

Code of Maryland Regulations
Title 14. Independent Agencies
Subtitle 37. Office of the Public Access Ombudsman
Chapter 01. General Provisions

COMAR T. 14, Subt. 37, Ch. 01, Refs & Annos
[Currentness](#)

Editors' Notes

Authority: General Provisions Article, §§4-1B-01--4-1B-04, Annotated Code of Maryland

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

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Code of Maryland Regulations
Title 14. Independent Agencies
Subtitle 37. Office of the Public Access Ombudsman
Chapter 01. General Provisions (Refs & Annos)

COMAR 14.37.01.01

.01 Definitions.

Effective: September 18, 2023

[Currentness](#)

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

- (1) “Act” means the Public Information Act, General Provisions Article, Title 4, Annotated Code of Maryland.
- (2) “Applicant” has the meaning stated in [General Provisions Article, § 4-101\(b\)](#), Annotated Code of Maryland.
- (3) “Custodian” has the meaning stated in [General Provisions Article, § 4-101\(d\)](#), Annotated Code of Maryland.
- (4) “Dispute” means a point of contention between an applicant and a custodian arising from a request for public records under the Act, including those matters stated in [General Provisions Article, § 4-1B-04\(a\)](#), Annotated Code of Maryland.
- (5) “Exemption” means a denial of inspection of a public record or part of a public record pursuant to General Provisions Article, Title 4, Subtitle 3, Annotated Code of Maryland.
- (6) “Final determination” means the written document issued by the Public Access Ombudsman pursuant to [General Provisions Article, § 4-1B-04\(b\)](#), Annotated Code of Maryland, stating that a specific dispute has been resolved or partially resolved or not resolved, or other disposition as provided in Regulations .06, .07, and .09 of this chapter.
- (7) “Identifying information” means any information that identifies a party or other person.
- (8) “Mediation” has the meaning stated in [Courts and Judicial Proceedings Article, § 3-1801\(b\)](#), Annotated Code of Maryland.
- (9) “Mediation communication” has the meaning stated in [Courts and Judicial Proceedings Article, § 3-1801\(c\)](#), Annotated Code of Maryland.

(10) “Mediation Confidentiality Act” means the Maryland Mediation Confidentiality Act, Courts and Judicial Proceedings Article, Title 3, Subtitle 18, Annotated Code of Maryland.

(11) “Mediation information” means all information made and received as part of the Ombudsman's mediation process and the decision to participate in mediation, including documentary materials and mediation communications.

(12) “Mediator” has the meaning stated in [Courts and Judicial Proceedings Article, § 3-1801\(d\)](#), Annotated Code of Maryland.

(13) “Office” means the Office of the Public Access Ombudsman.

(14) “Ombudsman” means the person appointed to the position of the Public Access Ombudsman pursuant to [General Provisions Article, § 4-1B-03](#), Annotated Code of Maryland.

(15) “Party” means a participant or potential participant in the Ombudsman's mediation process, including an applicant and a custodian.

(16) “Public record” has the meaning stated in [General Provisions Article, § 4-101\(k\)](#), Annotated Code of Maryland.

(17) “Sociological information” means any of the following information concerning a person that may be contained in a record of the Ombudsman:

(a) Social security number;

(b) Driver's license number;

(c) Personal mailing address;

(d) Personal phone number;

(e) Personal email address; and

(f) Date of birth.

(18) “Standards of Conduct for Mediators” means the Maryland Standards of Conduct for Mediators, Arbitrators and Other ADR Practitioners adopted by the Maryland Judiciary's Mediation and Conflict Resolution Office.

(19) “Written guidance” means nonbinding guidance that advises parties on the interpretation of the Act and the application of the Act to specific facts.

(20) “Written mediation agreement” means a written agreement between the Ombudsman and the parties to a mediation that provides the specific terms under which that particular mediation will proceed.

Credits

Adopted June 17, 2019. Amended Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.01.01, MD ADC 14.37.01.01

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COMAR 14.37.01.02

.02 Objective.

Effective: June 17, 2019

[Currentness](#)

The objective of the Office of the Public Access Ombudsman is to make reasonable attempts, including mediation, to resolve disputes between applicants and custodians relating to requests for public records under the Act.

Credits

Adopted June 17, 2019.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.01.02, MD ADC 14.37.01.02

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Title 14. Independent Agencies
Subtitle 37. Office of the Public Access Ombudsman
Chapter 01. General Provisions (Refs & Annos)

COMAR 14.37.01.9999

.9999 Administrative History

Effective: September 18, 2023

[Currentness](#)

Credits

Effective date: June 17, 2019 (46:12 Md. R. 547)

Regulation .01B amended effective September 18, 2023 ([50:18 Md. R. 800](#))

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.01.9999, MD ADC 14.37.01.9999

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Code of Maryland Regulations
Title 14. Independent Agencies
Subtitle 37. Office of the Public Access Ombudsman
Chapter 02. Process

COMAR T. 14, Subt. 37, Ch. 02, Refs & Annos
[Currentness](#)

Editors' Notes

Authority: General Provisions Article, §§4-1B-01--4-1B-04, Annotated Code of Maryland

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

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Chapter 02. Process (Refs & Annos)

COMAR 14.37.02.01

.01 Requesting Dispute Resolution.

Effective: September 18, 2023

[Currentness](#)

A. A party may request the Office's assistance in resolving a dispute by contacting the Office via telephone, mail, email, or website submission.

B. If possible, an applicant or custodian shall complete the form entitled Request for Mediation Assistance available on the Office website.

Credits

Adopted June 17, 2019. Amended Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.02.01, MD ADC 14.37.02.01

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COMAR 14.37.02.02

.02 Documents.

Effective: September 18, 2023

[Currentness](#)

A. An applicant or custodian requesting dispute resolution through the Office shall provide the Office with:

- (1) A copy of the applicant's written request for public records;
- (2) The custodian's 10-day letter, if applicable;
- (3) The custodian's final response, if any; and
- (4) A brief description of the dispute.

B. An applicant or custodian may provide the Office with:

- (1) Any records produced to the applicant by the custodian; and
- (2) Any relevant correspondence between the applicant and custodian.

C. Upon the Office's request, an applicant or custodian may provide the Office with any other documents that the Ombudsman believes may facilitate the mediation process.

D. Upon receipt of all necessary information and documents, and subject to Regulation .05 of this chapter, the Office shall open a file as soon as practicable.

E. The failure of an applicant or custodian who is requesting dispute resolution to provide the Office with the documents identified in § A of this regulation may result in the Office declining to open a file.

Credits

Adopted June 17, 2019. Amended Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.02.02, MD ADC 14.37.02.02

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COMAR 14.37.02.03

.03 Written Mediation Agreement.

Effective: September 18, 2023

[Currentness](#)

The Ombudsman may request that the parties enter into a written mediation agreement if, in the Ombudsman's discretion, such agreement would facilitate the mediation process.

Credits

Adopted June 17, 2019. Repealed and readopted Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.02.03, MD ADC 14.37.02.03

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COMAR 14.37.02.04

.04 Timing.

Effective: September 18, 2023

[Currentness](#)

A. Ordinarily, the Ombudsman will handle matters in the order in which a request for dispute resolution is received and the file is opened.

B. The Ombudsman has discretion to handle a matter out of order if there is a compelling reason to do so.

C. Time for Mediation.

(1) The Ombudsman has up to 90 days from the date a file is opened with the Office in which to attempt to resolve a dispute and bring a matter to closure.

(2) The 90-day deadline may be extended if:

(a) An extension is needed and desirable in light of the progress that has already been made to resolve the dispute;

(b) An extension is likely to result in the ultimate resolution of the dispute; and

(c) The applicant, the custodian, and the Ombudsman agree to the extension and the extension is confirmed in writing.

Credits

Adopted June 17, 2019. Repealed and readopted Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.02.04, MD ADC 14.37.02.04

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Chapter 02. Process (Refs & Annos)

COMAR 14.37.02.05

.05 Repetitive Requests for Dispute Resolution.

Effective: September 18, 2023

[Currentness](#)

A. Definitions.

(1) In this regulation, the following terms have the meanings indicated.

(2) Terms Defined.

(a) “Repetitive request for dispute resolution” means a request:

(i) For the Ombudsman's assistance to resolve a dispute;

(ii) That relates to a PIA request that in substance has been the subject of mediation between the same parties through the Office in the past; and

(iii) For which the dispute is substantially the same.

(b) “Significantly changed circumstances” means:

(i) A change in the law, subsequent to mediation, that may affect the outcome of the mediation; or

(ii) A change in the custodian or applicant's position regarding the dispute.

B. The Ombudsman has discretion to decline to mediate repetitive requests for dispute resolution, absent significantly changed circumstances.

Credits

Adopted June 17, 2019. Repealed and readopted Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.02.05, MD ADC 14.37.02.05

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COMAR 14.37.02.06

.06 Process Voluntary -- Declining and Withdrawing Requests.

Effective: September 18, 2023

[Currentness](#)

- A. The Ombudsman's mediation process is voluntary for each party.
- B. If the applicant or custodian that is the subject of the request for dispute resolution declines to mediate the dispute, the Ombudsman shall, as soon as practicable, issue a final determination as provided in Regulation .11 of this chapter stating that the dispute was not resolved and indicating that mediation was declined.
- C. Withdrawing a Request for Dispute Resolution.
- (1) A party requesting dispute resolution through the Ombudsman may withdraw the request.
- (2) If a request for dispute resolution is withdrawn after the Office has opened a file, then the Ombudsman shall issue a final determination as provided in Regulation .11 of this chapter stating that the request for dispute resolution was withdrawn.
- (3) Renewing a Request for Dispute Resolution.
- (a) A party that has withdrawn a request for dispute resolution through the Ombudsman may renew the request one time.
- (b) If a party renews the request for dispute resolution and withdraws that request again, the Ombudsman may decline to mediate a second or subsequent renewed request for dispute resolution.

Credits

Adopted June 17, 2019. Repealed and readopted Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.02.06, MD ADC 14.37.02.06

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COMAR 14.37.02.07

.07 Conduct of Ombudsman.

Effective: September 18, 2023

[Currentness](#)

A. The Ombudsman shall read and, consistent with State law, shall abide by the Standards of Conduct for Mediators during the mediation process.

B. The Ombudsman shall remain neutral, impartial, and independent during the mediation process.

C. Conflicts of Interest.

(1) The Ombudsman shall disclose to the parties all actual and potential conflicts of interest reasonably known to the Ombudsman.

(2) Notwithstanding an actual or potential conflict of interest, the Ombudsman may proceed to attempt to resolve a dispute if:

(a) The Ombudsman is able to conduct the mediation in a neutral, impartial, and independent manner; and

(b) The applicant and custodian have consented to proceed in writing.

(3) If the Ombudsman is unable to proceed in a neutral, impartial, and independent manner, or if the parties have not consented to proceed in light of an actual or potential conflict, then the Ombudsman shall:

(a) Withdraw from that mediation; and

(b) Issue a final determination as provided in Regulation .11 of this chapter stating that the dispute was not resolved through the Ombudsman due to conflict.

(4) If the Ombudsman withdraws from a mediation due to conflict, the Ombudsman may suggest to the parties an alternative dispute resolution resource.

D. In addition to or in lieu of mediation, the Ombudsman may engage in other reasonable efforts to resolve or prevent a dispute or potential dispute, such as by answering questions about the Act, by providing trainings on the Act, and by engaging in preliminary conversations with an applicant or custodian about the subject of a dispute or potential dispute.

Credits

Adopted Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.02.07, MD ADC 14.37.02.07

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Chapter 02. Process (Refs & Annos)

COMAR 14.37.02.08

.08 Conduct of Parties.

Effective: September 18, 2023

[Currentness](#)

- A. The Ombudsman may establish written standards of conduct with which the parties will be expected to comply during the mediation process.
- B. The Ombudsman shall disclose all written standards of conduct to the parties at the outset of the mediation.
- C. A party's failure to abide by a written standard of conduct may result in termination of the mediation process.

Credits

Adopted Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.02.08, MD ADC 14.37.02.08

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COMAR 14.37.02.09

.09 Termination of Mediation.

Effective: September 18, 2023

[Currentness](#)

A. The Ombudsman may terminate the mediation process at any time if the Ombudsman determines that mediation will not reasonably lead to resolution of the dispute.

B. In making the decision whether to terminate a mediation, the Ombudsman may consider, among other factors:

- (1) The duration of the mediation process;
- (2) The parties' efforts to resolve the dispute;
- (3) The Ombudsman's efforts to resolve the dispute;
- (4) The likelihood that the parties will change their positions;
- (5) A party's failure to abide by the written standards of conduct;
- (6) A party's failure to abide by the party's confidentiality obligations; and
- (7) A party's use of the mediation process for purposes of delay or harassment.

C. Upon termination of a mediation, the Ombudsman shall issue a final determination as provided in Regulation .11 of this chapter and, without disclosing confidential mediation communications, indicate the reason why mediation was terminated.

Credits

Adopted Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.02.09, MD ADC 14.37.02.09

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COMAR 14.37.02.10

.10 Identification of New Dispute.

Effective: September 18, 2023

[Currentness](#)

If, during the course of attempting to resolve a dispute, a new and distinct dispute related to the same PIA request arises, a new file may be opened pursuant to Regulations .01 and .02 of this chapter.

Credits

Adopted Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.02.10, MD ADC 14.37.02.10

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Chapter 02. Process (Refs & Annos)

COMAR 14.37.02.11

.11 Final Determination.

Effective: September 18, 2023

[Currentness](#)

A. Definitions.

(1) In this regulation, the following terms have the meanings indicated.

(2) Terms Defined.

(a) “Not resolved” means that the parties were unable to reach a mutually agreeable resolution of a dispute.

(b) “Partially resolved” means that the parties have reached a mutually agreeable resolution as to one or more, but not all, segregable sub-issues within a dispute.

(c) “Resolved” means that the parties have reached a mutually agreeable resolution of a dispute.

B. At the conclusion of a mediation, the Ombudsman shall issue a written final determination stating that the dispute has been resolved, partially resolved, or not resolved.

C. The written final determination shall include:

(1) The name of the applicant, the name of the custodian, and the Office file number;

(2) A brief summary of the matter, including:

(a) The date of the PIA request;

(b) A description of the records sought;

(c) The date of the custodian's response, if any; and

(d) A summary of the custodian's response, if any;

(3) A brief description of the dispute for which dispute resolution was sought;

(4) The date and length of an extension, if one was granted; and

(5) Notice of PIA Compliance Board procedures and contact information.

D. The Ombudsman shall send the final determination to the relevant applicant and custodian.

E. Board.

(1) The Ombudsman does not automatically provide the final determination to the Board.

(2) If a complaint is filed with the Board, the Ombudsman may provide the final determination to the Board upon the Board's request.

Credits

Adopted Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.02.11, MD ADC 14.37.02.11

Code of Maryland Regulations
Title 14. Independent Agencies
Subtitle 37. Office of the Public Access Ombudsman
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COMAR 14.37.02.9999

.9999 Administrative History

Effective: September 18, 2023

[Currentness](#)

Credits

Effective date: June 17, 2019 (46:12 Md. R. 547)

Regulation .01 amended effective September 18, 2023 ([50:18 Md. R. 800](#))

Regulation .02 amended effective September 18, 2023 ([50:18 Md. R. 800](#))

Regulations .03--.06 repealed and new Regulations .03--.11 adopted effective September 18, 2023 ([50:18 Md. R. 800](#))

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.02.9999, MD ADC 14.37.02.9999

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Chapter 03. Confidentiality of Mediation Information

COMAR T. 14, Subt. 37, Ch. 03, Refs & Annos
[Currentness](#)

Editors' Notes

Authority: General Provisions Article, §§4-1B-01--4-1B-04, Annotated Code of Maryland

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

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Chapter 03. Confidentiality of Mediation Information (Refs & Annos)

COMAR 14.37.03.01

.01 General Confidentiality Provisions.

Effective: September 18, 2023

[Currentness](#)

A. Except as provided in Regulation 02 of this chapter, the Ombudsman shall maintain the confidentiality of all mediation information in accordance with the Act, the Standards of Conduct for Mediators, and the Mediation Confidentiality Act.

B. The Ombudsman may not disclose or be compelled to disclose mediation information in any judicial, administrative, or other proceeding, in accordance with the Act and with the Mediation Confidentiality Act.

C. A party may not disclose or be compelled to disclose mediation information in any judicial, administrative, or other proceeding, in accordance with the Mediation Confidentiality Act.

Credits

Adopted June 17, 2019. Amended Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.03.01, MD ADC 14.37.03.01

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Title 14. Independent Agencies

Subtitle 37. Office of the Public Access Ombudsman

Chapter 03. Confidentiality of Mediation Information (Refs & Annos)

COMAR 14.37.03.02

.02 Exceptions to Confidentiality of Mediation Information.

Effective: September 18, 2023

[Currentness](#)

A. The Ombudsman may disclose mediation information, including mediation communications, in the following situations:

- (1) With Office staff, including an Assistant Attorney General who represents the Office, the Administrative Officer, or any other person working under the direction of the Ombudsman, to carry out the duties of the Office; and
- (2) To third parties, if the parties to the mediation have consented to the disclosure.

B. The Ombudsman may transfer basic information about a dispute, including the identity of the applicant and custodian and the nature of the dispute, to the Board if appropriate steps have been taken to protect the confidentiality of mediation communications.

Credits

Adopted June 17, 2019. Amended Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.03.02, MD ADC 14.37.03.02

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Chapter 03. Confidentiality of Mediation Information (Refs & Annos)

COMAR 14.37.03.9999

.9999 Administrative History

Effective: September 18, 2023

[Currentness](#)

Credits

Effective date: June 17, 2019 (46:12 Md. R. 547)

Regulation .01D repealed effective September 18, 2023 ([50:18 Md. R. 800](#))

Regulation .02 amended effective September 18, 2023 ([50:18 Md. R. 800](#))

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.03.9999, MD ADC 14.37.03.9999

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Chapter 04. Disputed Public Records

COMAR T. 14, Subt. 37, Ch. 04, Refs & Annos
[Currentness](#)

Editors' Notes

Authority: General Provisions Article, §§4-1B-01--4-1B-04, Annotated Code of Maryland

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

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Chapter 04. Disputed Public Records (Refs & Annos)

COMAR 14.37.04.01

.01 Ombudsman's Review of Disputed Public Records.

Effective: June 17, 2019

[Currentness](#)

A. When the dispute involves a custodian's application of an exemption to a public record or part of a public record, the Ombudsman may request the custodian to submit the disputed public record or part of a public record to the Ombudsman for review.

B. A custodian may not be compelled to disclose to the Ombudsman a public record or part of a public record in the custodian's custody.

C. A custodian's voluntary submission of a public record or part of a public record for review under this chapter may not be construed as a waiver of:

(1) Any privilege held by the custodian; or

(2) Any assertion of confidentiality under the Act.

Credits

Adopted June 17, 2019.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.04.01, MD ADC 14.37.04.01

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Chapter 04. Disputed Public Records (Refs & Annos)

COMAR 14.37.04.02

.02 Confidentiality of Disputed Public Records.

Effective: September 18, 2023

[Currentness](#)

A. The Ombudsman shall strictly maintain the confidentiality of any public record or part of a public record submitted for review under this chapter, and may not disclose any such public record or part of a public record to another party without the written permission of the custodian.

B. The Ombudsman shall take reasonable steps to segregate confidential records in such a way that their confidence is maintained.

C. Upon the conclusion of a mediation involving the Ombudsman's review of disputed public records, the Ombudsman shall return or destroy the disputed public records.

Credits

Adopted June 17, 2019. Amended Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.04.02, MD ADC 14.37.04.02

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COMAR 14.37.04.9999

.9999 Administrative History

Effective: September 18, 2023

[Currentness](#)

Credits

Effective date: June 17, 2019 (46:12 Md. R. 547)

Regulation .02 amended effective September 18, 2023 ([50:18 Md. R. 800](#))

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.04.9999, MD ADC 14.37.04.9999

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Subtitle 37. Office of the Public Access Ombudsman
Chapter 05. Written Guidance

COMAR T. 14, Subt. 37, Ch. 05, Refs & Annos
[Currentness](#)

Editors' Notes

Authority: General Provisions Article, §§4-1B-01--4-1B-04, Annotated Code of Maryland

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

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Code of Maryland Regulations
Title 14. Independent Agencies
Subtitle 37. Office of the Public Access Ombudsman
Chapter 05. Written Guidance (Refs & Annos)

COMAR 14.37.05.01

.01 Ombudsman May Provide.

Effective: June 17, 2019

[Currentness](#)

A. The Ombudsman may provide written guidance to parties in furtherance of the mediation process.

B. Written guidance may not disclose information that any party claims is confidential.

Credits

Adopted June 17, 2019.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.05.01, MD ADC 14.37.05.01

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Code of Maryland Regulations
Title 14. Independent Agencies
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COMAR 14.37.05.02

.02 Ombudsman May Publish.

Effective: September 18, 2023

[Currentness](#)

A. In the Ombudsman's sole discretion, and to the extent that the Ombudsman believes publication will promote understanding of the Act, the Ombudsman may publish written guidance.

B. Before publishing written guidance, the Ombudsman shall remove all identifying information.

Credits

Adopted June 17, 2019. Amended Sept. 18, 2023.

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.05.02, MD ADC 14.37.05.02

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Code of Maryland Regulations
Title 14. Independent Agencies
Subtitle 37. Office of the Public Access Ombudsman
Chapter 05. Written Guidance (Refs & Annos)

COMAR 14.37.05.9999

.9999 Administrative History

Effective: September 18, 2023

[Currentness](#)

Credits

Effective date: June 17, 2019 (46:12 Md. R. 547)

Regulation .02 amended effective September 18, 2023 ([50:18 Md. R. 800](#))

Complete through Maryland Register Vol. 50, Issue 21 dated October 20, 2023. Some sections may be more current, see credits for details.

COMAR 14.37.05.9999, MD ADC 14.37.05.9999

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