



Arizona Ombudsman-Citizens Aide  
Five-Year Review Report

A.A.C. Title 2, Chapter 16, Articles 1 through 5

Submitted to the

**Governor's Regulatory Review  
Council (GRRC)**

2016

# Overview of the Ombudsman's Office

The ombudsman-citizens' aide office is a nine-person, independent office of the legislative branch of Arizona State government.

Its mission is to improve the effectiveness, efficiency, and responsiveness of State government by receiving public complaints, investigating the administrative acts of State agencies and, if warranted, recommending a fair and appropriate remedy.

The Ombudsman is an independent and impartial official to whom people can go with grievances about state agencies. The Ombudsman will listen to a citizen's complaint and look into it. If the complaint is justified, the office will help the citizen resolve it through both formal and informal methods.

The Ombudsman has no authority to reverse administrative decisions or to issue orders, but can investigate, make recommendations, and report results to the Governor, Legislature, and public. The office derives its influence from the fact that the Ombudsman is appointed by, and reports directly to, the State Legislature.

The Ombudsman is not a public advocate. Instead, the office is an impartial, independent investigator of complaints. By examining complaints dispassionately and making findings and recommendations free of political bias and influence, the office has earned a reputation for integrity and objectivity.

The Ombudsman will not investigate a complaint until after the complainant has exhausted reasonable avenues of relief within the agency. However, the office helps citizens use existing programs more effectively by providing information and advice and by referring them to the correct administrator who can address the problem.

The office does not replace existing complaint resolution systems. Rather, it supplements those systems by checking to ensure they work effectively and by providing an alternate avenue to resolve those disputes that don't fit existing processes.

## **Information that is Identical**

Title 2, Chapter 16, All Articles

1. General Statute Authorizing the Rules:

A.R.S. § 41-1376(A)(3) requires the office to adopt rules to ensure that confidential information that the office gathers will not be disclosed to unauthorized individuals. Article 2 contains the rules that fulfill this requirement.

A.R.S. § 41-1376(A)(5) requires the office to adopt rules that “establish procedures for receiving and processing complaints, including guidelines to ensure each complainant has exhausted all reasonable alternatives within the agency, conducting investigations, incorporating agency responses into recommendations and reporting findings.” Articles 1, 3, 4, and 5 contain the rules that fulfill this requirement.

3. Effectiveness of the Rules in Achieving Their Objectives:

The rules effectively achieve their objective.

4. Consistency of the Rules with State and Federal Statutes and Rules:

These rules are consistent with federal statutes and rules concerning confidentiality of personal information. There are no other federal statutes or rules with which the office’s rules must be consistent.

The rules are consistent with state statutes and rules.

5. Enforcement of the Rules:

All of the rules are being enforced and there are no issues with enforcement.

6. Clarity, Conciseness, and Understandability:

All of the rules are clear, concise and understandable.

7. Written Criticisms:

The office has not received any written criticisms regarding the rules during the last five years.

8. Economic, Small Business, and Consumer Impact:

The economic impact of the rules has not differed from the projected economic impact statement submitted for the June 4, 2006 rulemaking, which significantly revised the entire chapter, or the 2011 rulemaking, which reiterated the 2006 economic impact statement.

9. Comparison of Impact in Arizona to Other States:

The office has not received an analysis from a person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states.

10. Completion of Proposed Action in the Last Five Year Review Report:

No action was proposed in the last five-year-review report.

11. Determination that the Rule Imposes the Least Burden and Costs:

The rules impose the least burden and costs to persons regulated by the rule. All required communication is the minimum required for the office to perform an effective investigation. The benefits of each rule outweigh the probable costs because the rules clarify how the office fulfills its statutory mandates and meets its statutory requirements but adds little additional cost to our office or the agencies over which we have jurisdiction.

12. Analysis of stringency compared to federal laws

The rules are not related to federal laws.

13. For rules adopted after July 29, 2010 that require the issuance of a regulatory

permit, license, or agency authorization, whether the rule complies with section 41-1037.

The rules were adopted before July 29, 2010 and do not establish licensing, certification, or permit requirements

14. Proposed Course of Action:

The office has no proposed action.

### **Analysis of Individual Rules**

R2-16-101. Definitions

2. Objective:

This rule defines the terms used throughout Title 2, Chapter 16.

R2-16-201. Protecting the Identity of a Complainant or Witness

2. Objective:

This rule clarifies the prohibition contained in A.R.S. § 41-1378(F) that the office shall not release identifying information about a person making a complaint.

R2-16-203. Requirement to Close Case Before Violating Confidentiality

2. Objective:

This rule establishes a procedure for handling situations when a complainant has requested confidentiality and an investigation reaches a point when the office cannot proceed any further without revealing the complainant's identity.

R2-16-205. Protecting Confidential Agency Information

2. Objective;

This rule informs agencies and the public how the office will accomplish the requirements of A.R.S. § 41-1378(F) and protect confidential information received from a state agency.

R2-16-208. Returning a Confidential Document to a Complainant

2. Objective:

This rule assures a complainant that the office will not provide a confidential document that the office receives from the complainant to anyone else. It also informs complainants that the office will only return documents that the complainant is lawfully entitled to.

R2-16-209. Prohibition Against Discussing Open Complaint Investigations

2. Objective:

This rule informs the public that the office will not discuss open complaint investigations.

R2-16-210. Summaries of Closed Cases

2. Objective:

This rule establishes procedures for providing summaries of closed cases and screening those summaries to prevent the disclosure of confidential information..

R2-16-301. Exhausting Reasonable Alternatives within the Agency

2. Objective:

This rule informs the public how the office ensures that complainants have exhausted reasonable alternatives before intervening, as required by A.R.S. § 41-1376(A)(5).

R2-16-302. Inmate Complaints

2. Objective:

This rule informs the public that the office does not accept complaints from persons in the custody of the department of corrections. It also says that the office does not accept complaints on behalf of inmates.

R2-16-303. Resolution without Investigation

2. Objective:

This rule informs state agencies and the public that the office will resolve a complaint by mutual agreement instead of conducting a full investigation, when appropriate.

R2-16-304. Anonymous Complaints

2. Objective:

This rule establishes criteria for the office to use when deciding whether to accept an anonymous complaint.

R2-16-305. Filing Complaints

2. Objective:

This rule establishes procedures for submitting a complaint against a State agency or an employee.

R2-16-306. Complaints Alleging Employee Misconduct

2. Objective:

This rule establishes Due Process procedures for complaints alleging individual misconduct.

R2-16-401. Notice

2. Objective:



This rule establishes procedures for prior notification to agencies when the office exercises rights of access to records and staff. This rule also informs agencies of the timeframe to respond to these requests.

#### R2-16-403. Closing Cases

2. Objective:

This rule establishes criteria the office will use when deciding whether to close a case.

#### R2-16-404. Findings

2. Objective:

This rule specifies the four findings the office may use in an investigative report.

#### R2-16-405. Recommendations

2. Objective:

This rule informs state agencies and the public of how the office will fulfill the requirement contained in A.R.S. § 41-1376(B) to make recommendations to agencies.

#### R2-16-501. Preliminary Report

2. Objective:

This rule establishes procedures for incorporating agency responses into findings and recommendations.

#### R2-16-502. Final Report

2. Objective:

This rule prescribes the process the office and agencies will follow to produce a final report from a preliminary report.

R2-16-503. Advising the Complainant

2. Objective:

This rule informs citizens how the office will fulfill the statutory requirement contained in A.R.S. § 41-1379(D) to notify a complainant of the results of an investigation.