

**141—2.10(2C) Hearings to examine witnesses.**

**2.10(1) Purpose.** The citizens' aide/ombudsman has authority to conduct private hearings under Iowa Code section 2C.8. A private hearing is the taking of testimony from any person, with or without the issuance of a subpoena. A hearing is not a contested case proceeding under Iowa Code chapter 17A. The purpose of a hearing is not to adjudicate the substantive rights of a complainant or an agency, but to discover and gather factual information relevant to a subject matter of a complaint.

**2.10(2) Notice.** The citizens' aide/ombudsman shall provide reasonable notice to the person whose testimony is sought of the date, time, and place for taking that person's testimony. If the citizens' aide/ombudsman issues a subpoena compelling a person to give testimony, notice shall be provided in the subpoena.

**2.10(3) Location.** The citizens' aide/ombudsman has discretion to take testimony from a person at the office of the citizens' aide/ombudsman or at another location as deemed appropriate by the citizens' aide/ombudsman, or by telephone conference call.

**2.10(4) 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.

**2.10(5) Conduct of hearings.** The citizens' aide/ombudsman, deputy citizens' aide/ombudsman, and assistants may administer oaths to persons giving testimony before them. The citizens' aide/ombudsman determines the order for the taking of testimony and may sequester witnesses or examine a witness privately. Questions will be posed by the citizens' aide/ombudsman. At the conclusion of the citizens' aide/ombudsman's examination of a witness, counsel for the witness may be permitted to question the witness, after which the citizens' aide/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 citizens' aide/ombudsman.

**2.10(6) Evidence.** Strict rules of evidence shall not apply. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. The probative value and weight of any evidentiary matter shall be determined by the citizens' aide/ombudsman.

**2.10(7) Record.** The citizens' aide/ombudsman may record the testimony on audiotape or videotape or by use of a certified court reporter and may have the testimony transcribed.

*a.* A witness is permitted to record any testimony that the witness may give, if such recording will not interfere unduly with the taking of the testimony in an orderly manner.

*b.* A witness is entitled to obtain a copy of the audiotape, videotape, or transcription of the witness's testimony upon request and payment of a reasonable fee for producing the copy.

*c.* Audiotapes and videotapes of testimony shall be preserved for a period not less than 60 days from the date they were recorded.