

Testimony on House Bill 15

Public Information Act - Public Records - Nonprofit Organizations House Government, Labor, and Elections Committee February 10, 2026

Position: Oppose

Maryland Nonprofits is a statewide association of almost 2000 nonprofit organizations and institutions. We strongly oppose the proposal in House Bill 15 to treat nonprofit organization's receiving over a threshold of \$50,000 "annually" as though they are state agencies.

Grant agreements are already written with provisions to assure the proper use of public funds, and most are essentially 'reimbursable' contracts requiring documented performance before incremental disbursement of funds.

Much more information on the overall finances and governance of tax-exempt organizations, beyond the scope of the services they provide on behalf of government, and well beyond the information required under procurement contracts from for-profit contractors, is already publicly information, available on request under federal law and on public websites, in the IRS Form 990.

The IRS 990 is much more than merely an annual financial report. It requires disclosure of family or business relationships of board members and key staff, other potential conflict of interest situations, the salaries of board members, chief executives, and key employees, and much more. Several pages of questions elicit answers that can trigger further examination or require additional disclosures. The current Form 990, several of the required schedules, and the instructions for completing the form are submitted with this statement.

Nonprofits are private entities, governed almost exclusively by volunteer boards of directors or trustees, to serve recognized public purposes. In many cases they fill gaps and serve needs that government cannot address, or that can be served more efficiently through existing nonprofit institutions or service organizations. In many cases state funding already doesn't cover the full administrative costs to providers. Likely outcomes under HB 15 would be a loss of available service providers, deterring particularly many smaller community-based organizations from participating, and either a diminution of, or increased costs to the state.

The legislation lacks essential clarifications. It refers to organizations receiving funding of \$50,000 or more “annually”. Does receipt for two years or more constitute annually? Do the requirements lapse with the end of a multi-year grant – starting and stopping with the funding?

Does the bill mean that policy deliberations recorded in board minutes of these private corporations are public records, or will they be accorded the status of privileged ‘executive materials’?

Section 4-102 as amended on page 3, would restrict a nonprofit from keeping information on a person that is not needed to accomplish a governmental purpose. On its face this appears to prohibit keeping information normally retained about persons served outside of the organization’s state-funded activities, as well as about its members if it is an association, or its donors for example? Conversely, if that information is retained, then in the case of member or donor information, its mandatory disclosure as public record raises serious 1st Amendment freedom of association issues.

Other provisions of the public records law or its interpretations clearly did not anticipate its application to private entities.

For all of these reasons, we urge you to give House Bill 15 an unfavorable report.