



CAROLYN A. QUATTROCKI
Chief Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

CARRIE J. WILLIAMS
Deputy Attorney General

ZENITA WICKHAM HURLEY
Chief, Equity, Policy, and Engagement

PETER V. BERNS
General Counsel

CHRISTIAN E. BARRERA
Chief Operating Officer

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

ANTHONY G. BROWN
Attorney General

Testimony of Sara Klemm, Assistant Attorney General, Public Access Unit
In SUPPORT of Senate Bill 296
Submitted to: Education, Energy, and the Environment Committee
February 6, 2025

Dear Chair Feldman, Vice Chair Kagan, and Members of the Committee:

I am an Assistant Attorney General in the Office of the Attorney General (“OAG”). I serve as counsel to the Public Access Ombudsman and the Public Information Act Compliance Board. The work of the unit is entirely focused on Maryland’s Public Information Act (“PIA”). I urge support of **Senate Bill 296**, which would enact a minor technical change to allow the Ombudsman to delegate her powers and duties to staff of the Office of the Public Access Ombudsman, who work independently of the OAG, thus ensuring that the program operates more efficiently and effectively.

By statute, the Ombudsman and Compliance Board are independent entities. Both are fully supported by the OAG. The Ombudsman is a full-time State employee, while the Board comprises five volunteer members. The OAG currently provides two administrators (one contractual, one full-time regular) to support their work, as well as office space for the Ombudsman. As noted above, I also provide legal advice and counsel to both entities. The PIA charges the Ombudsman with attempting to resolve disputes that arise under the PIA, which the Ombudsman typically does through voluntary, confidential mediation. If mediation is not successful, then a party may file a complaint with the Compliance Board, assuming the dispute falls within the Board’s jurisdiction. The Board issues written decisions and binding orders, which are subject to appeal in the circuit courts.

In July 2022, legislation that expanded the Board’s jurisdiction went into effect. That same legislation also integrated the Ombudsman’s program with the Board’s process, making it necessary to attempt to resolve a dispute through the Ombudsman before filing a complaint with the Board. Since July 2022, both the Ombudsman and Board have seen their caseloads increase significantly.

Since the program's inception, there has been only one Ombudsman to carry out the duties assigned to the role. The OAG staff assigned to support the Ombudsman cannot perform the programmatic duties of the Ombudsman, e.g., conducting mediations or issuing final determinations. *See* General Provisions Article § 4-1B-04(b) (requiring the Ombudsman to issue a final determination, generally within 90 calendar days). In my role as legal counsel to both entities, I also cannot perform the programmatic duties of the Ombudsman. When the Ombudsman is out of the office for a period of time for any reason, the work of her office largely comes to a halt, which then can have a ripple effect, given that a party must have a final determination from the Ombudsman to file a complaint with the Board. *See* General Provisions Article § 4-1A-05(a).

Senate Bill 296 would allow the Office of the Public Access Ombudsman to continue to carry out its dispute resolution duties under the PIA even when the Ombudsman is out of the office for a period of time. It simply provides that program staff in the Ombudsman's office may carry out those same dispute resolution duties, under her supervision. The bill would also generally increase the efficiency and effectiveness of the Ombudsman's program day-to-day as it allows the Ombudsman's office to take on staff, meaning that individuals and agencies seeking the Ombudsman's assistance will not need to wait as long to receive that assistance. The OAG has already provided an attorney-mediator, who will report directly to the Ombudsman, to help manage the increased demands of the Ombudsman's office. This bill clarifies that that attorney-mediator may perform the same duties and functions that the Ombudsman does.

Please support **Senate Bill 296**. I look forward to answering any questions you may have.

Sincerely,

Sara Klemm
Assistant Attorney General
Public Access Unit