

141—2.11(2C) The taking of testimony.

2.11(1) Purpose. The taking of testimony is an internal device used by the ombudsman to gather information and to assist in arriving at conclusions or recommendations regarding an agency's actions.

2.11(2) Witnesses. Any person may be called to give testimony relating to a matter before the ombudsman.

2.11(3) Notice. The ombudsman shall provide to the person whose testimony is sought reasonable notice of the date, time, and place for taking that person's testimony. If the ombudsman issues a subpoena compelling a person to give testimony, notice shall be provided in the subpoena.

2.11(4) Location. The ombudsman has discretion to take testimony from a person at the ombudsman's office or at another location deemed appropriate by the ombudsman, or by telephone or other electronic means.

2.11(5) Rights of witnesses. A person who gives testimony is accorded the same privileges and immunities as are extended to witnesses in the courts of this state. The witness is entitled to be accompanied and advised by counsel or other representative while being questioned, but only counsel may speak or raise objections to questions on behalf of the witness. Objections to questions shall be noted, but the witness shall answer all questions, except when a privilege or immunity accorded to the witness has been asserted.

2.11(6) Conduct of testimony. The ombudsman may administer oaths to persons giving testimony before the ombudsman. The ombudsman determines the order for the taking of testimony and may sequester witnesses or examine a witness privately. Questions will be posed by the ombudsman. At the conclusion of the ombudsman's examination of a witness, counsel for the witness may be permitted to question the witness, after which the ombudsman may inquire further into any matters raised during the examination. The scope of the questions shall be decided and may be limited by the ombudsman.

2.11(7) Evidence. Strict rules of evidence shall not apply. The probative nature of any evidentiary matter shall be determined by the ombudsman.

2.11(8) Record. The ombudsman may record the testimony by audio or video recording or by use of a certified court reporter. A copy of the witness's testimony record may be provided to the witness upon request at the conclusion of the investigation in order to prepare a comment in response to conclusions or recommendations that criticize the witness, pursuant to Iowa Code section 2C.15.

[Adopted and published 10/26/16 pursuant to Iowa Code section 2C.9(5), effective 11/1/16; Adopted and published 6/2/21 pursuant to Iowa Code section 2C.9(5), effective 6/2/21]