

141—2.12 (2C) Disposition after investigation.

2.12(1) *Complaint unsubstantiated.* If, after completing an investigation, the ombudsman determines the complaint is not substantiated based upon a preponderance of the evidence, the ombudsman shall inform the complainant and the agency involved of such determination.

2.12(2) *Complaint indeterminate.* If, after completing an investigation, the ombudsman is unable to conclusively determine based upon a preponderance of the evidence whether the complaint is substantiated or unsubstantiated, the ombudsman shall inform the complainant and the agency involved of such conclusion.

2.12(3) *Complaint substantiated.* If, after completing an investigation, the ombudsman determines the complaint is substantiated based upon a preponderance of the evidence, the ombudsman shall inform the complainant and the agency involved of the findings of fact and conclusions. If appropriate, the ombudsman shall also inform the agency of any recommendation that:

- a. The matter be further considered by the agency;
- b. The administrative action be modified or canceled;
- c. A rule on which an administrative action is based be altered;
- d. Reasons be given for an administrative action; or
- e. Any other action be taken by the agency.

2.12(4) *Agency response to recommendations.* If the ombudsman requests, the agency shall notify the ombudsman within 20 days in writing of any action taken or to be taken on the recommendations or the reasons for not complying with the recommendations.

2.12(5) *Legislative action.* If the ombudsman believes that a law resulted in administrative action which was unfair or otherwise objectionable, the ombudsman shall notify the general assembly of desirable statutory change. The ombudsman may give notification by submitting a legislative proposal or by presenting testimony or statements to the general assembly or one of its committees or members regarding the statutory change.

2.12(6) *Referral for disciplinary or criminal action.* The ombudsman shall refer a public official, employee or other person for disciplinary or criminal proceeding, if such referral is warranted under rule 141—2.15(2C).

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