

**WES MOORE**  
*Governor*

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*Lieutenant Governor*



**Maryland**

**OFFICE OF THE**

**PUBLIC ACCESS OMBUDSMAN**

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## **Standards of Conduct Applicable to the Ombudsman and Parties**

Mediation is an entirely voluntary dispute resolution process that typically involves two parties and a neutral third party. It requires the consent of both sides and either party can end the mediation at any time for any reason. The Public Access Ombudsman (“Ombudsman”) can also terminate the mediation if, in her judgment, further efforts are not likely to result in a mutually satisfactory resolution. To promote open dialogue and the timely handling of all requests for assistance, the Ombudsman and the parties are expected to adhere to the following Standards of Conduct.

### **Standards Applicable to Parties**

The parties to a mediation will treat the Ombudsman, Ombudsman’s staff, and everyone involved in the process in a courteous manner that respects the role of the Ombudsman as an independent and neutral facilitator.

The parties to the mediation will cooperate with the Ombudsman and Ombudsman’s staff by supplying relevant documentation and information they request in a timely manner. Generally, this includes the PIA request and any available agency response(s). The Ombudsman may request additional background documents or information, depending on the issues involved in each case.

The parties to a mediation will cooperate by making themselves available with reasonable notice for individual calls with the Ombudsman and/or joint virtual meetings that are aimed at working towards a resolution.

The parties to the mediation will follow through and perform the actions agreed to during the mediation and shall promptly notify the Ombudsman and other parties if they are unable to meet deadlines or complete certain steps. The parties should abide by the same confidentiality restrictions and guidelines regarding mediation information and communication as outlined in the [Confidentiality of Ombudsman Mediations](#) and the [Ombudsman’s Statement on AI in Mediation](#).

## Standards Applicable to the Ombudsman

The Ombudsman is subject to certain mandatory confidentiality restrictions provided by Maryland law. These include the provisions of the PIA that govern the Ombudsman's office, the regulations adopted by the office that implement these provisions, and by the [Maryland Mediation Confidentiality Act](#) ("MMCA").

The Ombudsman also abides by the [Maryland Standards of Conduct for Mediators](#) and keeps all mediation information and communications confidential in accordance with the MMCA. This information is on the Ombudsman's [website](#) and available on request.

Some of the key points to be aware of are:

1. The Ombudsman must keep confidential all information and communications she initiates or receives in connection with a potential or actual mediation and cannot disclose such information or communications to any third party without advance written consent from both parties to the mediation.
2. The Ombudsman may discuss or provide documentation and information pertaining to the mediation with her counsel, staff, and any others working under her supervision. They are subject to the same confidentiality restrictions that the Ombudsman must follow.
3. Subject to a few narrow and rarely applicable exceptions, the Ombudsman and her staff cannot be compelled to testify or otherwise disclose any mediation information or communications in any adjudicative proceeding, such as a court or administrative hearing.
4. Written mediation communications, such as a summary of the issue or any other mediation communications, are generally inadmissible in adjudicative proceedings.
5. There are some documents that are not considered confidential. These include the PIA request itself, any written PIA response the agency issues directly to the requester, including responses issued during the mediation process, and any records the agency produces to the requester under the PIA. Please see [Confidentiality of Ombudsman Mediations](#) for more information about what is not confidential in mediation under Maryland law.

## Timing & Process

The Ombudsman has 90 days from the day a mediation file is opened to bring the matter to closure. The Office does not open a mediation file until it has received all necessary documents and information from the party requesting mediation.

To meet the 90-day deadline, the parties should complete any agreed upon actions or mediation discussions **far enough in advance of the deadline** to allow the Ombudsman to obtain feedback concerning the outcome before the deadline and to assess whether there are any remaining PIA disputes to be addressed in the mediation.

During the Ombudsman's first call with each party, the Ombudsman will attempt to establish a mutually agreeable work plan and approach toward resolution. Once these actions, discussions, or other agreed-to steps are completed, the Ombudsman may seek input from the parties as to whether the PIA dispute submitted for mediation is resolved, unresolved, or partially resolved. In the event that an agreed-upon work plan is completed and the party initiating mediation considers the matter unresolved, the Ombudsman may ask that party to identify which specific PIA dispute(s) submitted for mediation remain unresolved or partially resolved.

If the Ombudsman is still unable to obtain feedback or other information necessary to determine the outcome of the mediation or any other matter in issue, the Ombudsman may terminate the mediation according to regulations due to the party's non-engagement or withdrawal from the mediation process. Under these circumstances, the Ombudsman will then state in the written Final Determination issued at the conclusion of the mediation that she was unable to determine whether a party considered the dispute to be resolved, unresolved, partially resolved, or subject to another disposition.

## Final Points

If you are not willing to abide by the confidentiality restrictions outlined in [Confidentiality of Ombudsman Mediations](#), which are the usual custom and practice in mediations, or the [Ombudsman's Statement on AI in Mediation](#), the Ombudsman asks that you notify our Office and the other party. At that time, the Ombudsman will make a decision as to whether the mediation should go forward under those circumstances.

Please feel free to let our Office know if you have any questions, concerns or objections to any of the above. In the absence of any objections, we will assume that these terms are agreeable to all parties.