” advising that it could not “proceed with this item until [it] receiv[ed] a response clarifying the scope.” By the time the letter dated January 16, 2026, issued, the complainant had apparently clarified that he wanted “Ken Lin’s notes.” At that point, MDH asked the complainant to “provide a timeline for the search.” Thus, viewing the record of communication regarding this part of the complainant’s PIA request with the benefit of hindsight, it appears to us that some wires crossed. Although the complainant referred to a timeframe in his email following production of the two sets of CCPC notes, that reference did not clearly define new search parameters (and it is not clear, in any event, that the complainant’s “tenure” with MDH spanned 2022 to 2025). MDH continued to request that the complainant provide a timeline for the search, and has, in response to this complaint, indicated that it would conduct a search upon receipt of that timeline. The complainant states that he seeks notes generated “during [his] tenure at [MDH,]” which MDH presumably knows. Thus, without determining whether MDH’s search for the “CCPC Senior Meeting Staff Notes” fell short, we direct MDH to search for responsive “CCPC Senior Meeting Staff Notes” created by Dr. Tai during the time when the complainant worked at MDH.

Parts four and five of the complainant’s PIA request asked for “[n]otes from [his] 1:1 w/ Erica Smith” and “[n]otes from 1:1 between Erica Smith and Ken Lin Tai,” with several discussion topics specified. In response MDH produced, on October 15, 2025, forty-nine pages of “Epidemiology Updates.”¹⁰ We presume that these are the notes that the complainant sent to his supervisor, Ms. Smith, as indicated in the complainant’s reply. The complainant states that he has not received any additional records responsive to parts four and five of his PIA request, and he appears particularly interested in notes taken by Ms. Smith in a spiral bound notebook, which he states he has observed. MDH’s letter of November 21, 2025, stated that it located eighty-eight records, totaling 209 pages, potentially responsive to the complainant’s request for the “1:1” notes between Ms. Smith

¹⁰ MDH indicated that these notes were also responsive to part ten of the PIA request, which asked for a “[c]opy of any 1:1 update documents between Erica Smith and Tyler Adamson after February 6th, 2025.”

and Dr. Tai, and asked the complainant to prepay an estimated fee of \$100 for those records.

Thus, what appears really at issue here is MDH's search for records related to Ms. Smith's "1:1" meetings with the complainant. While MDH represents, both in its response letters and in response to this complaint, that the notes from Ms. Smith's spiral notebook were "not retained as they are considered non-records material," we have no information from MDH as to whether a search for those records was actually conducted. That MDH may not be required to retain those notes does not mean that they were not, in fact, retained. *Cf.* PIACB 21-16, at 4-5 (July 30, 2021) (discussing the difference between records retention and the PIA). If Ms. Smith has notes of her "1:1" meetings with the complainant, in a spiral notebook or otherwise, then they may be subject to production under the PIA. On this record, then, we cannot find that MDH conducted a sufficient search for notes of the "1:1" meetings between the complainant and his supervisor, Ms. Smith. We therefore direct MDH to perform an additional search for these records, e.g., by asking Ms. Smith whether she actually has any such notes, regardless of whether she is required to keep them.

We move next to the complainant's allegations regarding Google Chat records, which he requested over several parts of his PIA request, including parts one and two, which sought "correspondence" involving six named individuals concerning various topics. In its letter of December 23, 2025, MDH advised that the "MDH OET search includes Google chats," and that "any responsive chats that are identified will be included as responsive records." In response to this complaint, MDH explains further that Google Chat does not save chat logs unless the "history setting" is enabled by one of the chat participants. MDH reiterates that it "consulted with OET on the requested records including both emails and Google chat in the OET search requests," and "OET did not identify any responsive Google chats." This, MDH states, "indicates that there were no saved Google chats that met the applicant[s] search criteria."

We needed additional information to resolve this allegation, so we asked MDH to provide an affidavit from a person with knowledge regarding OET's search, specifically addressing the search for Google Chats. *See* § 4-1A-06(b)(4) (allowing our Board to request "an affidavit or a statement containing the facts that are at issue in the complaint"). We asked that the affidavit also address whether MDH and/or OET has since found responsive Google Chat records and, if so, how those records were located.¹¹ MDH provided affidavits from three individuals with information bearing on this allegation: (1) Rebbie Barclay, Public Information Act Manager for MDH ("Barclay Affidavit"); (2) Victoria Marte-Tiburcio, Health Policy Analyst, PHPA, MDH ("Marte-Tiburcio Affidavit"); and (3) Tracia Sherman, Collaboration Platform Director, State Department of Information Technology ("DoIT") ("Sherman Affidavit").

¹¹ On April 14, 2026, we received an email from the complainant stating that he had received a copy of Google Chat messages from MDH that were responsive to his PIA request.

According to her affidavit, Ms. Barclay's duties include "receiving and distributing [PIA] records requests submitted to the MDH to the appropriate administrations and/or programs," and assisting programs with "submitting MPIA-related data requests to [DoIT]." Ms. Barclay avers that she submitted such a data request to DoIT on October 15, 2025, for the complainant's PIA request. The Barclay Affidavit states that the "exports provided by DoIT contained multiple components to download," and that Ms. Barclay downloaded the files to her laptop between October 15 and October 21, 2025. However, Ms. Barclay cannot state "which files were downloaded" because her laptop was replaced in December 2025 and that information did not transfer to the new device. The Barclay Affidavit further states that the files were imported to a shared database on October 21, 2025, and that Ms. Barclay notified PHPA that the files were there for review. Ms. Barclay avers that she believed, at that time, that all responsive records provided by DoIT were uploaded for review. However, Ms. Barclay states, she later "discovered that there were two download components for the chat file," and that only one of those files was uploaded to the shared database.

The Marte-Tiburcio Affidavit states that Ms. Marte-Tiburcio's duties include the "fulfillment of requests made to PHPA under the [PIA]." Ms. Marte-Tiburcio avers that, in March 2026, "MDH identified an additional responsive Google Chat record, which was subsequently provided to the complainant." Ms. Marte-Tiburcio explains that, while she was preparing responses to these complaints to our Board, she "identified one Google Chat record responsive to . . . Item 1 within the search results for Item 2a," which was still pending payment of the estimated fee.¹² The Marte-Tiburcio Affidavit states that the responsive Google Chat was redacted under § 4-311 to shield personnel information and provided to the complainant on April 14, 2026. In addition, Ms. Marte-Tiburcio avers that she "immediately resubmitted the search request for Item 1 to the [PIA] Manager for MDH to submit to DoIT," and was later "advised that the search returned no additional responsive records."

Finally, the Sherman Affidavit states that Ms. Sherman's duties include "running Google Chat search requests made to state agencies . . . under the [PIA]." The Sherman Affidavit provides information about "how Google Vault handles searches for Chat messages," including that the Vault can only search for such messages when the chat message history is "on." According to Ms. Sherman's affidavit, "[t]he default for direct Chat message history is 'OFF.'" The Sherman Affidavit further states that Google Chats

¹² The Marte-Tiburcio Affidavit states that the responsive Google Chat record was in a zip folder with files from multiple authors. Apparently, the initial search was "filtered by author" and, because the zip folder was not labeled with a name, the responsive Google Chat was "inadvertently labeled as unresponsive." Ms. Marte-Tiburcio states that, after the issue was discovered, she reviewed all Google Chat files to determine whether they were responsive to Item 1, as well as "similar zip files that were provided . . . as responsive to Item 1." According to the Marte-Tiburcio Affidavit, no additional Google Chat records were found this way.

are “processed as a continuous stream of messages within a conversation or space,” and that the messages are exported “within their conversational context to ensure the integrity of the thread.” The Sherman Affidavit states that there were eight Google Chat messages found after a search for records responsive to “Item 1” of the complainant’s PIA request.¹³ According to the Marte-Tiburcio Affidavit, once MDH learned that DoIT’s “October 2025 search yielded eight potentially responsive Google Chats,” Ms. Marte-Tiburcio determined that “[s]even of the eight records had not been provided to [her],” while the remaining Google Chat record has been produced to the complainant. Ms. Marte-Tiburcio states that “[r]esponsive records are being addressed simultaneously with this affidavit.”

Based on the information we have, including the information provided in the affidavits from MDH, we cannot conclude that MDH’s search for Google Chat records was reasonable under the PIA. While we do not suggest that MDH purposely thwarted the search results, it appears that responsive Google Chat records were missed in the initial search process somehow. *Glass* requires that a search be “reasonably designed to capture all responsive records.” 453 Md. at 232. When the process entails multiple individuals completing different steps—e.g., here, DoIT performing the search for responsive electronic records, communicating the results of the search to MDH, and providing the potentially responsive records to one person within MDH, and another unit within MDH then reviewing those records—it is critical that all individuals receive full and accurate information at each step of the process. While we understand that a custodian’s search is “measured by whether it is reasonably calculated to uncover responsive records, not by whether it locates every possible responsive record,” *id.* at 212, in our view MDH’s search for Google Chat records was not reasonable under the PIA. Although, at this point, it seems that MDH has sufficiently searched for Google Chat records responsive to “Item 1” of the complainant’s PIA request—i.e., his request for correspondence between six named individuals—it is not clear to us that there were no similar communication breakdowns related to other parts of the PIA request that implicated Google Chat records. We therefore direct MDH to ensure that has received and accounted for all potentially responsive Google Chat records that DoIT located in its various searches. This may require resubmitting search requests to DoIT.

Next, we briefly address the complainant’s request for records concerning his request for “[i]nformation from HR about benefits change request.” MDH’s December 23, 2025, response letter expressed a belief that the complainant had appointments to “satisfy this element of [the] request,” but that the complainant did not attend the appointments. MDH advised the complainant to contact a specific person if he “wish[ed] to pursue these items.” In his complaint, the complainant states only that he has been “unsuccessful in completing that request despite continual attempts to do so.” MDH has now provided, in response to this complaint, a responsive email, sent to the complainant from an MDH

¹³ The Sherman Affidavit includes screenshots related to DoIT’s search, including one containing search terms.

Personnel Specialist. MDH has also indicated a willingness to “facilitate outreach to connect the [complainant] to [the Employee Benefits Division] for further assistance,” which the complainant accepts.¹⁴ We therefore direct MDH to facilitate that outreach for the complainant.

We now turn to the complainant’s allegations, made in his second complaint, that MDH has not provided any explanation for withholding or redacting documents, and, in doing so, has improperly denied inspection of public records. In response, MDH asserts that, “for each and every instance in which records were withheld or redacted, [MDH] provided justification in accordance with the PIA and included a list with the title or subject line of records withheld, the author, the date, and the statutory authority for withholding.” In his reply, the complainant states that MDH has “provided two instances of where they provided justification for withholding or redacting,” one on October 8, 2025, “regarding notes from SB 938, which the agency later reversed course on,” and the second on December 31, 2025, which the complainant describes as a “list of emails which were withheld and the statutory justification for doing so.”

First, we have reviewed all of the PIA response letters that MDH has issued up to this point. On October 8, 2025, MDH issued a letter stating that twenty-three of the twenty-four responsive “SB 938 Action Plan Meeting Notes” were withheld as “deemed deliberative” under § 4-344. MDH attaches, with its response to the complaint, both the meeting notes produced and the list of twenty-three meeting note records that were withheld under § 4-344. That list provides the file name—“SB938 Check-In Meeting Agenda/Notes”—and a date, presumably the date on which the meeting was held. According to the PIA response letter issued on December 23, 2025, however, it appears that the complainant provided additional clarification as to the records he sought regarding the “SB 938 Action Plan,”—i.e., that he wanted “the workplan” and “attendance for those meetings.” MDH apparently provided “calendar invites for the SB 938 action plan meetings, which includes the list of attendees, and the SB 938 action plan.” MDH advised that portions of those records were “redacted to remove pre-decisional and deliberative information” under § 4-344.

The PIA response letter dated January 16, 2026, contains what appears to be more clarification from the complainant as to the particular “SB 938 Action Plan” records he sought, stating that the records produced were “not the item [he] requested,” and that he requested “an excel document with different sections on different sheets” that “had the requirement sections outlined, and each one had a leader assigned to it.” The complainant stated that he was “requesting the old and new versions of the document.” MDH attached,

¹⁴ It appears that the Employee Benefits Division is part of Maryland’s Department of Budget and Management. See Department of Budget & Management, Health Benefits, <https://dbm.maryland.gov/benefits/Pages/default.aspx> (last visited June 3, 2026) (scroll to end of page for contact information).

with that letter, the responsive “Workplan spreadsheets,” noting that they “include documents from 2024 and the updated workplan documents as of January 14, 2026.” MDH also produced “two additional SB 938 Action Plan Meeting calendar invites,” stating again that portions were redacted to “remove pre-decisional and deliberative information” under § 4-344. Thus, it appears to us that MDH provided an “explanation for withholding or redacting” all the records concerning the “SB 938 Action Plan.”

On December 31, 2025, MDH produced the final batch of records responsive to the first part of the complainant’s PIA request, which asked for records of correspondence involving six named individuals containing certain keywords or terms, such as “Tyler,” “Board of Nursing,” “secondary employment,” and “timesheet.” MDH produced the records across six batches, from November 21 to December 31, 2025. We have reviewed those productions, which MDH attaches with its response to this complaint. The first five productions contained no redactions to the email records provided. It appears that the final batch of email records, consisting of 193 pages, was produced in two separate PDF files, with one PDF containing the redacted email records.¹⁵ In its December 31, 2025, letter, MDH advised that parts of the email records produced were “redacted to remove personnel performance ratings and pre-decisional and deliberative intra-agency communication” under §§ 4-311 and 4-344, respectively. MDH also advised that “[a] total of 20 email threads and/or attachments are being withheld as they are deemed deliberative or confidential personnel records pertaining to other individuals.” MDH provided a “list of correspondence and/or attachments being withheld” including “the subject line/title, date, author, and reason for withholding.”

After examining the rather extensive record here, we can find no instances in which MDH has produced redacted records, or withheld records, without stating the reason for doing so. The complaint states generally that “[t]here were what seemed like a hundred or so documents that were withheld throughout the process that [the complainant] has yet to receive, nor given an explanation of why they were denied or redacted,” but without more specification, we cannot further address the complainant’s allegation that MDH has not stated a reason for withholding records. However, as to the complainant’s allegation that records were improperly withheld, we find that MDH has failed to justify its application of § 4-344. Section 4-344 permits a custodian to deny inspection of “any part of an interagency or intra-agency letter or memorandum that would not be available by law to a private party in litigation with the unit.” This exemption encompasses the deliberative process privilege. *See Stromberg Metal Works, Inc. v. Univ. of Maryland*, 382 Md. 151, 163 (2004). To qualify for withholding under the deliberative process privilege, the records or information must be both pre-decisional and deliberative in nature. *Id.*

¹⁵ MDH did not attach all 193 pages of records with its response. However, the December 31, 2025, letter indicates the following attachments: “Item #1 – 12/31/25 Unredacted Emails” and “Item #1 – 12/31/25 Redacted Emails.” Thus, it seems that MDH attached with its response only the redacted emails, which total twenty-nine pages.

Section 4-344 is a discretionary exemption, meaning that, in addition to demonstrating that the records contain pre-decisional and deliberative material, MDH must explain why disclosure would be “contrary to the public interest.” § 4-343; *see also Admin. Office of the Courts v. Abell Found.*, 480 Md. 63, 92 (2022) (describing § 4-344 as a “conditional exemption” that may be invoked only when the custodian believes inspection would be against the public interest). MDH’s response letters contained no such explanation, and its references to the applicability of the exemption were generic and boilerplate, e.g., stating simply that material was “deemed deliberative” or that records were “redacted to remove pre-decisional and deliberative information.” Moreover, when a custodian applies a discretionary exemption to deny inspection of a public record, § 4-203(c)(1)(i)(2) requires the custodian to provide “a brief explanation of why the denial is necessary” and “an explanation of why redacting information would not address the reasons for the denial.” MDH did not do so here, particularly as to the meeting notes withheld in their entirety. MDH also does not address the public interest in its responses to these complaints. Given this record, *Stromberg* and our prior decisions require that we find that MDH failed to meet its burden to justify its application of § 4-344 and the deliberative process privilege. *See, e.g.*, PIACB 26-21 (Feb. 3, 2026). We therefore direct MDH to produce all records withheld under § 4-344 to the complainant in full, to include removing any redactions applied under the exemption.

Finally, we have the complainant’s fee dispute. The complaint alleges only that “most of the fees were excessive (>\$350).” Without further specification from the complainant, we will use MDH’s December 23, 2025, letter as providing the relevant fees, which we outline in the table below:

Description of Record	# Pages	Fee
Correspondence from three named individuals to “someone on the epidemiology team,” containing keyword “data request” and in the timeline 7/1/2024 to 2/28/2025 – “Item 2A(i)”	392	\$196
Correspondence related to PEPs during December 2024, containing search terms “availability and Sarah” or “availability and Jerry” – “Item 2A(ii)”	131	\$65
Correspondence to or from a named individual containing keywords “timesheet” or “time sheet” or “telework plan” or “tele workplan” and in the timeline 1/1/2020 to 2/1/2025 – “Item 2B”	2,658	\$1,329
Notes from “1:1” between Ms. Smith and Dr. Tai, containing certain keywords and in the timeline 1/1/2023 to 1/31/2025 – “Item 5”	209	\$100

Emails, Google Chats, correspondence, and meeting notes from exchanges between Ms. Smith and the complainant, containing the keyword “attachments” and in the timeline 8/1/2024 to 9/30/2024 – “Item 6A”	1,141	\$570
Emails, Google Chats, correspondence, and meeting notes from exchanges between Ms. Smith and the complainant, containing search terms “RFP” or “registry” or “leave” and in the timeline 3/1/2024 to 3/31/2024 – “Item 6B(i)”	1,467	\$733
Emails, Google Chats, correspondence, and meeting notes from exchanges between Ms. Smith and the complainant, containing search terms “Pam” or “program manager” and “interview” or “leave” and in the timeline 8/1/2024 to 8/31/2024 – “Item 6B(ii)”	581	\$290
	6,579	\$3,283

All told, then, MDH has charged the complainant an estimated fee of \$3,283¹⁶ for production of the remaining records responsive to his PIA request—apparently some 6,579 pages worth. In response to this complaint, MDH states that the estimated fee is based on the hourly rate of \$25 set out in its regulations¹⁷ and “an estimated review rate of 50 pages per hour.”¹⁸ We needed additional information to resolve this allegation, so we asked MDH to provide the annual salaries, without benefits, of the employees it expects to work on producing the records subject to the fee estimates. *See* § 4-1A-06(b)(2)(iii) (allowing our Board to request information about “the basis for the fee that was charged”). In addition, we also asked that the affidavits we requested in connection with the Google Chat records, *supra*, address whether there is a process for de-duplicating email records before review and if the records for which fees were assessed are likely to contain duplicates.

In response to our request for salary information, MDH provided an affidavit from Brittany Cole, the Personnel Specialist for PPHA, within MDH. The affidavit lists the

¹⁶ Our jurisdiction to review fees extends only to fees higher than \$350. *See* § 4-1A-04(a)(ii). Several of the estimated fees listed above fall below this threshold. However, we consider \$3,283 to be the estimated fee for purposes of this complaint, as that is the total fee for production of the remaining records responsive to the complainant’s PIA request.

¹⁷ *See* COMAR 10.01.08.04A(3), which provides that “the standard charge for responding to requests for public information is \$25 per hour of employee time,” which may include “searching for records, preparing records to be copied, copying records, and any other similar tasks.”

¹⁸ We note that, for 6,579 pages, the hourly rate and time estimate would produce a slightly higher fee, of \$3,289.50.

annual salaries and job titles of twelve individuals who have assisted with the responses to the complainant's PIA request in some way. The annual salaries for those individuals range from \$70,743 to \$274,292, meaning that, even at the lowest end, the actual prorated cost to MDH is higher than \$25 per hour.

We thus begin with the \$25 "standard" hourly rate that MDH uses, under its regulations, for the labor of responding to PIA requests. We have, in the past, observed that the "use of a standard hourly rate to assess staff and attorney costs does not necessarily comport with a strict reading of the statutory provision regarding these costs." PIACB 21-13, at 3 (June 3, 2021). Indeed, § 4-206(b)(2) requires that "staff and attorney review costs . . . be prorated for each individual's salary and actual time attributable to the search for and preparation of a public record." However, we have also determined that when "the deviation favors the complainant"—i.e., when the standard rate charged falls *below* the actual prorated hourly rates of the employees working on the PIA response—the rate may still be reasonable under the PIA. PIACB 21-13, at 3 (June 3, 2021). We suggested that it may even be "helpful to think about an agency's decision not to assess the full amount of staff or attorneys' prorated salaries as a form of partial fee waiver." *Id.* at 3 n.3. Here, the deviation clearly favors the complainant. We therefore take no issue with the \$25 hourly rate that MDH has used to calculate the estimated fees.

MDH anticipates that it will be able to review an average of fifty pages per hour, which results in just over a minute of review per page. The total estimated fee of \$3,283 for review of approximately 6,579 pages of records is consistent with this pace of review. According to the Marte-Tiburcio Affidavit, these records are likely to contain duplicates. Ms. Marte-Tiburcio explains that duplicates may occur if an email search "identifies the same email thread in both the sender's and recipient's records as potentially responsive to the search criteria, or if the same email and/or attachment is sent to multiple recipients." Ms. Marte-Tiburcio explains further that, due to the nature of the PIA request and the revisions to the PIA request, there is a "potential overlap in the search results" as well, but that "[s]ince each search request is conducted individually, a separate record count and fee estimate were provided for each individual item requested." Thus, those fee estimates "may include time spent reviewing duplicate documents because all records must be reviewed for responsiveness, and/or required redactions or withholding in accordance with the MPIA, regardless if they are duplicative."

We have cautioned custodians before that PIA requesters "should not be charged for duplicative effort and unnecessary review." PIACB 21-12, at 7 (May 27, 2021); *see, e.g.*, PIACB 16-05, at 3 (June 1, 2016) (reducing a fee where "a number of records underwent multiple reviews and were produced in multiple copies"). Although the Sherman Affidavit addresses duplication in the context of Google Chat records, it does not state whether DoIT conducted any de-duplication of the potentially responsive email records it located before sending the records to MDH for review. While it would surprise us if DoIT did not have some sort of de-duplication technology, it seems, based on the

Marte-Tiburcio Affidavit, that MDH expects the email records to contain duplicates—both because some emails have been sent to multiple individuals and because some email records will be responsive to more than one part of the complainant’s PIA request.

Based on the information above, we have a hard time finding MDH’s time estimate—i.e., more than a full minute of review per page—reasonable, at least for purposes of an estimated fee that MDH is demanding in advance. Rather, that figure appears excessive based on the record we have. While we are mindful that “custodians are far more familiar than we are with the volume and content of their records,” PIACB 24-10, at 8 (Nov. 13, 2023) (cleaned up), MDH has given us no indication as to what that review time is based on, *compare*, PIACB 25-83, at 4, 7 (Sept. 18, 2025) (finding two-minute-per-document estimate reasonable when the employee “timed himself to get an accurate estimate of the time it would take to ‘physically retrieve the record from the filing cabinet, copy or scan the record and refile the record’”). In addition, it appears that staff will spend time reviewing duplicative email records and this time should not be charged to the complainant. And, in any event, it seems to us the presence of duplicate records should reduce the overall review time as, presumably, staff need not fully review a record twice. In a different complaint involving a batch of email records likely to contain duplicates—as well as exempt material—we found thirty seconds of “retrieval and processing time per record” reasonable for purposes of an estimated fee. *See* PIACB 25-84, at 9 (Sept. 22, 2025). We think that figure is reasonable here as well. We thus direct MDH to reduce the estimated fees using that same time estimate—thirty seconds per page, or 120 pages per hour—which will reduce the total estimated fee to \$1,370.63.

Of course, the actual fee charged must be based on the actual amount of time each individual spends working on the response to the outstanding parts of the complainant’s PIA request. Therefore, MDH should carefully track that time. Should the actual time fall below that charged in the estimated fee, then MDH must refund the complainant the difference. Conversely, should MDH spend more time than that reflected in the estimated fee, MDH may charge the complainant the overage.

Conclusion

In sum, and for the reasons explained above, we make the following findings and, where applicable, orders regarding these complaints:

- Without determining whether MDH’s search for the “CCPC Senior Meeting Staff Notes” was reasonable or unreasonable, and noting MDH’s request that the complainant provide a “timeline” for further search for these records, we direct MDH to search for additional responsive records generated during the complainant’s “tenure” with MDH.

- MDH’s search for Ms. Smith’s “1:1” notes was unreasonable to the extent that it does not appear that MDH actually performed a search for handwritten notes. We direct MDH to perform a remedial search for such notes and produce any non-exempt records to the complainant.
- MDH’s search for Google Chat records was unreasonable to the extent that responsive records were apparently missed, perhaps due to miscommunication in the chain of preparation. We direct MDH to ensure that all responsive Google Chat records are located and accounted for, and that all non-exempt Google Chat records are produced to the complainant.
- We find no violation of the PIA with regard to the complainant’s request for benefits change records, but direct MDH to facilitate communication—as it has offered to do—between the complainant and the State Employee Benefits Division.
- We find that MDH stated a reason for withholding or redacting the records it withheld or redacted, but that it also failed to justify its application of § 4-344 to deny inspection of public records. MDH has provided no explanation, let alone an adequate one, for why disclosure of the records or information would be contrary to the public interest. We direct MDH to produce the records it withheld or redacted under § 4-344 to the complainant in full.
- We find that MDH’s \$3,283 estimated fee is unreasonable to the extent that the estimated time for review—more than a full minute per page—appears excessive. We direct MDH to reduce the total estimated fee to \$1,370.63 for the records not yet produced and listed in the table above, with the understanding that the actual fee may be adjusted based on the amount of time actually expended by each individual working on the PIA response.

We direct MDH to complete the remedial searches above, and to produce the records it withheld under § 4-344 that we have ordered produced, within thirty days of receipt of this decision and order.

Public Information Act Compliance Board

Sareesh Rawat, Chair

Samuel G. Encarnacion

Debra Lynn Gardner

Nivek M. Johnson