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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-77

July 15, 2026

Carroll County Public Schools, Custodian
Jennifer Schittino, Complainant

This complaint concerns complainant Jennifer Schittino's July 2025 Public Information Act ("PIA") request to Carroll County Public Schools ("CCPS") in which she sought a variety of records related to CCPS legal expenditures for special education matters. In response to a narrowed version her PIA request, CCPS produced a single legal invoice. The complainant alleges that CCPS's response is incomplete and that there are additional responsive records that have not been produced. In its initial response to the complaint, CCPS maintained that it does not have any additional records responsive to the PIA request as written. However, while the complaint was pending, CCPS discovered additional responsive invoice records and produced them to the complainant. After review of the submissions, we find that CCPS constructively denied the complainant's PIA request.

Background

On July 24 2025, the complainant sent the PIA request below by email to CCPS, asking for the following records:

Legal Expenditures for Special Education

- All records from [CCPS] related to payments made to Pessin Katz Law, P.A. (PK Law) and/or attorney David A. Burkhouse for legal services associated with special education matters from July 1, 2023, to the present
 - Additionally, payments made to any legal firm for legal services associated with special education matters from January 1, 2020, to the present. This includes:
 - Invoices, contracts, billing statements, and payment records related to due process hearings under IDEA;
 - Legal representation in mediations, resolution sessions, IEE denials/disputes, and state complaints involving students with disabilities;

- Legal consultation or representation connected to IEP team meetings or disciplinary actions involving students eligible under IDEA or Section 504;
- Any budget reports or summaries showing total legal expenditures for special education-related legal services, including breakdowns by fiscal year and legal matter type
- Records showing payments to external consultants, expert witnesses, or evaluators retained by CCPS for special education matters (including IEP eligibility disputes, autism-related evaluations, or due process defense) from July 1, 2023 to present.

Independent Educational Evaluations (IEE) and District-Initiated Due Process Complaint Filings

- The total number of IEE requests submitted by parents or guardians between July 1, 2023 to present
- The number of IEE requests approved at public expense between July 1, 2023 to present
- The total number of due process complaints initiated by CCPS against parents from July 1, 2023, to the present, including the outcome of each
- The number of IEE requests denied between July 1, 2023 to present, and for each:
 - Whether the school system initiated due process to defend its evaluation
 - The outcome of each school-initiated due process complaint, if applicable (e.g., resolved in favor of LEA or parent)

Confidentiality and Recording Practices

- Any internal guidance, memos, or policies regarding parent requests to record IEP meetings, resolution sessions, or mediations, including procedures for granting or denying such requests¹

CCPS sent the complainant an email on August 11, 2025, advising the complainant that it estimated that it would take staff “72 hours to retrieve and compile the information” and to redact “student identifiable information or personnel information” not disclosable under

¹ The complainant also sought certain reports and communication records regarding her child, which were eventually provided to the complainant at no cost. As we understand it, CCPS’s response to this part of the complainant’s PIA request is not at issue in this complaint.

the PIA. Noting that the first two hours would be provided free of charge,² CCPS advised the complainant that she would “be responsible for reimbursing [CCPS] for the labor required to complete all other research and compilation of documents.” CCPS estimated that the fee would be \$7,655.20 and stated that it would not proceed until it heard from the complainant.

After receiving CCPS’s fee estimate, the complainant advised that she would revise her PIA request to narrow its scope. Thus, on October 5, 2025, the complainant sent a revised request asking for “copies or a summary accounting of invoices and payments from Pessin Katz Law, P.A. (PK Law) and/or attorney David A. Burkhouse” related to a specific special education matter and “covering the period February 1 through August 31, 2025.” The complainant asked that the records include “Vendor, Invoice Date, Payment Date, and Amount,” stating that a “simple financial export is sufficient,” and that she was “not requesting privileged narrative entries.” The complainant also asked for:

- The total number of due process complaints initiated by CCPS against parents from April 1, 2024 to July 1, 2025, including the outcome of each
- The raw number and percentage of IEE requests denied between April 1, 2024 to July 1, 2025, and for each:
 - Whether the school system initiated due process against the parent to defend its evaluation
 - The outcome of each school-initiated due process complaint, if applicable (e.g., resolved in favor of LEA or parent)

On October 22, 2025, CCPS sent the complainant an email stating that it expected it would take “approximately 8-12 hours to retrieve, compile, and redact this information,” and that the time would be charged at the hourly rate of the individual doing the work. CCPS also stated that it “does not generally waive fees.” The complainant responded that the estimate appeared “excessive given the narrow scope” and again asked for a full fee waiver.

On November 13, 2025, CCPS provided a “report” responsive to the complainant’s request for legal expenditures paid by CCPS regarding a specific special education matter. After receiving the record, the complainant contacted CCPS, contending that the record was “not sufficient.” The complainant attached documents that the law firm had served in connection with the special education matter and noted that the invoice CCPS produced did not “include the billable hours David Burkhouse, Esq and Pessin Katz Law charged the taxpayers . . . to file a due process complaint.” In response, CCPS stated that it was contacting the law firm “for an explanation and to see if there are additional charges,” as

² See Md. Code Ann., Gen. Provisions § 4-206(c), which provides, “[t]he official custodian may not charge a fee for the first 2 hours that are needed to search for a public record and prepare it for inspection.”

the charges provided by the firm did not “reflect what [CCPS was] told by [its] Special Education Department.”

On November 20, 2025, CCPS sent the complainant a letter stating that CCPS had “provided the legal expenditures paid by [CCPS] regarding [the special education matter] during the time period of February 1 through August 31, 2025.” CCPS stated that legal counsel had “assured” that the invoice produced were the “only fees [CCPS] received during this period of time,” although “there may be additional expenditures since August 31.” As to the complainant’s request for certain information about “independent educational evaluations” and “district-initiated due process complaint filings,” CCPS advised that the information “is not routinely collected and compiled and, therefore, does not exist in one record or document.” Rather, CCPS advised, “[t]he information exists in individual student files.” Thus, CCPS took the position that “to compile this information,” it must “create a new document or record, which is not required by the [PIA].” Nevertheless, CCPS offered to “go through the individual student files and collect the information.” CCPS reiterated that the process would take “8 to 12 hours to complete,” and advised that, because it was “dealing with student records, the task would need to be completed by a supervisor in special education, and the fee would be the hourly rate of the supervisor compiling the information.”

The complainant was dissatisfied with CCPS’s response to her PIA request, so she contacted the Public Access Ombudsman to request dispute resolution assistance.³ According to the Ombudsman’s final determination, the dispute presented for mediation was the complainant’s belief that “CCPS’s response was inaccurate and that its record production was partial/incomplete.” On March 16, 2026, the Ombudsman issued a final determination stating that the dispute was not resolved and the complainant then filed this complaint with our Board.

The complaint alleges that CCPS should have additional responsive records related to legal expenditures for the special education matter identified in the complainant’s PIA request. The complainant states that “CCPS initially acknowledged that the charges provided did not match what its Special Education Department reported,” but “later stated that no additional invoices exist for the requested period.” The complainant suggests that the “discrepancy warrants review of whether CCPS conducted a reasonable search for responsive records.”⁴

³ The PIA directs the Public Access Ombudsman to “make 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).

⁴ The complaint also contains allegations concerning the \$7,655.20 estimated fee that CCPS provided in its email of August 11, 2025. We cannot review or resolve those allegations because

In response to the complaint, CCPS states that the “Assistant Superintendent of Operations conducted a search of legal invoices” and produced the single responsive invoice provided to the complainant. After the complainant expressed her belief that there should be additional invoices, CCPS “acknowledged her concerns and agreed to investigate further.” Thus, CCPS states, the Assistant Superintendent of Operations performed another search of CCPS invoices and, in addition, CCPS “contacted [its] law firm and asked them to conduct another search.” CCPS advises that it “spoke with the attorney who was involved in [the special education] matter, and he indicated that he was not aware of any other charges but suggested [the complainant] revise her request to extend beyond August 2025.” CCPS states that it made this recommendation but that it has “not received a new or modified [PIA] request.”

In reply, the complainant attaches eighty-one pages of invoices sent to CCPS from Pessin Katz Law, which the complainant states were “obtained through a separate MPIA request by a third party and provided to [her].” Stressing that the records “reflect an additional \$5,320.00 in legal expenditures paid by CCPS to Pessin Katz Law, P.A. for that same period,” the complainant questions why the records were not produced to her. The complainant asks our Board to “find that CCPS’s search was inadequate and to take appropriate action.”

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. § 4-1A-04(a)(1)(i).⁵ We have construed our authority to review denials of inspection broadly to include allegations that a custodian’s insufficient and unreasonable search led to a failure to find responsive records. *See* PIACB 23-05, at 3-5 (Nov. 23, 2022). After review of the parties’ submissions, if we determine that a custodian improperly denied inspection of a public record, we must issue a written decision and “order the custodian to . . . produce the public record for inspection.” § 4-1A-04(a)(2) and (3)(i). When we find that an unreasonable search led to a constructive denial, we may direct the custodian to

the Ombudsman’s final determination does not state that a dispute about that fee was left unresolved. *See* Md. Code Ann., Gen. Provisions § 4-1A-05(a) (complaint may be filed only if “the complainant has attempted to resolve the dispute through the Office of the Public Access Ombudsman” and the Ombudsman “has issued a final determination stating that the dispute was not resolved”). According to the final determination, the dispute presented for mediation was the complainant’s belief that CCPS’s response to her PIA request was “inaccurate and that its record production was partial/incomplete.” Moreover, the PIA request at issue appears to be a narrowed version of the request that generated the \$7,655.20 estimated fee.

⁵ Statutory citations are to the General Provisions Article of Maryland’s Annotated Code unless otherwise stated.

perform a remedial search and “produce any non-exempt responsive records to the complainant.” PIACB 24-08, at 6 (Sept. 28, 2023).

The PIA requires that a custodian allow inspection of public records, unless the records are exempt from disclosure by law. § 4-201(a). Hence, when a custodian receives a PIA request, the custodian must “conduct a search in good faith that is reasonably designed to capture all responsive records,” and that uses “methods that can be reasonably expected to produce the information requested.” *Glass v. Anne Arundel County*, 453 Md. 201, 232 (2017) (quoting *Oglesby v. Dep’t of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)). A reasonable search does not require a custodian to “robotically examine every record in [the agency’s] possession,” and a search is not judged “retrospectively by its success in locating every responsive record.” *Id.* As our State’s Supreme Court has said, “[i]n the end, what the PIA requires is a *reasonable* search designed to locate all records responsive to the particular PIA request, not a perfect search that leaves no stone unturned.” *Id.* at 233 (emphasis original).

We needed additional information to resolve this complaint. Specifically, we asked CCPS to provide an affidavit from a person with knowledge describing CCPS’s search efforts. *See* § 4-1A-04(b)(4) (permitting our Board to request “an affidavit or a statement containing the facts that are at issue in the complaint”). We asked that the affidavit include information about where CCPS looked for responsive records and any search terms used to locate the records. In response, CCPS provided an affidavit from Jonathan O’Neal, the Assistant Superintendent of Operations for the Board of Education of Carroll County. (“O’Neal Affidavit”). Mr. O’Neal is responsible for oversight of numerous departments within Carroll County Public Schools, including the Department of Financial Services and the Department of Human Resources. In addition, Mr. O’Neal is the “point of contact with external legal counsel,” and receives, maintains, and pays the invoices received from counsel.

In his affidavit, Mr. O’Neal avers that, after CCPS received the complainant’s PIA request in the summer of 2025, he “conducted a search of [his] paper records for [a specific] name for applicable records and provided copies of the results” to CCPS’s Communications Officer for release. According to the O’Neal Affidavit, a second search of paper records was conducted while the matter was pending with the Ombudsman but no additional records were located. The O’Neal Affidavit further states, however, that after receipt of our request for an affidavit, as well as the complainant’s reply attaching additional invoices, Mr. O’Neal discovered additional responsive legal invoices. Mr. O’Neal avers that, “[h]aving recognized the discrepancy, [he] conducted a further search to determine why [he] would have withheld those invoices,” and “eventually found evidence that [he] did not possess those invoices at the time of [the] MPIA request.”

Mr. O’Neal explains that he also handled a separate PIA request “for all legal invoices for a date range that overlapped [the complainant’s],” but that did “not require a

search for a specific term, only for all monthly invoices.” Apparently, as he compiled invoices to fulfill that PIA request, Mr. O’Neal “realized that [he] was missing two monthly invoices and had to request copies from PK Law.”⁶ Mr. O’Neal avers that he “failed to recognize in fulfilling that PIA request that the missing invoices also had bearing on [the complainant’s] request.” Mr. O’Neal attaches the responsive invoices with his affidavit and apologizes to the complainant for the error.⁷

Turning to the complaint here, we find that CCPS constructively denied inspection of the responsive legal invoice records. The O’Neal Affidavit describes a search of paper invoices, and essentially states that CCPS was not in possession of the June and July 2025 invoices at the times Mr. O’Neal searched for records responsive to the complainant’s PIA request. However, in response to this complaint, CCPS advises that it also “contacted [the] law firm and asked them to conduct another search.” Thus, even if Mr. O’Neal had somehow failed to save copies of the June and July invoices—or, apparently, print them out so as to be among the paper copies searched—it seems to us that the law firm should have discovered them in response to CCPS’s request. Nor does the O’Neal Affidavit explain why the attorney who handled the matters identified in the PIA request might have suggested that the complainant broaden her PIA request to extend beyond August 2025, when the responsive invoices are dated within the bounds of her request. Based on the information we have, we cannot find that CCPS performed a reasonable and adequate search for responsive records here. Although CCPS has now produced additional responsive invoice records, we direct CCPS to conduct an additional search to confirm that there are no additional responsive records that it may have missed, e.g., perhaps legal invoices that would not have overlapped with the records requested in the PIA request from a different individual.

Conclusion

Based on the parties’ submissions, we find that CCPS constructively denied the complainant’s PIA request by performing an unreasonable and insufficient search for responsive records. We direct CCPS to perform an additional search, as described above, within thirty days of receipt of this decision and order.

Public Information Act Compliance Board*

⁶ Mr. O’Neal attaches emails he exchanged with the law firm in March 2026. In one email, Mr. O’Neal advised that he “did not save the files for the invoices [the firm] would have emailed for June 2025,” and asks that it be resent. In a subsequent email, Mr. O’Neal also asks for the invoice for July 2025. These are the responsive invoice records produced to the complainant.

⁷ Mr. O’Neal attached confidential mediation communications to his affidavit. We have not reviewed or considered those communications. *See* Md. Code Ann., Cts. & Jud. Proc. § 3-1803(b)(1) (forbidding a party to a mediation from disclosing or being compelled to disclose “mediation communications in any judicial, administrative, or other proceeding”).

Sareesh Rawat, Chair
Samuel G. Encarnacion
Debra Lynn Gardner
Nivek M. Johnson

* Board member Kimberly A. Moses did not participate in the deliberation, preparation, or issuing of this decision.