Ombudsman Statutes

TITLE 21.
OMBUDSMAN

Chapter

05. (Repealed)

10. Office Management
(21 AAC 10.010—21 AAC 10.320)

20. Investigations
(21 AAC 20.010—21 AAC 20.390

TITLE 21.
OMBUDSMAN

Chapter
05. (Repealed)
10. Office Management
(21 AAC 10.010—21 AAC 10.320)
20. Investigations
(21 AAC 20.010—21 AAC 20.390)

CHAPTER 05.
ORGANIZATION AND PROCEDURE

Editor's Note: The regulations in 21 AAC 05 which were repealed effective 9/16/84, Register 91, have been replaced by regulations in 21 AAC 10 and 21 AAC 20 which became effective the same day and register.

Section
10. (Repealed)
20. (Repealed)
30. (Repealed)
40. (Repealed)
50. (Repealed)
60. (Repealed)
70. (Repealed)
80. (Repealed)
90. (Repealed)
100. (Repealed)
110. (Repealed)

21 AAC 05.010. COMPLAINTS. Repealed 9/16/84.

21 AAC 05.020. INVESTIGATIONS. Repealed 9/16/84.

21 AAC 05.030. NOTICE TO COMPLAINANTS. Repealed 9/16/84.

21 AAC 05.040. PRODUCTION OF INFORMATION OR DOCUMENTS. Repealed 9/16/84.

21 AAC 05.050. HEARINGS. Repealed 9/16/84.

21 AAC 05.060. TERMINATION OF INVESTIGATION. Repealed 9/16/84.

21 AAC 05.070. MODIFICATION OF RECOMMENDATIONS. Repealed 9/16/84.

21 AAC 05.080. ACCEPTANCE AND PUBLICATION OF RECOMMENDATIONS. Repealed 9/16/84.

21 AAC 05.090. NOTICE TO COMPLAINANT. Repealed 9/16/84.

21 AAC 05.100. STATUS REPORTS. Repealed 9/16/84.

21 AAC 05.110. GRIEVANCES AGAINST OFFICE OF OMBUDSMAN. Repealed 9/16/84.

CHAPTER 10.
OFFICE MANAGEMENT

Article
1. Business Offices and Hours (21 AAC 10.010—21 AAC 10.020
2. Contracts (21 AAC 10.100—21 AAC 10.160)
3. Records (21 AAC 10.200—21 AAC 10.220)
4. Grievances (21 AAC 10.300—21 AAC 10.320)

ARTICLE 1.
BUSINESS OFFICES AND HOURS

Section
10. Offices
20. Hours

21 AAC 10.010. OFFICES. The ombudsman will maintain business offices in Anchorage, Fairbanks and Juneau. (Eff. 9/16/84, Reg. 91)
Authority: AS 24.55.090

21 AAC 10.020. HOURS. Each business office must be open to the public during regular business hours as prescribed by law or as determined by the commissioner of administration for agencies of the executive branch of the state government. (Eff. 9/16/84, Reg. 91)
Authority: AS 24.55.090

ARTICLE 2.
CONTRACTS

Section
100. Applicability
110. Requests for proposals
120. Aggrieved respondents
130. Contract award
140. Evaluation
150. Filing
160. Definition

21 AAC 10.100. APPLICABILITY. The provisions of 21 AAC 10.100 — 21 AAC 10.160 apply to contracts for professional services to be provided to the office of the ombudsman unless

(1) the total amount of a contract or contracts awarded to a contractor does not exceed $25,000 during a 12-month period;

(2) the contract is awarded based on competitive bids obtained under the competitive bid procedure provided in AS 37.05.230;

(3) the required services are to be provided by an agency or department of the state government or by a municipality; or

(4) the required services are to be provided for the investigation of a complaint under AS 24.55.110. (Eff. 9/16/84, Reg. 91)
Authority: AS 24.55.275

21 AAC 10.110. REQUESTS FOR PROPOSALS. (a) A formal written request for proposals soliciting an offer to perform the required services under a contract must be extended to a sufficient number of potential providers of the required services to assure that public interest in competition is adequately served. Proposals from at least six firms must be solicited for contracts equal to or greater than $100,000. Proposals from at least three firms must be solicited for contracts of less than $100,000. Formal advertising in a medium that will reasonably bring the proposal to the attention of persons able to provide the required services may be substituted for direct solictation or used jointly with direct solicitation of proposals.

(b) If the expertise required is not available to enable the ombudsman to solicit the number of proposals required under (a) of this section, the ombudsman will solicit proposals

(1) from each person or firm listed on the professional services contractors register maintained under AS 36.98.020 that appears to possess the required expertise; and

(2) from each person or firm responding to the public notice given under (a) of this section that appears to possess the required expertise; and

(3) from any person or firm with the required expertise of which the ombudsman may be aware.

(c) The request for proposals must comply with the standards of AS 36.98.030(e).

(d) A request for proposals need not be extended under this section if there is a single

source of the required services or if one person or firm can clearly perform the required services more satisfactorily because of the person's or firm's prior work. The exemption in this subsection applies only if the ombudsman approves the exemption and a written justification signed by the ombudsman that details the reasons for the exemption is filed under AS 24.23.060 as a public record. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.275

21 AAC 10.120. AGGRIEVED RESPONDENTS. (a) An aggrieved respondent may request a hearing. The request must be in writing, made to the ombudsman, and received by the ombudsman within 10 days after the aggrieved respondent knows or should have known the facts and circumstances on which the request for hearing is based.

(b) The purpose of the hearing is to determine whether the award of the contested contract was made in accordance with applicable procedures and is limited to the evaluation and solicitation sections of those procedures.

(c) An aggrieved respondent requesting a hearing shall

(1) explain in detail the reasons for the request for a hearing; and

(2) send a copy of the request for a hearing to the interested parties, including all other respondents.

(d) The request for a hearing will be reviewed by the ombudsman. The aggrieved respondent will be advised within 10 days after receipt of the request whether it is accepted or rejected. If the request for a hearing is rejected, a respondent will be notified of the reason for the decision.

(e) If the request for a hearing is accepted, the hearing will

(1) be scheduled as soon as practicable, but not later than 20 days after acceptance;

(2) be held in the town where the professional services contract was awarded or at a location designated by the ombudsman;

(3) be made known to all interested parties at least five calendar days before the hour of the hearing; and

(4) be recorded in its entirety.

(f) An interested party who wishes to be heard shall submit a written request to the ombudsman prior to the hearing. A request may be submitted at any business office.

(g) The ombudsman will designate a person to conduct the hearing. The hearing officer will submit recommendations for a decision to the ombudsman within five calendar days of the completion of the hearing.

(h) The ombudsman will submit a written decision to the interested parties within 10 calendar days of the completion of the hearing. (Eff. 9/16/84, Reg. 91; am 3/26/86, Reg. 97)

Authority: AS 24.55.275

21 AAC 10.130. CONTRACT AWARD. (a) A contract must be executed by the provider of the service and the ombudsman.

(b) A contract awarded under 21 AAC 10.100 – 21 AAC 10.160 must contain

(1) the amount of the contract stated on its first page;

(2) the date for the work to begin;

(3) the date by which the work must be completed;

(4) a description of the services to be performed under the contract; and

(5) a certification that sufficient money is available in an appropriation to be encumbered for the amount of the contract. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.275

21 AAC 10.140. EVALUATION. The ombudsman or the project director will provide a written evaluation of the services provided under any professional service contract before final

payment on the contract is made. The evaluation must be filed under AS 24.23.060 and is open for public inspection. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.275

21 AAC 10.150. FILING. A copy of each executed contract and each exemption granted under 21 AAC 10.110(c) shall be filed in each business office of the ombudsman and is open for public inspection. The request for proposals and each proposal submitted must be attached to the filed copy unless the contract is one in which a request for proposals is not required. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.275

21 AAC 10.160. DEFINITION. In 21 AAC 10.100 – 21 AAC 10.160, "professional services" means professional, technical, or consultant's services that are predominantly intellectual in character and that

(1) include analysis, evaluation, prediction, planning, or recommendation; and

(2) result in the production of a report or the completion of a task. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.275

ARTICLE 3.
RECORDS

Section
200. Records of complaints and investigations
210. Complaint summaries
220. Employee records

21 AAC 10.200. RECORDS OF COMPLAINTS AND INVESTIGATIONS. (a) The following records of the office of the ombudsman are confidential:

(1) the record of a complaint under investigation; and

(2) the record of a complaint for which an investigation has been concluded, except the portion which is disclosed under AS 24.55.200.

(b) If approved in writing by the ombudsman, the office may release

(1) to an agency a copy of a record obtained during an investigation from the files of that agency;

(2) to a complainant a copy of a record obtained during an investigation from the complainant. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160(b)

21 AAC 10.210. COMPLAINT SUMMARIES. Summaries of closed complaints maintained by the office in the computer system of the Legislative Affairs Agency may be made available by the ombudsman in order to assist in the management of state government programs, respond to inquiries about the performance of state government programs, and educate and inform the public about the activities and performance of the office. A summary prepared and distributed under this section may not disclose the name or other personal information about the complainant, and is not a publication for purposes of AS 24.55.200. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160(b)

21 AAC 10.220. EMPLOYEE RECORDS. The provisions of AS 39.25.080 apply to personnel records of the office. Personnel records of the office of the ombudsman that are required to be kept confidential under AS 39.25.080 are not open for examination or inspection by the public, a federal or state agency, or a political subdivision of the state. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.080
AS 39.25.080

ARTICLE 4.
GRIEVANCES

Section
300. Grievances
310. Response to grievance
320. Grievance file

21 AAC 10.300. GRIEVANCES. A complainant or an agency may file a grievance with the ombudsman. The grievance must be in writing and may include

(1) the grievant's objection to a decision to

decline or discontinue investigation of a complaint;

(2) an allegation of undue delay in the investigation of a complaint;

(3) a specification of error or omission in the investigation of a complaint; or

(4) an allegation of discourteous behavior by a member of the staff of the office of the ombudsman during the course of investigation of a complaint. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090

21 AAC 10.310. RESPONSE TO GRIEVANCE. The ombudsman will respond in writing to a grievance filed under 21 AAC 10.300 within 20 days after receipt of the grievance. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090

21 AAC 10.320. GRIEVANCE FILE. (a) A greivance received under 21 AAC 10.300 and a copy of the response provided to the grievant under 21 AAC 10.310 must be placed in a file maintained separately from other files of the office of the ombudsman. Before placing the grievance and response in the file, if the grievant is a complainant and investigation of the complaint has not been concluded, the ombudsman will delete reference to the identity of the grievant. If the disclosable portion of the grievance and the response cannot reasonably be separated from nondisclosable portions in a manner that will allow the grievance and response to be disclosed, the grievance and response may not be placed in the file.

(b) A file maintained under (a) of this section is open to public inspection and may be disclosed to the legislature or to a committee or member of the legislature in response to a written request from the legislature, the committee or the member. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090

CHAPTER 20. INVESTIGATIONS

Article

1. Receiving and Processing Complaints (21 AAC 20.010–21 AAC 20.050)
2. Conducting an Investigation (21 AAC 20.100–21 AAC 20.150)
3. Concluding an Investigation (21 AAC 20.200–21 AAC 20.250)
4. Confidential Information (21 AAC 20.300–21 AAC 20.390)

ARTICLE 1. RECEIVING AND PROCESSING COMPLAINTS

Section

10. Subjects excluded from investigation
20. Complaints
30. Anonymous complaints
40. Declining a complaint
50. Resolution without investigation

21 AAC 20.010. SUBJECTS EXCLUDED FROM INVESTIGATION. (a) In addition to subjects that are specifically excluded from the jurisdiction of the ombudsman by AS 24.55, the ombudsman may not investigate

(1) a complaint that, at the time the complaint is filed, is the subject of a judicial proceeding;

(2) a complaint that challenges the substantive content of the administrative decision of an agency if, at the time the complaint is filed,

(A) the decision is the subject of an administrative hearing or an administrative appeal; or

(B) the ombudsman determines that the decision may be resolved more appropriately by an administrative hearing or an administrative appeal for which the complainant may make timely application;

(3) a complaint that relates to an administrative act of which the complainant has had knowledge for more than one year before the complaint is filed;

(4) a complaint that constitutes the grievance of an employee covered by a collective bargaining agreement entered into between the employer and the employee's authorized bargaining agent if the bargaining agreement provides that its grievance-arbitration provision is the sole method of settling controversies or disputes arising under the agreement;

(5) a complaint filed by or on behalf of a municipality that employs a municipal attorney or that retains the services of an attorney for general legal counsel;

(6) a complaint for which it appears that applicable law or administrative procedures provided a remedy adequate in the circumstances for the complainant and the complainant did not avail himself of the remedy with no reasonable justification for the complainant's failure to do so; or

(7) a complaint as to which the ombudsman advises the complainant that disclosure of the complainant's identity is necessary to enable the ombudsman to conduct an investigation and the complainant refuses to allow disclosure of his or her identity.

(b) The ombudsman will, in his or her discretion, decline to investigate

(1) the complaint of a complainant whom the ombudsman reasonably believes has no interest in the result of the investigation other than that of a member of the general public;

(2) a complaint which the ombudsman believes the complainant has not given the agency an opportunity to resolve. (Eff. 9/16/84, Reg. 91; am 3/28/86, Reg. 97)

Authority: AS 23.40.210
AS 24.55.090
AS 24.55.110

21 AAC 20.020. COMPLAINTS. (a) Except as provided in (b) of this section, a complaint to the ombudsman need not be in writing.

(b) A complaint that alleges a breach of duty, misconduct, or discourtesy by an officer or employee of an agency may not be investigated unless the complaint is specific and in writing. If a complainant requires assistance in writing the complaint, the ombudsman or a member of the ombudsman's office staff will provide the assistance. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.100
AS 24.55.110

21 AAC 20.030. ANONYMOUS COMPLAINTS. (a) The ombudsman will, in his or her discretion, decline to investigate a complaint alleging breach of duty, misconduct, or discourtesy by an officer or employee of an agency if the complaint is presented anonymously and the ombudsman determines that investigation of the complaint is precluded by AS 24.55.110(4) or (5).

(b) Except as provided in (a) of this section, an anonymous complaint may be considered for investigation on the ombudsman's motion under AS 24.55.120.

(c) An anonymous complaint that is not investigated on the ombudsman's motion when authorized by (b) of this section must be referred to the attention of the chief executive officer of the affected agency and may be referred to any officer or employee whose action has been challenged or questioned by the complainant. An anonymous complaint excluded from investigation by (a) of this section may not be referred to an agency as provided in this subsection. (Eff. 9/16/84, Reg. 91; am 3/28/86, Reg. 97)

Authority AS 24.55.090
AS 24.55.100
AS 24.55.110

21 AAC 20.040. DECLINING A COMPLAINT. When the ombudsman declines investigation of a complaint under AS 24.55.130 (a) or under 21 AAC 20.010, the ombudsman will inform the complainant of that decision within 15 days of receipt of the complaint. If requested by the complainant, the ombudsman will confirm in writing that investigation of the complaint has been declined and the reason for declining to investigate. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.130(a)

21 AAC 20.050. RESOLUTION WITHOUT INVESTIGATION. Before initiating an investigation, the ombudsman will, in his discretion, attempt to resolve a complaint informally by expediting agency consideration or action or by providing an explanation of the status of the administrative act to the complainant. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090

ARTICLE 2.
CONDUCTING AN INVESTIGATION

Section
100. Priority for investigating complaints
105. Preliminary examination of complaint
110. Notice of investigation
120. Hearing
130. Testimony under subpoena
140. Production of information or records
150. Status reports
160. Conflicts

21 AAC 20.100. PRIORITY FOR INVESTIGATING COMPLAINTS. (a) When the resources of the office of the ombudsman are not sufficient to investigate adequately all pending complaints within reasonable time limits, investigations must be conducted according to the following priority rankings:

(1) complaints of an emergency nature in which disposition according to normal handling would subject the complainant to a substantial risk of serious and irreparable harm;

(2) complaints in which there is an allegation or evidence of prejudice, harm, or disadvantage and for which investigation should be undertaken at an early opportunity because of an actual or potential time constraint;

(3) complaints in which there is an allegation or evidence of recurring systematic prejudice, harm, or disadvantage, or of the possibility of recurring systematic prejudice, harm, or disadvantage, as a result of an administrative act or decision;

(4) complaints in which there is an allegation or evidence of a single or isolated instance of prejudice, harm, or disadvantage as a result of an administrative act or decision.

(b) Within each priority category set out in (a) of this section,

(1) investigation of a complaint alleging or giving evidence of prejudice, harm, or disadvantage to a class of people has precedence to an investigation of a complaint alleging an individual instance of prejudice, harm, or disadvantage;

(2) investigation of complaints must be substantially in accordance with an order based on priority of the date on which the complaint was received. (Eff. 9/16/84, Reg. 91; am 3/28/86, Reg. 97)

Authority: AS 24.55.090
AS 24.55.100
AS 24.55.110

21 AAC 20.105. PRELIMINARY EXAMINATION OF COMPLAINT. Before commencing an investigation, the ombudsman will conduct a preliminary examination of each complaint. During the preliminary examination, the ombudsman will determine whether, based on the information and evidence provided by the complainant:

(1) the administrative act complained of is an appropriate subject for investigation under AS 24.55.150; and

(2) there is specific and credible information to indicate that an investigation is warranted. (Eff. 3/28/86, Reg. 97)

Authority: AS 24.55.090
AS 24.55.150

21 AAC 20.110. NOTICE OF INVESTIGATION. When notice to an agency is required to be given under AS 24.55.140 and the complaint cannot be resolved informally under AS 21 AAC 20.050, the ombudsman will give notice of intent to investigate to the person whom the ombudsman reasonably believes is responsible for the management of the program against which the complaint is made. Notice given under this section may be verbal, except that the ombudsman will provide written notice of intent to investigate

(1) to a person against whom a complaint of breach of duty or misconduct is filed, or to the person's supervisor; and

(2) to the person whom the ombudsman reasonably believes is responsible for the management of the program against which the complaint is made, if investigation of the complaint requires access to confidential records of the agency program and the manager requests written notification. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.140

21 AAC 20.120. HEARING. If the ombudsman proposes to conduct a private hearing under AS 24.55.160(a)(3), written notice of not less than 10 days before the hearing must be given to the agency or person. The agency or person to whom notice is given may waive the time limitation of the section in writing. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160(a)(3)

21 AAC 20.130. TESTIMONY UNDER SUBPOENA. (a) Except as otherwise provided in this section, the provisions of Rule 7 of the Alaska R. Admin. and Rule 45 of the Alaska R. Civ. P. apply to subpoenas issued under this section.

(b) When the ombudsman requires the appearance of a person to give sworn testimony under AS 24.55.170(a)(1), the ombudsman will allow the person 10 days from the date of request to attend to give testimony. The ombudsman will, in his discretion, extend the period at the request of the person for whose attendance the subpoena is issued.

(c) Notwithstanding (b) of this section, the ombudsman will, in his or her discretion,

(1) require the appearance of a person to give sworn testimony under AS 24.55.170(a)(1) at a specified time and place sooner than 10 days after the date of the request if the ombudsman reasonably believes that the delay in receipt of the sworn testimony will unduly hinder the investigation or make the investigation or the testimony ineffectual;

(2) schedule the appearance of the person sooner than 10 days after the date of the request with the person's consent. (Eff. 9/16/84, Reg. 91; am 3/28/86, Reg. 97)

Authority: AS 24.55.090
AS 24.55.170(a)

21 AAC 20.140. PRODUCTION OF INFORMATION OR RECORDS. (a) When the ombudsman requests information or a record from an agency or a person under AS 24.55.170(a)(2), the ombudsman will allow the agency or person 10 days from the date of request to produce the information or record requested. The ombudsman will, in his discretion, extend the period for production of information or a record authorized by this subsection at the request of the agency or person for good cause shown.

(b) Notwithstanding (a) of this section, the ombudsman will, in his or her discretion,

(1) require immediate production of information or a record by subpoena under AS 24.55.170 or at the time of inspection of an agency's premises under AS 24.55.160(a) if production of information or a record under (a) of this section will unduly hinder the investigation or make the investigation ineffectual;

(2) require production of information or a record by subpoena under AS 24.55.170 sooner than 10 days after the date of the request if the person having the information or the custodian of the document consents to earlier production. (Eff. 9/16/84, Reg. 91; am 3/28/86, Reg. 97)

Authority: AS 24.55.090
AS 24.55.160(a)
AS 24.55.170

21 AAC 20.150. STATUS REPORTS. A report of the status of a complaint under investigation must be provided to a complainant 120 days after the acceptance of the complaint and thereafter at 120-day intervals until investigation of the complaint is completed. A status report must be provided to a complainant in response to the complainant's request at any time. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090

21 AAC 20.160. CONFLICTS. (a) If, during the course of an investigation, the ombudsman determines that investigation of a complaint by an ombudsman assistant involves a conflict of interests or that investigation by the ombudsman assistant may have the appearance of a conflict of interests, the ombudsman will promptly transfer the matter from the ombudsman assistant to another member of the staff for completion of the investigation.

(b) If the ombudsman's own investigation of a complaint would involve a conflict of interests or the appearance of a conflict of interests, the ombudsman will promptly transfer the matter to another member of the staff for completion of the investigation. The ombudsman will, in his or her discretion, review and present his or her finding, opinion, and recommendation for a complaint which he or she has transferred for investigation under this subsection. However, the finding, opinion, or recommendation that the ombudsman presents in the preliminary report to the agency and in the notification to the complainant concluding the investigation will disclose the reason for the ombudsman's belief that a conflict or apparent conflict of interests exists.

(c) The ombudsman will, in his or her discretion, assign to one ombudsman assistant for purposes of investigation complaints that make opposite or contradictory assertions regarding the same administrative act unless the ombudsman determines that an assignment to one ombudsman assistant may prejudice or disadvantage a complainant, the agency, the interests of the general public, or the conduct of the investigation. (Eff. 3/28/86, Reg. 97)

Authority: AS 24.55.090

ARTICLE 3.
CONCLUDING AN INVESTIGATION

Section

200. **Discontinuing an investigation**
205. **Report of investigation alleging misconduct by agency personnel**
210. **Completed investigations: preliminary report to agency**
220. **Modification of finding or opinion**
230. **Agency response**
240. **Investigation, conclusion, and final report**
250. **Complainant to be informed**

21 AAC 20.200. DISCONTINUING AN INVESTIGATION. (a) The ombudsman will discontinue an investigation, with written notice to the complainant, if, during the course of the investigation

(1) the ombudsman determines that the subject matter of the complaint is not within the jurisdiction of the office under AS 24.55;

(2) the ombudsman determines that disclosure of the complainant's name is necessary to enable the ombudsman to carry out an investigation or to support recommendations, and the complainant refuses to allow disclosure of his or her name;

(3) the ombudsman requests information or record from the complainant and the complainant fails to produce the information or record necessary within the time specified by the ombudsman for its receipt;

(4) the complainant withdraws the complant; or

(5) as a result of preliminary examination of the complaint under 21 AAC 20.105, the ombudsman determines that

(A) the administrative act complained of is not an appropriate subject for investigation under AS 24.55.150;

(B) the information or evidence provided by the complainant provides no specific or credible information to indicate that an investigation is warranted;

(C) there is some evidence of prejudice, harm, or disadvantage to the complainant, but the ombudsman believes that, at the conclusion of investigation of the complaint,

(i) the report of investigation provided under AS 24.55.190 cannot present a recommendation that would provide direct relief or benefit to the complainant; and

(ii) any recommendation that the ombudsman might present in the report of investigation would be without substantial value or significance to improvement of public administration under the law;

(D) the subject matter of the administrative act complained of was recently investigated, the complaint presents no issue not considered in the report of that investigation,

and the ombudsman believes that further investigation would not advance a material interest of the complainant or a significant public interest; or

(E) the ombudsman determines that the resources available to the office are insufficient to commence and maintain the investigation.

(b) The ombudsman will discontinue an investigation, with written notice to the complainant and to the agency, if, during the course of the investigation,

(1) the ombudsman determines that the subject matter of the complaint is excluded from investigation by 21 AAC 20.010(a)(1) – (6);

(2) the complaint relates to a matter that has become the subject of an administrative proceeding, unless the complainant provides specific and credible evidence to the ombudsman sufficient to demonstrate that the agency's conduct of the administrative proceeding is prejudicial, harmful, or disadvantageous to the complainant, and the ombudsman reasonably believes that an investigation and report of findings may correct the prejudice, harm, or disadvantage to the complainant without affecting the substantive content of the agency's decision;

(3) the complaint relates to a matter that becomes the subject of a judicial proceeding; or

(4) the ombudsman loses contact with the complainant.

(c) The ombudsman will, in his or her discretion, discontinue an investigation, with notice to the agency and the complainant, if the agency resolves the complaint by taking corrective action before the ombudsman submits a finding or opinion under AS 24.55.190. (Eff. 9/16/84, Reg. 91; am 3/28/86, Reg. 97)

Authority: AS 24.55.090
AS 24.55.150
AS 24.55.160
Article I, Sec. 22, State Constitution

21 AAC 20.205. REPORT OF INVESTIGATION ALLEGING MISCONDUCT BY AGENCY PERSONNEL. (a) If the ombudsman proposes to conclude the investigation of a complaint that alleges breach of duty or misconduct by an officer or employee of an agency by presenting a finding that is critical of the officer or employee, before issuing the preliminary report the ombudsman will present his or her proposed finding to the agency officer or employee. When presenting the proposed finding, the ombudsman will notify the officer or employee that he or she has a reasonable opportunity to present additional evidence relating to the proposed finding or may otherwise seek modification of the proposed finding. The ombudsman will, in his or her discretion, determine a reasonable deadline for receipt of information from the officer or employee.

(b) Before presenting a preliminary report under AS 24.55.220, the ombudsman will consider any evidence presented or any representation made by the officer or employee under (a) of this section. (Eff. 3/28/86, Reg. 97)

Authority: AS 24.55.090
AS 24.55.180
AS 24.55.220

21 AAC 20.210. COMPLETED INVESTIGATIONS: PRELIMINARY REPORT TO AGENCY. (a) The preliminary report issued under AS 24.55.190(a) must indicate the ombudsman's findings, opinion and recommendations. The ombudsman will report to the appropriate officer or employee and will, in his discretion, report to any other officer or employee that the ombudsman thinks should receive the information.

(b) When presenting a finding or opinion under (a) of this section, the ombudsman will, in his or her discretion, determine that the complaint or an allegation within it is

(1) "justified" if, on the basis of evidence obtained during the investigation, the ombudsman determines or believes the complainant's criticism of the administrative act is valid;

(2) "partially justified" if,

(A) on the basis of evidence obtained during the investigation, the ombudsman determines or believes the complaint is "justified," and further finds that action or inaction by the complainant materially affected the administrative act; or

(B) in a complaint having multiple allegations, the ombudsman finds at least one allegation "justified" or, under (A) of this paragraph, "partially justified," and finds at least one allegation "not supported" or "indeterminate";

(3) "not supported" if, on the basis of evidence obtained during the investigation, the ombudsman determines or believes the complainant's criticism of the administrative act is not valid; or

(4) "indeterminate" if investigation does not provide sufficient evidence for the ombudsman to determine conclusively whether the complainant's criticism of the administrative act is valid or not valid. (Eff. 9/16/84, Reg. 91; am 3/28/86, Reg. 97)

Authority: AS 24.55.090
AS 24.55.180
AS 24.55.190

21 AAC 20.220. MODIFICATION OF FINDING OR OPINION. (a) If, in the preliminary report transmitted to the agency under 21 AAC 20.210, the ombudsman proposes a finding that is critical of the agency, the agency may seek modification of the finding or opinion presented to it within 15 days after the date the preliminary report is presented. The ombudsman will, in his or her discretion, extend the period in which modification of the finding or opinion may be requested by the agency, but each extension will not exceed 30 days.

(b) The ombudsman will notify an agency of the acceptance or rejection of a request for modification proposal directed to his attention under (a) of this section within 15 days after receipt of the agency's proposal. If the ombudsman accepts a request for modification under this subsection, the ombudsman may present a modified recommendation to the agency.

(c) In AS 24.55.180 and this section, a finding or opinion that is critical of an agency includes a finding or opinion that a complaint or allegation is "justified" or "partially justified." (Eff. 9/16/84, Reg. 91; am 3/28/86, Reg. 97)

Authority: AS 24.55.090
AS 24.55.180
AS 24.55.190

21 AAC 20.230. AGENCY RESPONSE. (a) Except as provided by (b) of this section, when the ombudsman presents a recommendation or modified recommendation to an agency under AS 24.55.190(a), the ombudsman will, in his discretion, request the agency to respond to the recommendation or modified recommendation within 30 days after its receipt of the recommendation, advising the ombudsman of its decision to

(1) accept and implement or agree to implement a recommendation; or

(2) reject the recommendation.

(b) When presenting his findings and recommendations, if the ombudsman determines that an early response is reasonably necessary to obtain timely agency review of findings and a recommendation of the investigation of a complaint that is an emergency or of a complaint in which there is an allegation or evidence of serious harm or injury, the ombudsman will, in his discretion, request an agency to respond to the recommendation or modified recommendation presented to the agency on a date sooner than the date specified in (a) of this section. The document presenting the findings and recommendation must specify the date by which an early response is requested.

(c) The ombudsman will, in his discretion, or for good cause shown, extend a period provided for response under this section at the request of the agency. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090

21 AAC 20.240. INVESTIGATION, CONCLUSION, AND FINAL REPORT. (a) When concluding an investigation, the ombudsman will indicate that the subject of the investigation has been "rectified" if the ombudsman determines that, in response to a recommendation or modified recommendation presented to the

agency, the agency has initiated corrective action or commits itself to take corrective action substantially as recommended.

(b) If an agency does not initiate corrective action or does not commit itself to take corrective action substantially as presented in the ombudsman's recommendation or modified recommendation, the ombudsman will, in his or her discretion, after considering any response received from the agency, submit a report of the matter to the chief executive officer of the agency or to the governor, and then make a report to the legislature, to the press, or to the public, as the ombudsman considers appropriate.

(c) The provisions of (b) of this section do not limit the ombudsman from making a report on any investigation to the legislature, the press, or the public, as the ombudsman considers appropriate. (Eff. 9/16/84, Reg. 91; am 3/28/86, Reg. 97)

Authority: AS 24.55.090
AS 24.55.200

21 AAC 20.250. COMPLAINANT TO BE INFORMED. Within 15 days after receipt of an agency's acceptance or rejection of an ombudsman's recommendation or modified recommendation, the ombudsman will notify the complainant of the result of the investigation and of the action taken or proposed to be taken by the agency. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090

ARTICLE 4.
CONFIDENTIAL INFORMATION

Section

300. Disclosure of confidential information
310. Disclosure with written consent
320. Disclosure of information from public sources
330. Disclosure as statistical information
340. Disclosure to agency
350. Assertion of privacy interest by agency
360. Disclosure to the complainant
370. Disclosure to governor, legislature, or grand jury
380. Public disclosure
390. Definitions

21 AAC 20.300. DISCLOSURE OF CONFIDENTIAL INFORMATION. A confidential record provided by an agency or a person to the office of the ombudsman during the course of an ombudsman's investigation may not be disclosed by the office of the ombudsman except as provided in 21 AAC 20.310 – 21 AAC 20.390. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.310. DISCLOSURE WITH WRITTEN CONSENT. The ombudsman will, in his discretion, disclose a confidential record if the ombudsman first obtains the written consent of the person about whom information in the confidential record relates. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.320. DISCLOSURE OF INFORMATION FROM PUBLIC SOURCES. The ombudsman will, in his discretion, disclose a confidential record if the information contained in the record is reasonably obtainable from other public sources without the consent of the person about whom the information relates. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.330. DISCLOSURE AS STATISTICAL INFORMATION. The ombudsman will, in his discretion, disclose information contained in a confidential record as a statistical report if the person about whom the information relates is not identifiable in the statistical report. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.340. DISCLOSURE TO AGENCY. Except as provided in 21 AAC 20.350, the ombudsman will, in his discretion, disclose to an agency a confidential record produced by the agency or a confidential record used by the agency in the conduct of its business in order to enable the ombudsman to present a finding,

opinion, or recommendation made to the agency. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.350. ASSERTION OF PRIVACY INTEREST BY AGENCY. If the ombudsman receives written notice from an agency which has provided a confidential record that it asserts a privacy interest in the record, the ombudsman

(1) will, in his discretion, disclose the record only to the person or persons within the agency having custody of the record; and

(2) will, in his discretion, make any other disclosure of the record only in accordance with 21 AAC 20.380. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.360. DISCLOSURE TO THE COMPLAINANT. The ombudsman may not disclose information in a record to the complainant if federal or state law or regulation prohibits disclosure of the record to the complainant. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.370. DISCLOSURE TO GOVERNOR, LEGISLATURE, OR GRAND JURY. If the ombudsman determines that a confidential record produced by an agency should be disclosed under AS 24.55.200 to the governor, the legislature, or a grand jury in order for the ombudsman to seek review of a finding, opinion or recommendation, the ombudsman will, in his discretion, return the record to the agency that produced it and recommend its disclosure by the agency to the governor, the legislature, or the grand jury, as applicable. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.380. PUBLIC DISCLOSURE. (a) The provisions of this section apply to

(1) disclosure of a confidential record to a person within an agency other than the person having custody of a confidential record if that record has been provided to the ombudsman by the agency and the agency has asserted a privacy interest under 21 AAC 20.350; and

(2) public disclosure under AS 24.55.200 of a confidential record produced by an agency.

(b) Before disclosing a confidential record, the ombudsman will give written notice to the agency having custody of the record and to the person about whom information in the record

relates that the ombudsman intends to disclose the record at the expiration of a 15-day period. The period during which the agency or a person may object can be extended by the ombudsman at the request of the agency or person. In providing notice, the ombudsman will indicate the basis of the decision to disclose the record.

(c) The agency or person to whom notice is given under (b) of this section may object to disclosure of the record by filing with the ombudsman a written objection to the disclosure. The objection filed by the agency or person must identify the portion of the record that the agency or person believes should remain confidential and must state the reasons for the objections to disclosure.

(d) If objection to disclosure has not been filed with the ombudsman in accordance with (c) of this section at the end of 15 days from the date of notice, or of any extension of that period approved by the ombudsman, the ombudsman will, in his discretion, disclose the confidential rec[illegible]d.

(e) If objection to disclosure is filed with the ombudsman in accordance with (c) of this section and if, despite the objection, the ombudsman believes that disclosure of the record is essential to obtain agency acceptance of a finding and implementation of a recommendation in order to correct an action, decision or omission of the agency that was detrimental to the complainant, the ombudsman will give written notice to the agency or to the person or persons making objection under (c) of this section that he intends to disclose the record. In his notice, the ombudsman will

(1) briefly state the reason or reasons for his decision to disclose;

(2) indicate the date on which the ombudsman expects to make public disclosure of the record, not sooner than 15 days from the date of his notice; and

(3) state that the date may be extended only by mutual agreement between the agency or person and the ombudsman.

(f) At any time before expiration of the date on which the ombudsman indicates that he will disclose the document to the public, an agency or a person to whom notice is required to be sent under (e) of this section may apply to the superior court for an order preventing the ombudsman from disclosing the record. In making a determination as to whether the ombudsman may disclose the record

(1) if the record contains both disclosable and confidential information and the confidential information cited by the agency or person objecting to disclosure of the record may be reasonably separated from confidential portions in a manner that will allow meaningful information to be disclosed, the court may determine that the confidential information identified under the authority cited by the agency or person objecting to disclosure of the information or record must be deleted and thereafter may allow the ombudsman to release the disclosable information;

(2) if the record is wholly confidential, or if the record contains both disclosable and confidential information and the confidential information cited by the agency or person objecting to disclosure of the record cannot be reasonably separated from confidential portions in a manner that will allow meaningful information to be disclosed, the court may allow the ombudsman to disclose the record if the court determines that the need for disclosure outweighs the nature and weight of the privacy interest asserted by the agency or person. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.390. DEFINITIONS. In 21 AAC 20.300 — 21 AAC 20.390

(1) "confidential" means a record or information in a record that is nondisclosable under a valid federal or Alaska statute or regulation, or by a privilege, exemption, or principle recognized by the courts, or by an agency protective order authorized by law;

(2) "person" has the same meaning as in AS 01.10.060(7);

(3) "record" means a document, paper, memorandum, book, letter, drawing, map, plat, photo, photographic file, motion picture, film,

microfilm, microphotograph, exhibit, magnetic or paper tape, punched card, or other item of any other material, regardless of physical form or characteristic, developed or received under law or in connection with the transaction of official business by an agency or person, and preserved as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the agency or person or because of the informational value in them; the term also includes staff manuals and instructions to staff that directly or indirectly affect the public. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55 160
Art. I, sec. 22, Alaska Constitution

Chapter 55. Office of the Ombudsman.

Article
1. Organization (§§ 24.55.010 — 24.55.090)
2. Jurisdiction and Initiation of Investigations (§§ 24.55.100 — 24.55.140)
3. Investigations (§§ 24.55.150 — 24.55.170)
4. Procedure and Reports After Investigation (§§ 24.55.180 — 24.55.210)
5. Miscellaneous (§§ 24.55.220 — 24.55.290)
6. General Provisions (§§ 24.55.300 — 24.55.340)

Legislative history reports. — For conference committee letter of intent and analysis of ch. 53, SLA 1975 (FCCS HCS CSSB 1), see 1975 Senate Journal, pp. 601-603.

Article 1. Organization.

Section
10. Office of the ombudsman
20. Appointment of the ombudsman
30. Qualifications; prohibition against political activity
40. Term of office
50. Removal
60. Compensation
70. Staff and delegation
80. Office facilities and administration
90. Procedure

Sec. 24.55.010. Office of the ombudsman. There is created in the legislative branch of the state the office of the ombudsman. (§ 1 ch 32 SLA 1975)

Sec. 24.55.020. Appointment of the ombudsman. (a) A candidate for appointment as the ombudsman shall be nominated by the ombudsman selection committee composed of three members of the senate appointed by the president of the senate and three members of the house of representatives appointed by the speaker of the house. One member of the minority party caucus in each house shall be appointed to the selection committee.

(b) The ombudsman selection committee shall examine persons to serve as ombudsman regarding their qualifications and ability and shall place the name of the person selected in nomination. The appointment is effective if the nomination is approved by a roll call vote of two-thirds of the members of the legislature in joint session and approved by the governor. However, the governor may veto the appointment and return it, with a statement of objections, to the legislature. Upon receipt of a veto message the legislature shall meet immediately in joint session and reconsider approval of the vetoed appointment. The vetoed appointment becomes effective by an affirmative vote of two-thirds of the membership of the legislature in joint session. The vote on the appointment and on reconsideration of a vetoed appointment shall be entered in the journals of both houses.

(c) The appointment of the ombudsman becomes effective if, while the legislature is in session, the governor neither approves nor vetoes it within 15 days, Sundays excepted, after its delivery to the governor. If the legislature is not in session and the governor neither approves nor vetoes the appointment within 20 days, Sundays excepted, after its delivery to the governor, the appointment becomes effective. (§ 1 ch 32 SLA 1975)

Sec. 24.55.030. Qualifications; prohibition against political activity. (a) A person may not serve as ombudsman

(1) within one year of the last day on which the person served as a member of the legislature;

(2) while the person is a candidate for or holds any other national, state, or municipal office; nor may the ombudsman become a candidate for national, state or municipal office until one year has elapsed from the date the ombudsman vacates the office of ombudsman;

(3) while the person is engaged in any other occupation for which the person receives compensation;

(4) unless the person is at least 21 years of age and is a qualified voter who has been a resident of the state for at least three years.

(b) It is essential that the nonpartisan nature, integrity and impartiality of the ombudsman's functions and services be maintained. The ombudsman and members of the staff of the ombudsman may not join, support or otherwise participate in a partisan political organization, faction or activity, including but not limited to the making of political contributions. However, this subsection does not restrict the ombudsman or members of the staff of the ombudsman from expressing private opinion, registering as to party, or voting. (§ 1 ch 32 SLA 1975)

Sec. 24.55.040. Term of office. (a) The term of office of the ombudsman is five years. An ombudsman may be reappointed but may not serve for more than three terms.

(b) If the term of an ombudsman expires without the appointment of a successor under this chapter, the incumbent ombudsman may continue in office until a successor is appointed. If the ombudsman dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the deputy ombudsman becomes acting ombudsman until a new ombudsman is appointed for a full term. (§ 1 ch 32 SLA 1975)

Sec. 24.55.050. Removal. The legislature, by a concurrent resolution adopted by a roll call vote of two-thirds of the members in each house entered in the journal, may remove or suspend the ombudsman from office, but only for neglect of duty, misconduct, or disability. (§ 1 ch 32 SLA 1975)

Sec. 24.55.060. Compensation. The ombudsman is entitled to receive an annual salary equal to that of a superior court judge. (§ 1 ch 32 SLA 1975)

Sec. 24.55.070. Staff and delegation. (a) The ombudsman may appoint a deputy ombudsman. The ombudsman shall also appoint assistants and clerical personnel necessary to carry out the provisions of this chapter.

(b) The ombudsman may delegate to the deputy or assistants any of the ombudsman's duties except those specified in AS 24.55.190 and 24.55.200, however, during the ombudsman's absence from the principal business offices, the ombudsman may delegate the duties specified in AS 24.55.190 and 24.55.200 to the deputy for the duration of the absence. The duties specified in AS 24.55.190 and 24.55.200 shall be performed by the deputy ombudsman when serving as acting ombudsman under AS 24.55.040(b).

(c) The ombudsman and the staff appointed by the ombudsman are in the exempt service under AS 39.25.110. (§ 1 ch 32 SLA 1975)

Sec. 24.55.080. Office facilities and administration. (a) The Alaska Legislative Council shall provide suitable office space and equipment for the ombudsman and staff.

(b) The salary and benefits of the ombudsman and the permanent staff of the ombudsman shall be paid through the same procedures used for payment of the salaries and benefits of other permanent legislative employees.

(c) The ombudsman shall submit a budget for each fiscal year to the finance committees of the legislature and shall annually submit an estimated budget to the governor for information purposes in the preparation of the executive budget. (§ 1 ch 32 SLA 1975)

Sec. 24.55.090. Procedure. The ombudsman shall, by regulations adopted under the Administrative Procedure Act (AS 44.62), establish procedures for receiving and processing complaints, conducting investigations, and reporting findings. However, the ombudsman may not charge fees for the submission or investigation of complaints. (§ 1 ch 32 SLA 1975)

Article 2. Jurisdiction and Initiation of Investigations.

Section		Section	
100.	Jurisdiction	130.	Notice to complainant
110.	Investigation of complaints	140.	Notice to the agency
120.	Investigation on the ombudsman's motion		

Sec. 24.55.100. Jurisdiction. (a) The ombudsman has jurisdiction to investigate the administrative acts of agencies.

(b) The ombudsman may exercise the ombudsman's powers without regard to the finality of an administrative act. (§ 1 ch 32 SLA 1975)

Sec. 24.55.110. Investigation of complaints. The ombudsman shall investigate any complaint that is an appropriate subject for investigation under AS 24.55.150, unless the ombudsman reasonably believes that

(1) there is presently available an adequate remedy for the grievance stated in the complaint;

(2) the complaint relates to a matter that is outside the jurisdiction of the ombudsman;

(3) the complaint relates to an administrative act of which the complainant has had knowledge for an unreasonable length of time before the complaint was submitted;

(4) the complainant does not have a sufficient personal interest in the subject matter of the complaint;

(5) the complaint is trivial or made in bad faith;

(6) the resources of the ombudsman's office are insufficient for adequate investigation. (§ 1 ch 32 SLA 1975)

Sec. 24.55.120. Investigation on the ombudsman's motion. The ombudsman may investigate the administrative act of an agency on the ombudsman's own motion if the ombudsman reasonably believes that it is an appropriate subject for investigation under AS 24.55.150. (§ 1 ch 32 SLA 1975)

Sec. 24.55.130. Notice to complainant. (a) If the ombudsman decides not to investigate a complaint, the ombudsman shall inform the complainant of that decision and shall state the reasons.

(b) If the ombudsman decides to investigate a complaint, the ombudsman shall notify the complainant of the decision. (§ 1 ch 32 SLA 1975)

Sec. 24.55.140. Notice to the agency. If the ombudsman decides to investigate a complaint, the ombudsman shall notify the agency of the intention to investigate unless the ombudsman believes that advance notice will unduly hinder the investigation or make it ineffectual. (§ 1 ch 32 SLA 1975)

Article 3. Investigations.

Section		Section	
150.	Appropriate subjects for investigation	160.	Investigation procedures
		170.	Powers

Sec. 24.55.150. Appropriate subjects for investigation. (a) An appropriate subject for investigation by the ombudsman is an administrative act of an agency which the ombudsman has reason to believe might be

(1) contrary to law;

(2) unreasonable, unfair, oppressive, arbitrary, capricious, an abuse of discretion, or unnecessarily discriminatory, even though in accordance with law;

(3) based on a mistake of fact;

(4) based on improper or irrelevant grounds;

(5) unsupported by an adequate statement of reasons;

(6) performed in an inefficient or discourteous manner; or

(7) otherwise erroneous.

(b) The ombudsman may investigate to find an appropriate remedy. (§ 1 ch 32 SLA 1975)

Sec. 24.55.160. Investigation procedures. (a) In an investigation, the ombudsman may

(1) make inquiries and obtain information considered necessary;

(2) enter without notice to inspect the premises of an agency, but only when agency personnel are present; and

(3) hold private hearings.

(b) The ombudsman shall maintain confidentiality with respect to all matters and the identities of the complainants or witnesses coming before the ombudsman except insofar as disclosures may be necessary to enable the ombudsman to carry out duties and to support recommendations. (§ 1 ch 32 SLA 1975)

Sec. 24.55.170. Powers. (a) Subject to the privileges which wi nesses have in the courts of this state, the ombudsman may

(1) compel by subpoena, at a specified time and place, the appear ance and sworn testimony of a person who the ombudsman reasonabl believes may be able to give information relating to a matter unde investigation; and

(2) compel a person, by subpoena, to produce documents, papers, o objects which the ombudsman reasonably believes may relate to th matter under investigation.

(b) If a person refuses to comply with a subpoena issued under (a) o this section, the superior court may, on application of the ombudsman compel obedience by proceedings for contempt in the same manner as in the case of disobedience to the requirements of a subpoena issued by the court or refusal to testify in the court. (§ 1 ch 32 SLA 1975)

Article 4. Procedure and Reports After Investigation.

Section	Section
180. Consultation with agency	200. Publication of recommendations
190. Procedure after investigation	210. Notice to the complainant

Sec. 24.55.180. Consultation with agency. Before giving an opinion or recommendation which is critical of an agency or person, the ombudsman shall consult with that agency or person. (§ 1 ch 32 SLA 1975)

Sec. 24.55.190. Procedure after investigation. (a) The ombudsman shall report the opinion and recommendations of the ombudsman to an agency if the ombudsman finds, after investigation, that

(1) a matter should be further considered by the agency;

(2) an administrative act should be modified or cancelled;

(3) a statute or regulation on which an administrative act is based should be altered;

(4) reasons should be given for an administrative act;

(5) any other action should be taken by the agency;

(6) there are no grounds for action by the agency; or

(7) the agency's act was arbitrary or capricious, constituted an abuse of discretion, or was otherwise erroneous or not in accordance with the law.

(b) The ombudsman may request the agency to notify the ombudsman, within a specified time, of any action taken on the recommendations. (§ 1 ch 32 SLA 1975)

Sec. 24.55.200. Publication of recommendations. Within a reasonable amount of time after the ombudsman reports the opinion and recommendations to an agency the ombudsman may present the opinion and recommendations to the governor, the legislature, a grand jury, the public or any of these. The ombudsman shall include with the opinion any reply made by the agency. (§ 1 ch 32 SLA 1975)

Sec. 24.55.210. Notice to the complainant. After a reasonable time has elapsed, the ombudsman shall notify the complainant of the actions taken by the ombudsman and by the agency. (§ 1 ch 32 SLA 1975)

Article 5. Miscellaneous.

Section	Section
220. Misconduct by agency personnel	270. Letters to or from ombudsman
230. Annual report	275. Contract procedures
240. Judicial review	280. Time for judicial review of agency action
250. Immunity of the ombudsman	290. Penalty
260. Ombudsman's privilege not to testify	

Sec. 24.55.220. Misconduct by agency personnel. If the ombudsman believes there is a breach of duty or misconduct by an officer or employee of an agency in the conduct of the officer's or employee's official duties, the ombudsman shall refer the matter to the chief executive officer of the agency or, when appropriate, to a grand jury or to another appropriate official or agency. (§ 1 ch 32 SLA 1975)

Sec. 24.55.230. Annual report. The ombudsman shall submit to the legislature and the public an annual report of the ombudsman's activities under this chapter. (§ 1 ch 32 SLA 1975)

Sec. 24.55.240. Judicial review. A proceeding or decision of the ombudsman may be reviewed in superior court only to determine if it is contrary to the provisions of this chapter. (§ 1 ch 32 SLA 1975)

Sec. 24.55.250. Immunity of the ombudsman. A civil action may not be brought against the ombudsman or a member of the ombudsman's staff for anything done, said or omitted in performing the ombudsman's duties or responsibilities under this chapter. (§ 1 ch 32 SLA 1975)

Sec. 24.55.260. Ombudsman's privilege not to testify. The ombudsman and the staff of the ombudsman may not testify in a court regarding matters coming to their attention in the exercise or purported exercise of their official duties except as may be necessary to enforce the provisions of this chapter. (§ 1 ch 32 SLA 1975)

Sec. 24.55.270. Letters to or from ombudsman. A letter to the ombudsman from a person held in custody by an agency shall be forwarded immediately, unopened, to the ombudsman. A letter from the ombudsman to a person held in custody by an agency shall be delivered immediately, unopened, to the person. (§ 1 ch 32 SLA 1975)

Sec. 24.55.275. Contract procedures. The ombudsman shall adopt by regulation procedures consistent with AS 24.23 to be followed by the office of the ombudsman in contracting for services. However, the procedure for requests for proposals does not apply to contracts for investigations under AS 24.55.100. (§ 4 ch 144 SLA 1982)

Sec. 24.55.280. Time for judicial review of agency action. This chapter in no way extends the time limit in which judicial review of agency action must be sought. (§ 1 ch 32 SLA 1975)

Sec. 24.55.290. Penalty. A person who wilfully hinders the lawful actions of the ombudsman or the staff of the ombudsman, or who wilfully refuses to comply with their lawful demands, or who wilfully violates AS 24.55.270, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $1,000. (§ 1 ch 32 SLA 1975)

Article 6. General Provisions.

Section
300. Administrative Procedure Act
310. Conflict of interest
320. Municipalities
330. Definitions
340. Short title

Sec. 24.55.300. Administrative Procedure Act. The administrative acts of the ombudsman are not subject to the provisions of the Administrative Procedure Act (AS 44.62), except as provided in AS 24.55.090. (§ 1 ch 32 SLA 1975)

Sec. 24.55.310. Conflict of interest. The ombudsman, the deputy ombudsman and their professional staff are subject to AS 39.50 (conflict of interest). (§ 1 ch 32 SLA 1975)

Sec. 24.55.320. Municipalities. A municipality may by ordinance elect to become subject to the jurisdiction of the ombudsman appointed under this chapter. If a municipality so elects, it shall notify the ombudsman of that election and shall thereafter be considered an agency for the purposes of this chapter. If a municipality subjects itself to the jurisdiction of the ombudsman, the municipality shall pay its pro rata share of the cost of the operation of the office of the ombudsman based on the number of complaints or the case load emanating from that municipality, as prescribed by the ombudsman. If a municipality elects to remove itself from the jurisdiction of the ombudsman, it shall do so by ordinance, shall notify the ombudsman of that election and shall not thereafter be considered an agency for the purposes of this chapter. (§ 1 ch 32 SLA 1975)

Sec. 24.55.330. Definitions. In this chapter

(1) "administrative act" means an action, omission, decision, recommendation, practice, policy, or procedure of an agency, but does not include the preparation or presentation of legislation or the substantive content of a judicial order, decision or opinion;

(2) "agency" includes a department, office, institution, corporation, authority, organization, commission, committee, council or board of a municipality or in the executive, legislative or judicial branches of the state government, and a department, office, institution, corporation, authority, organization, commission, committee, council or board of a municipality or of the state government independent of the executive, legislative and judicial branches; it also includes an officer, employee or member of an "agency" acting or purporting to act in the exercise of official duties, but does not include the governor, lieutenant governor, a member of the legislature, justice of the supreme court, judge of the court of appeals, a superior court judge, district court judge, magistrate, member of a city council or borough assembly, elected city or borough mayor, or a member of an elected school board;

(3) **[Repealed effective January 1, 1986]** "municipality" means a home rule or general law borough or city including but not limited to a unified municipality organized under AS 29.68. (§ 1 ch 32 SLA 1975; am § 25 ch 12 SLA 1980); am § 88 ch 74 SLA 1985)

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(9) "payment" means the disbursement, distribution, transfer, loan, advance, deposit, gift or other rendering or tendering of money, property, goods or services or anything else of value;

(10) "payment to influence legislative or administrative action" means any of the following:

(A) a direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose, by a person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;

(B) a payment in support of or assistance to a lobbyist or the lobbyist's activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(C) a payment which directly benefits a public official or a member of the immediate family of that official;

(D) a payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with a public official;

(E) a payment for or in connection with soliciting or urging other persons to enter into direct communication with a public official;

(F) a payment or reimbursement for expenses in the categories set out in AS 24.45.051(2);

(11) "person", in addition to the terms set out in AS 01.10.060(7) includes a labor union; and

(12) "public official" or "public officer" means a public official as defined in AS 39.50.200(a); however, it does not include a judicial officer or an elected or appointed municipal officer. (§ 2 ch 167 SLA 1976; am § 39 ch 37 SLA 1986)

Effect of amendments. — The 1986 amendment, effective May 26, 1986, in paragraph (12) substituted "officer" for "office" and deleted "or public office" following "public official."

Chapter 55. Office of the Ombudsman.

Article
5. Miscellaneous (§ 24.55.275)

Article 5. Miscellaneous.

Section
275. Contract procedures

Sec. 24.55.275. Contract procedures [Effective July 1, 1987]. The ombudsman shall adopt by regulation procedures consistent with AS 36.30 to be followed by the office of the ombudsman in contracting for services. However, the procedure for requests for proposals does not apply to contracts for investigations under AS 24.55.100. (§ 4 ch 144 SLA 1982; am § 23 ch 106 SLA 1986)

Effect of amendments. — The 1986 amendment, effective July 1, 1987, substituted "AS 36.30" for "AS 24.23" in the first sentence.

Chapter 60. Standards of Conduct.

Section		Section	
20.	Applicability	130.	Select committee on legislative ethics
40.	Contracts or leases	150.	Duties of the committee
50.	State loans	160.	Advisory opinions
70.	Interests between public officials	170.	Proceedings before the committee
100.	Representation	190.	Definitions
110.	Action on a conflict of interest		

Sec. 24.60.020. Applicability. (a) Except as otherwise provided in this subsection, this chapter applies to a member of the legislature and to a person employed by the legislative branch of government. This chapter does not apply to

(1) a former member of the legislature or to a person formerly employed by the legislative branch of government unless the provision specifically states that it so applies;

(2) a person elected to the legislature who at the time of election is not a member of the legislature;

(3) a person employed by the legislative branch of government whose compensation is below Step A, Range 18 of the state salary schedule established in AS 39.27.011(a);

(4) a person employed privately by a legislator if the person does not perform legislative duties.

(b) The provisions of this chapter specifically supersede the provisions of the common law relating to legislative conflict of interest that may apply to a member of the legislature or a person employed by the legislative branch of government. They do not supersede or repeal provisions of the criminal laws of the state. (§ 1 ch 36 SLA 1984; am §§ 2, 3 ch 113 SLA 1986)

Effect of amendments. — The 1986 amendment, effective June 8, 1986, in subsection (a) in the introductory language substituted "Except as otherwise provided in this subsection, this" for "This" and "and to a person employed by the legislative branch of government" for "and to a permanent or temporary employee of an agency of the legislature," in paragraph (1) substituted "the legislative branch of government" for "a member of the legislature or an agency of the legislature," in paragraph (3) substituted "legislative branch of government" for "legislature or an employee of an agency of the legislature," added paragraph (4) and