

## PIA Ombudsman Program – Impact of Covid-19 and Mediation Metrics, Pt. 2

October 12, 2021

*On September 24, 2021, the Ombudsman submitted the annual report of her office, as an appendix to the PIACB 6<sup>th</sup> Annual Report, to the Legislature. Below is an excerpt that discusses lessons learned during the State Emergency of the Covid-19 pandemic. Her entire report can be found at <https://www.marylandattorneygeneral.gov/OpenGov%20Documents/PIACB/AnnualReportFY2021.pdf> in Appendix C.*

**Other Takeaways from the Pandemic:** Some other trends drawn from the Ombudsman’s caseload and experience over FY 2021 include:

- Those agencies with efficient electronic records management systems, trained staff, and established procedures for handling PIA requests fared better than those that did not have these resources or processes in place at the start of the pandemic. The Ombudsman’s data suggests that many agencies were ill-equipped to respond to PIA requests during the pandemic.
- Expanded “proactive disclosure” practices, together with the maintenance of accurate and up-to-date lists of readily available records that can be produced immediately and without the necessity of a written PIA request or response would have mitigated some of the problems experienced by agencies and requestors alike.<sup>[1]</sup>
- While many requestors with whom the Ombudsman worked during the pandemic appreciated the difficulties facing agencies and patiently awaited a response for periods well beyond regular PIA deadlines, requestors who experienced very lengthy delays or who received no response at all eventually grew disheartened and less sympathetic to the reasons cited for protracted delay. In short, requestors expected adaptation and improvement, particularly as it became apparent that the pandemic was not going to “go away” quickly.
- During the pandemic, the Ombudsman began to use remote meeting platforms such as “Teams” and “Zoom” in conducting mediations. The ability to bring parties together “face-to-face,” albeit remotely, was particularly useful for matters involving numerous or complex issues, a difficult history between the parties, and/or multiple PIA requests and responses between the same parties. In some instances, the ability to bring parties together in this fashion aided the process and facilitated a mutually satisfactory resolution. Even when the use of remote meeting(s) that included both parties did not lead to a mutually satisfactory resolution, it enabled the Ombudsman to bring these matters to closure more efficiently. For these reasons, the Ombudsman plans to continue to use remote meeting tools together with individual consultations by phone, email and regular mail, as needed.

*~This article was written by the Public Access Ombudsman for her blog Open Matters.*

*Visit <https://news.maryland.gov/mpiaombuds/blog/> to see other articles posted by the Public Access Ombudsman’s Office.*

<sup>[1]</sup> Section 4-202(b) of the Public Information Act provides that an applicant need not submit a

written application to the records custodian to inspect public records that are listed by the custodian as available immediately on request. Section 4-201(c) requires official custodians to “designate types of public records . . . that are to be made available to any applicant upon request,” and to “maintain a current list of the types of public records that have been designated as available to any applicant immediately upon request.” Additionally, H.B. 183 includes a provision that directs agencies to develop policies of “proactive disclosure” regarding the types of records that can be made available “proactively,” that is, in advance of the receipt of any written request for a public record. H.B. 183 goes into effect on July 1, 2022.