

Public Information Act (PIA)

Attorney General's PIA Manual - <http://www.marylandattorneygeneral.gov/Pages/OpenGov/pia.aspx>

Maryland General Assembly - <http://mgaleg.maryland.gov/mgawebiste>

Guide for Information Requesters

What is the Public Information Act?

Enacted in 1970, Maryland's Public Information Act (PIA), grants the public a broad right of access to public records while protecting legitimate governmental interests and the privacy rights of individual citizens. The PIA covers public agencies and officials in Maryland and includes all branches of state government (legislative, judicial, and executive). The PIA is similar in purpose to the federal Freedom of Information Act (FOIA).

What is a Public Record?

A public record is defined as the original or copy of any documentary material in any form, to include written materials, books, photographs, photocopies, films, microfilms, records, tapes, computerized records, maps and drawings created or received by the Commission in connection with the transaction of public business.

Who can submit a PIA request?

Anyone -- citizens, corporations, associations, public interest groups, private individuals, and universities—can submit PIA requests.

Can I have access to all WCC records?

The PIA provides for access to most Commission records. Certain records are privileged by law or exempt from disclosure and must be withheld. Examples include, but are not limited to, records containing attorney-client advice and attorney work product, medical records, personnel records or financial information.

Other records **may** be withheld. Examples include, but are not limited to, investigatory records and inter- and intra-agency memoranda and letters. If a requester is denied access to any WCC records, he or she will be notified as to the specific statutory provisions for each exemption and for challenging the denial procedures.

The requester also will be notified if files have been lost or destroyed in accordance with WCC filing and retention schedules.

Are there fees related to the Public Information Act?

Fees may not be used to discourage requesters, and to this end, PIA fees are limited to standard charges for direct document search, review, and duplication. Also, the PIA specifies that requesters receive the first two hours of search and preparation time without charge.

The term "direct costs" means those expenditures the Commission actually makes or incurs in searching for, reviewing, and duplicating documents to respond to a PIA request. Direct costs include, for example, the costs of the employees performing the work and the costs of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, heating, or lighting the facility in which the records are stored.

The term "search" includes all time spent looking, both manually and electronically, for material that is responsive to a request. Search also includes a line-by-line or page-by-page identification (if necessary) of material in the record to determine if it or portions of it are responsive to the request. Time spent reviewing documents in order to determine whether a statutory exemption applies is not search time, but preparation time.

The term "duplication" refers to the process of making a copy of a document in response to a PIA request. Such copies can take the form of paper copy, audiovisual, or machine-readable documentation (e.g., magnetic tape or disc), among others. The Department will provide copies in the same format as kept within the Department unless otherwise specified by the requester.

The term "preparation" refers to the process of examining documents located in response to a PIA request to determine whether one or more of the statutory exemptions require withholding. It also includes the processing of documents for disclosure, such as redacting portions which are not available for release.

In order to be as responsive as possible to PIA requests while minimizing unwarranted costs, requesters should indicate the maximum amount of fees they are willing to pay.

The requester must indicate in advance a willingness to pay fees that cover the Commission's estimate of costs. A written copy of an estimate of assessable fees will be provided upon request.

A charge will not be made if the total amount due is one dollar or less.

The Commission will make every effort to accurately estimate the costs associated with the request. However, the Commission is not bound by the estimate and may charge fees that exceed the estimate. The requester will be provided with justification for the fees. Generally, payment of the fees must be made in advance.

Fee Waivers:

Requests for a fee waiver or reduction in fees should be submitted in writing to the Commission. The Commission may grant a fee waiver if the Commission determines that a fee waiver is in the best interest of the public. A fee waiver will not be granted if it is primarily in the commercial interest of the requester.

Decisions to waive or reduce fees are made on a case-by-case basis. A determination pursuant to SG§10-621 on a request for a fee waiver is within the discretion of the Commission. State law does not provide a right to a contested hearing or other agency adjudication on this decision.

Aggregating Requests:

Multiple requests from the same or a related entity may be aggregated, at the discretion of the Commission, for purposes of conducting the search and/or determining applicable fees where the Commission reasonably believes that a requester (or group of requesters) is attempting to break a request down into a series of requests for the purpose of avoiding the assessment of fees; or, the Commission believes that the combination of multiple requests, either in whole or in part, promotes administrative efficiency in the handling of the requests. The requester will be informed of the aggregation only if, under the Commission's guidelines, the requester is to be informed of the expected costs prior to the execution of the search.

Duplication Cost Per Page:

Each page is 25 cents; a certified true copy is an additional 1 dollar per page, plus postage. Electronic data housed on a disk or flashdrive will also incur the cost of the disk or flashdrive or other form of housing electronic data or media. In addition, the Commission charges a fee of \$100 per hour, with the first two (2) hours being free of charge, to the search and preparation of the response and \$200 per hour, with the first two (2) hours free of charge, for any programming necessary to respond to a request for records. Please note that a charge will not be made if the total amount is one dollar or less.

Who do I contact for information?

All requests for records of the Commission should be made in writing and directed to Elizabeth Fletcher, Secretary of the Commission and Custodian of Records, via email to efletcher@wcc.state.md.us.

What information do I need to provide when requesting records?

Identification of the record(s) desired is the responsibility of the requester. To provide the requester with the best possible service, the Commission asks that the requester provide specific information concerning the record(s) of interest.

Can the Commission write, generate or create reports and lists under the Public Information Act?

The information that is covered under the PIA is only that information in existence at the time of the request. Requests to write, generate or create reports or lists, however, are not covered under the PIA but are instead considered a special service. If the Commission determines that a PIA request is actually a special service request, the requester will be notified. Complying with requests for special services is at the discretion of the Commission. Neither the PIA nor its fee structure covers these kinds of services. The Commission may provide special services only after agreement has been obtained in writing from the requester to pay for the special services.

Can I visit Commission and review records?

Yes. After receiving notification of the availability of records, the requester is invited to schedule a file review with the appropriate PIA liaison.

Where can I learn more about the Public Information Act?

The PIA can be found in §§ 10-611 to 10-628 of the State Government Article, which is an article within the Maryland Annotated Code. The Maryland Annotated Code is available online and at local public libraries.