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Maryland
OFFICE OF THE
PUBLIC ACCESS OMBUDSMAN

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Confidentiality of Ombudsman Mediations

These confidentiality requirements only apply to materials, information, and communications made and/or received in connection with a potential or actual mediation. They do not apply to the Public Information Act (“PIA”) request itself, any written PIA responses the agency issues directly to the requester (including those issued during the mediation process), or any records the agency produces to the requester under the PIA. The Ombudsman’s Office does not view these restrictions as applying to the bare fact that mediation is occurring or to the Final Determination required by Md. Code Ann., Gen. Provisions (“GP”) § 4-1B-04(b) and (d)(3).

The Ombudsman’s Confidentiality Responsibilities

Subject to only a few narrow exceptions allowed by law, the Ombudsman cannot disclose information received from the parties in the mediation without their written consent. See [GP § 4-1B-04\(b\)\(1\)\(ii\)](#).

The Ombudsman also adheres to the [Maryland Standards of Conduct for Mediators](#) and follows the specific confidentiality requirements of the Maryland Mediation Confidentiality Act, Md. Code Ann., Courts and Judicial Proceedings ([“CJP” § 3-1803](#)), including:

- **The Ombudsman will maintain the confidentiality of all mediation materials, communications, and information, subject to the exceptions allowed by law.**
 - The Ombudsman may share information received by one participant with the other participant to facilitate mediation, unless the participant has told the Ombudsman to keep that information private.
- **The Ombudsman will not, and cannot be compelled to, disclose any mediation materials, communications, or information in any court, administrative, or other proceeding, subject to the exceptions**

allowed by law.

- **The Ombudsman may disclose mediation materials, communications, and/or information in the following situations:**
 - to counsel, staff, and any others working under her supervision to carry out the duties of the Office;
 - where the parties have consented in writing to the disclosure;
 - where disclosure is necessary to prevent bodily harm or death; **or**
 - where the disclosure is necessary to respond to an allegation of misconduct or malpractice.

Your Confidentiality Responsibilities

The parties to the mediation generally may not and cannot be compelled to disclose any mediation communications or information in any court, administrative, or other proceeding. See [CJP § 3-1803\(b\)](#). This includes the proceedings of the [Public Information Act Compliance Board](#).

The parties are expected to abide by the same confidentiality restrictions and guidelines regarding mediation information and communication as outlined above. If you are not willing to abide by these restrictions, which reflect the standard practice in mediations, the Ombudsman asks that you notify our Office and the other party so that an informed decision can be made by all concerned as to whether the mediation should go forward under those circumstances.

As expressed in the [Ombudsman's Statement on Artificial Intelligence in Mediation](#), the Ombudsman asks that parties not use AI-generated content in communications with the Ombudsman's Office or one another during the mediation process. Further, the Ombudsman generally does not permit the use of an AI notetaker on calls. Using an AI tool can jeopardize the confidentiality of mediation communications because those communications are shared with unknown entities beyond our control, risking that AI tools may learn from the confidential communications. To the extent that a party uses AI-generated content in mediation, the Ombudsman asks that this be disclosed so it can be evaluated in light of confidentiality responsibilities.

If you have any questions about this policy, please contact the Ombudsman's Office.