

**Klemm, Sara**

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**From:** joel hurewitz [REDACTED]  
**Sent:** Monday, April 25, 2022 2:40 PM  
**To:** Klemm, Sara  
**Subject:** Comments to Maryland Public Information Act Compliance Board Proposed Rules

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Ms.Klemm,

Thank you for our discussion Friday on the proposed rules for the Public Information Act Compliance Board.

To reiterate my core issue, I believe that Applicants should have an automatic right to file a reply to the Custodian's response under 14.02.02 Complaint Process - Applicants. This procedure is analogous to judicial review under Maryland Rule 7-207(a), and thus the timeline and procedures should generally be copied.

Usually the Custodian is in a superior position to members of the public who are requesting documents; they have greater staff and funding and most importantly, they have knowledge of the actual contents of the withheld document. The reply to the complaint might be the first time that the Custodian will have to fully justify its position rather than just asserting an exception as they will have done throughout the initial denial and Ombudsman process. If the Applicant does not have a right to file a reply, they will need to prebut what the Custodian might say in its response to the complaint.

This is particularly relevant when the exception is one based on caselaw and interpretation including attorney-client privilege or the inter- or intra-agency exemption, deliberative process privilege.

Furthermore, it is unclear how and when the Applicant would get permission from the Board to file a reply and how the time would run while the Board will be granting permission for the reply.

Thank you for your consideration of these issues in the proposed rules,

Sincerely,

Joel Hurewitz  
Columbia, MD