

WES MOORE
GOVERNOR

ARUNA MILLER
LT. GOVERNOR



SAREESH RAWAT, CHAIR
SAMUEL G. ENCARNACION
DEBRA LYNN GARDNER
NIVEK M. JOHNSON
KIMBERLY A. MOSES

STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-92

July 21, 2026

Maryland Department of the Environment, Custodian
Justin Holder, Complainant

Complainant Justin Holder alleges that the Maryland Department of the Environment (“MDE”) violated the Public Information Act (“PIA”) with respect to a PIA request he sent on March 11, 2026. As explained below, we dismiss this complaint for lack of jurisdiction.

Background

We take the facts below from the parties’ submissions. On January 29, 2026, the complainant sent a PIA request to MDE asking for “any documents Washington County submitted to MDE since 2013 related MD Environment Code § 9-503.”¹ MDE responded to the PIA request on February 5, 2026. In its response letter, MDE advised that the request had been “entered into [MDE’s] central PIA tracking database and distributed to all programs that may have responsive records.” Following the search, MDE determined that it did not have “any documents submitted by Washington County related to the Triennial Review from [MDE’s] Water and Sciences Administration.” MDE advised, however, that the Water and Sciences Administration had been “involved in amendments to the 2009 Water and Sewer Plan that occurred in 2021.” MDE provided records related to that 2021 action, “along with a copy of the Plan and the 2011 Final Action Letter.” MDE advised that “[n]o additional records responsive to [the] request specifically about the Water and Sewage Plan were identified.”

On February 6, 2026, the complainant advised that he would “like to narrow [his] MPIA request, (or just make a new narrower request).” The complainant asked for:

[A]ny documents Washington County submitted to MDE since 2013 related to MD Environment Code § 9-503(a), but I do not want to be provided any records dated prior to 2013, or submitted to MDE that relate to subsections (b) or (c) or (d) of MD Environment Code § 9-503.

¹ Section 9-503 of the Environment Article generally requires each county to have a plan for water supply and sewerage systems.

The complainant stated that he expected “the response is in accordance with GP § 4-202(d), that no records exist.” The complainant and MDE corresponded by email regarding the new PIA request, and MDE asked for clarification on March 13, 2026. Specifically, MDE advised that the folder produced to the complainant in response to his January 29 PIA request contained “all the documents submitted to MDE related to the areas of law [the complainant] referenced.” MDE asked the complainant to “confirm that [he had] reviewed all the materials currently in that folder.” MDE stated that if there was a specific record the complainant sought that was not included in that folder, MDE would try to assist further. The complainant responded that, in his view, none of the documents in the folder could be considered responsive to his PIA request.² On March 25, 2026, MDE sent the complainant a letter in which it stated that, “[a]fter conducting a thorough search of [MDE’s] files, MDE has no additional records to provide.”

After receipt of MDE’s response, the complainant contacted the Public Access Ombudsman to request dispute resolution assistance.³ On March 31, 2026, the Ombudsman issued a final determination stating that the dispute was not resolved due to conflict⁴ and the complainant then filed this complaint with our Board.

In his complaint, the complainant states:

This Complaint is as narrow as I have ever made, only related to the use of the word “additional” in the very nice custodian’s timely and such appreciated response. The custodian said “additional”, but I had never received or been provided ANY records related to the narrowly tailored MPIA request I made on March 11, 2026. My complaint is that a) MDE is knowingly and willfully denying me the County Plan required in accordance with the ENV. code referenced, or b) MDE is writing “additional” to mislead the public when I publish the response to shed light on the truth that the County is in violation of the law, MDE knows it, and MDE is ignoring it. I should not be forced to file a Declaratory Judgement action under the

² The complainant’s March 13, 2026, email included a new PIA request to MDE. That request is not at issue here.

³ The PIA requires 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 final determination states that “[t]he Office of the Public Access Ombudsman is unable to mediate this matter due to ongoing conflicts that prevent both the Ombudsman and Deputy Ombudsman from serving as third-party neutrals in disputes involving Mr. Holder.” *See* COMAR 14.37.02.07C (regulations governing conflicts of interest in the Ombudsman’s office).

environmental standing act to get this fact adjudicated. MDE is in Violation of[.]

In response to the complaint, counsel for MDE denies that MDE has violated the PIA and asks that we dismiss the complaint as not within our jurisdiction. Counsel asserts that, after it received the complainant's first PIA request, "MDE conducted a search for relevant documents, produced documents and responded with a letter explaining what was being produced." Counsel further states that, after receipt of the complainant's narrowed second PIA request, and having "clearly stated" in response to the first PIA request that MDE did not have "any documents submitted by Washington County related to the Triennial Review," MDE correctly advised that it had "nothing more to produce to the narrowed scope request."

Counsel for MDE also argues that our Board lacks jurisdiction to resolve this complaint. Counsel states that MDE has not denied inspection of any records. Rather, "MDE produced documents to [the complainant] as a result of his first PIA request." After the complainant was not satisfied, counsel states, he "narrowed the scope of his request," but "MDE had no additional documents to produce based on the narrowed scope." Counsel contends that the complaint is about "how MDE responded in its written response," i.e., the use of the word "additional." To support this position, counsel attaches an email the complainant sent to MDE on March 31, 2026, stating that he was "kindly asking for a new response that is accurate, removing [sic] the word 'additional.'" The complainant explained that he wanted a response he could "hold up to the world and say look, MDE knows that Washington County is violating the law, and not doing anything about it, or if there is a responsive plan [he wanted] to see it."

In reply, the complainant states that he "made a new MPIA request narrowly tailored to demonstrate that Washington County was violating Environmental Law 9-503(a) and that MDE was doing nothing about the violation." Claiming that he "gave MDE 2 opportunities to clarify its answer . . . [b]y removing the term 'additional,'" the complainant states that "those records do not exist." The complainant asserts that he "should be able to report on law violations and MDE's inaction with one simple document stating that records do not exist."

Analysis

The PIA directs us to review and resolve complaints alleging certain violations of its provisions. § 4-1A-04(a) and (b).⁵ Specifically, we are to review complaints from PIA requesters that allege that a custodian "denied inspection of a public record in violation of [the PIA]," "charged an unreasonable fee under § 4-206 . . . of more than \$350," and "failed

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

to respond to a request for a public record within the time limits established under § 4-203(a) or (d).” § 4-1A-04(a). We must also review complaints from custodians that allege that requester’s “request or pattern of requests is frivolous, vexatious, or in bad faith.” § 4-1A-04(b). When we determine that a violation occurred, we must issue a written decision and order a certain remedy, as specified in the PIA. § 4-1A-04(a)(2) and (3). For example, if we find 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).

The PIA’s provisions must be “liberally construed in order to effectuate the Public Information Act’s broad remedial purpose.” *Glenn v. Maryland Dep’t Health & Mental Hygiene*, 446 Md. 378, 384-85 (2016) (cleaned up). This rule of construction necessarily applies to the provisions governing our Board. Thus, we have liberally construed the phrase “denied inspection” in § 4-1A-04(a)(1)(i) to include allegations that a custodian conducted an insufficient search that led to a failure to find responsive records—i.e., a constructive denial. *See* PIACB 23-05, at 3-5 (Nov. 23, 2022) (discussing cases that support a broad interpretation of “denied inspection”); *see, e.g.*, PIACB 26-64 (June 24, 2026) (reviewing and resolving a complaint alleging a constructive denial after a custodian responded that it had no responsive records). We have also liberally construed the phrase “charged an unreasonable fee,” in § 4-1A-04(a)(1)(ii), to apply to both fees assessed after work on a PIA response is complete and estimated fees charged in anticipation of the work to be done. *See* PIACB 22-07, at 4-5 (Feb. 3, 2022) (explaining the rationale for reviewing estimated fees).

However, liberal construction has its limits. We have, on occasion, dismissed complaints as outside of our jurisdiction. *See, e.g.*, PIACB 22-08 (Feb. 23, 2022) (complaint alleging that the custodian should not have charged a fee at all, as opposed to an allegation that the fee was unreasonable); PIACB 23-03 (Nov. 2, 2022) (complaint alleging that a custodian’s proposed search method was insufficient and asking our Board to order that an independent IT company conduct the search); PIACB 24-04 (Oct. 5, 2023) (complaint alleging, among other things, that a custodian’s posting redacted opinions to its website was unlawful); PIACB 24-39 (Apr. 15, 2024) (complaint alleging that a custodian wrongfully disclosed records).

The allegation in this complaint is essentially that MDE has issued what the complainant believes to be a misleading response by including the phrase, “MDE has no *additional* records to provide.” The complainant states that his complaint is “narrow,” and “only related to the use of the word ‘additional’ in the very nice custodian’s timely and such appreciated response.” Although we have construed “no records found” responses as constructive denials within our jurisdiction, *see, e.g.*, PIACB 26-64 (June 24, 2026); PIACB 24-99 (June 14, 2024), the complainant does not challenge that aspect of MDE’s response. Indeed, he has stated at several points that he expected the response to be that MDE has no records. Instead, the complainant is upset about the phrasing of the response he expected to receive. His email of March 31, 2026, to MDE only bolsters this conclusion.

The PIA does not give us jurisdiction over disputes about how a custodian phrases its response or over voluntary disclosure of nonresponsive records.⁶ We therefore dismiss this complaint as outside of our jurisdiction.

Conclusion

After review of the submissions, and for the reasons discussed above, we dismiss this complaint as outside the scope of our jurisdiction.

Public Information Act Compliance Board*

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.

⁶ To the extent that the complainant's narrowed request may be interpreted as an interrogatory, we also note that a custodian is not obligated to create a new public record that answers questions to the complainant's satisfaction. *See* PIACB 23-23, at 5 n.5 (June 20, 2023).