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The PIA also has “discretionary exceptions.” A custodian “*may deny*” inspection of a record covered by a discretionary exception, if disclosure “would be contrary to the public interest.” GP § 4-343 (emphasis added). Because you asked about records “required to be kept confidential” by the PIA, I have focused on the mandatory exceptions here.

The mandatory exceptions can also apply outside the context of a PIA request. 110 *Opinions of the Attorney General* 60, 66 (2025). So, for example, a custodian of personnel records is prohibited not only from disclosing those records in response to a PIA request, but also from disclosing them in other ways, such as by proactively posting them online. *Id.*

The PIA’s mandatory exceptions also apply to requests from one government agency to another. 60 *Opinions of the Attorney General* 554, 555 (1975).¹ Consistent with that principle, Maryland’s highest court has applied the PIA’s mandatory exceptions to a request by the Montgomery County inspector general for County personnel records. *See Montgomery County v. Shropshire*, 420 Md. 362, 365-66 (2011).

Since the PIA is a State statute, it controls over local law in the event of a conflict. *Caffrey v. Department of Liquor Control*, 370 Md. 272, 302-03 (2002). This is true for local charter provisions as well: when “a provision in a county charter conflicts with a public general law, the public general law prevails.” *Board of Supervisors of Elections v. Smallwood*, 327 Md. 220, 242 (1990) (citation omitted). This principle of law is known as “conflict preemption.” *Caffrey*, 370 Md. at 302-03. Thus, under the rule of conflict preemption, a local law cannot require or authorize the disclosure of records or information if the PIA prohibits the disclosure of those records or that information. *Caffrey*, 370 Md. at 303; 101 *Opinions of the Attorney General* 35, 59 (2016).

Consistent with that rule, Maryland’s highest court has held that a local law cannot override the PIA’s mandatory exceptions. In *Caffrey*, the case involved a Montgomery County charter provision that appeared to create a broader right of access to county records than the PIA. However, the Court held that “in so far as the [PIA] explicitly prohibits the release of certain public records through its mandatory denials, we may not interpret [the charter] as permitting their release.” 370 Md. at 303 (citation omitted). Similarly, in a later case, the Court held that a county inspector general could not obtain personnel records from the county, even though the county code gave the inspector general an explicit right of access to all county records. *Shropshire*, 420 Md. at 372-73, 383.

¹ A State statute may authorize a governmental unit to obtain records from another unit even if those records would otherwise be subject to a mandatory exception. 60 *Opinions of the Attorney General* at 556; *see, e.g.*, Md. Code Ann., State Gov’t (“SG”) § 2-1223(a) (authorizing the Office of Legislative Audits to inspect records “of any unit of the State government” “including those that are confidential by law”). Such statutes often include provisions limiting the re-disclosure of the records. *See* SG § 2-1226.

Considering the reasoning for the Court's ruling in those cases, even if a subpoena were involved, I do not think the court would have reached a different result, assuming that local law, rather than State law, is the source of authority for the subpoena. The reasoning of those prior cases was that local law cannot require the disclosure of records when State law prohibits the disclosure of those same records. Thus, it makes no difference whether the legal mandate to disclose the records takes the form of a subpoena authorized by local law, or appears in the local law itself (as was the case in *Shropshire*).

Thus, in my view, a local law or charter provision authorizing, or requiring, a local government custodian of records to disclose records to a local inspector general would be preempted by State law and unenforceable to the extent it required or authorized the custodian to disclose records covered by one of the PIA's mandatory exceptions. This is true regardless of what form the inspector general's request or demand for records takes. If the authority for the request stems from local law, it cannot overcome a State law prohibition on disclosure.

Sincerely,



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Assistant Attorney General