

141—2.6(2C) Criteria for investigation.

2.6(1) *Jurisdiction.* The ombudsman has jurisdiction to investigate any administrative action of an agency; however, the ombudsman shall not investigate the complaint of an employee of an agency in regard to that employee's employment relationship with the agency, except as provided in rule 141—2.4(2C,70A).

2.6(2) *Subjects for investigation.*

a. An appropriate subject for investigation includes any administrative action which the ombudsman has reason to believe might be:

- (1) Contrary to law or regulation;
- (2) Unreasonable, unfair, oppressive, or inconsistent with the general course of an agency's functioning, even though it is in accordance with the law;
- (3) Based on a mistake of law;
- (4) Arbitrary in ascertainties of fact;
- (5) Based on improper motivation or irrelevant consideration; or
- (6) Unaccompanied by an adequate statement of reasons.

b. The ombudsman may also inquire into an agency's policy, practice or procedure if the ombudsman has reason to believe improvements can be made to the policy, practice or procedure which lessen the risk that objectionable administrative actions will occur.

2.6(3) *Reasons to decline investigation.* The ombudsman may decline to investigate a complaint if the ombudsman finds substantiating facts that:

- a.* The complainant has available another remedy or channel of complaint which the complainant could reasonably be expected to use;
- b.* The complaint pertains to a matter outside the ombudsman's power;
- c.* The complainant has no substantive or procedural interest which is directly affected by the matter complained about;
- d.* The complaint is trivial, frivolous, or vexatious or not made in good faith;
- e.* Other complaints are more worthy of attention;
- f.* The resources of the ombudsman are insufficient for adequate investigation;
- g.* The complaint has been delayed too long to justify present examination of its merit;
- h.* The complainant does not provide or refuses to provide, without good reason, information in the complainant's possession or knowledge which is requested by the ombudsman;
- i.* A previous determination has been made by the ombudsman regarding the subject matter of the complaint; or
- j.* The complaint has been resolved due to a change in the complainant's circumstances or in the law, or due to an action taken by the agency during a preliminary review and inquiry on the complaint.

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