

Notice Number 2023-172

Rule Number Rko 100 and Rko 200

1. Agency Name & Address:

**Office of the Right-to-Know Ombudsman
Room 313, State House Annex
25 Capital Street
Concord, NH 03301**

2. RSA Authority: RSA 91-A: 7-d

3. Federal Authority: NA

4. Type of Action:

Adoption X

Repeal _____

Readoption _____

Readoption w/amendment _____

5. Short Title: **Organizational and Procedural Rules**

6. (a) Summary of what the rule says and of any proposed amendments:

As required by RSA 541-A:16 and RSA 91-A: 7-d, these rules adopt the organizational and procedural rules of the Office of the Right-to-Know Ombudsman, a single-person agency first staffed on January 27, 2023, which is presently set to expire on July 1, 2025. See Laws 2022, Ch. 250: 6,7. These rules implement the existing provisions of RSA 541-A as they relate to the conduct of adjudicative and pre-adjudicative proceedings in contested cases brought before the executive branch. They further establish the Office of the Right-to-Know Ombudsman's general methods of operation, address requests for information to the agency, retention of records, the disposition of cases in the event of termination of the office (or in the case of the death or disability of the Ombudsman), explain how rulemaking is conducted or requested, address declaratory rulings, and specify how explanations of adopted rules and waiver of rules may be requested.

6. (b) Brief description of the groups affected:

These proposed rules would affect:

- **The Right-to-Know Ombudsman himself;**
- **Persons who wish to pursue a claim for an alleged violation of RSA 91-A through the Office of the Right-to-Know Ombudsman, rather than through the New Hampshire Superior Court;**
- **Governmental units (including but not limited to municipalities and the state itself) against which a claimant chooses to pursue a claim under RSA 91-A: 7-b; and**
- **Witnesses, party representatives, and others appearing or involved in proceedings before the Office of the Right-to-Know Ombudsman, including hearings, pre-adjudicative and adjudicative proceedings, public comment hearings, requests for declaratory rulings, inquiries to the Office of the Right-to-Know Ombudsman, and requests for explanations of adopted rules.**

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Statute
Rko 101.01	RSA 541-A: 7
Rko 102.01	RSA 91-A: 7-b; RSA 541-A: 16, I(a)
Rko 102.02	RSA 541-A: 16, I(a)
Rko 102.03	RSA 541-A: 16, I(a)

Rule	Statute
Rko 102.04	RSA 541-A: 16, I(a), (b)
Rko 103.01	RSA 541-A: 16, I(a), (b); RSA 91-A
Rko 103.02	RSA 541-A: 16, I(a); RSA 91-A
Rko 201.01	RSA 541-A: 16, I(a)
Rko 201.02	RSA 541-A: 16, I(a)
Rko 201.03	RSA 541-A: 16, I(a)
Rko 201.04	RSA 541-A: 16, I(a)
Rko 201.05	RSA 541-A: 16, I(a), (b); RSA 541-A: 30-a, III(j)
Rko 202.01	RSA 541-A: 16, I(a)
Rko 202.02	RSA 311:7; RSA 541-A: 16, I(a)
Rko 202.03	RSA 541-A: 16, I(b); RSA 91-A: 7-a, I; RSA 541-A:36
Rko 202.04	RSA 541-A: 16, I(b)
Rko 202.05	RSA 541-A: 16, I(a), (b)
Rko 203.01	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b, I; RSA 541-A: 30-a, III(a)
Rko 203.02	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b, I
Rko 203.03	RSA 541-A: 16, I(a), (b); RSA 91-A: 7 II, VI; RSA 541-A: 30-a, III(a)
Rko 203.04	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b, I
Rko 203.05	RSA 541-A: 16, I(a), (b);
Rko 203.06	RSA 541-A: 16, I(a), (b)
Rko 203.06 (c)	RSA 510:10; RSA 541-A: 16, I(a), (b)
Rko 203.07	RSA 91-A: 7-b, II; RSA 541-A: 16, I(a), (b); RSA 541-A: 1, VII-a, XV; RSA 541-A:19-b
Rko 203.08	RSA 91-A: 7-b, IV; RSA 541-A: 16, I(a), (b)
Rko 203.09	RSA 91-A: 7-b, IV; RSA 91-A: 8, I; RSA 541-A: 16, I(a), (b)
Rko 204.01	RSA 541-A: 16, I(a), (b)
Rko 204.02	RSA 541-A: 16, I(a), (b); RSA 541-A: 29, II; RSA 91-A: 7-b, I
Rko 204.03	RSA 541-A: 16, I(a), (b); RSA 541-A: 29, II; RSA 91-A: 7-b, I
Rko 205.01	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b, IV(b); RSA 541-A: 30-a, III(f)
Rko 206.01	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b; RSA 541-A: 30-a, III(a)
Rko 206.02	RSA 541-A: 16, I(a), (b); RSA 541-A: 30-a, III(a)
Rko 206.03	RSA 541-A: 16, I(a), (b); RSA 541-A: 30-a, III(a)
Rko 207.01	RSA 541-A: 16, I(a); RSA 541-A: 30-a, III(b)
Rko 207.02	RSA 541-A: 16, I(a), (b); RSA 541-A: 1, VII-a, XV; RSA 541-A:19-b; RSA 541-A: 30-a, III(b)
Rko 207.03	RSA 541-A: 16, I(a), (b); RSA 541-A: 30-a, III(b)
Rko 207.04	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b, IV; RSA 541-A: 30-a, III(b)
Rko 207.05	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b, IV; RSA 541-A: 30-a, III(b)
Rko 207.06	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b, IV; RSA 541-A: 30-a, III(b)
Rko 207.07	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b, IV; RSA 541-A: 30-a, III(b)
Rko 207.08	RSA 541-A: 16, I(a), (b); RSA 541-A: 30-a, III(b)
Rko 208.01	RSA 541-A: 16, I(a), (b); RSA 541-A: 30-a, III(a)
Rko 208.02	RSA 541-A: 16, I(a), (b); RSA 541-A: 30-a, III(a), (h)
Rko 208.03	RSA 541-A: 16, I(a), (b); RSA 541-A: 30-a, III(a); RSA 91-A: 7-b, V
Rko 208.04	RSA 541-A: 16, I(a), (b); RSA 541-A: 30-a, III(a); RSA 91-A:7-b, V
Rko 208.05	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b, III(b); RSA 541-A: 30-a, III(a)
Rko 208.06	RSA 541-A: 16, I(a), (b); RSA 541-A: 30-a, III(a), (j)
Rko 209.01	RSA 541-A: 16, I(a), (b); RSA 541-A: 29; RSA 91-A: 7-b, II
Rko 209.02	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b, I
Rko 209.03	RSA 541-A: 16, I(a), (b)

Rule	Statute
Rko 210.01	RSA 541-A: 31; RSA 91-A: 7-b, III(c); RSA 541-A
Rko 211.01	RSA 541-A: 16, I(a), (b); RSA 91-A:1; RSA 541-A: 30-a, III(c)
Rko 211.02	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b, III(b); RSA 541-A: 30-a, III(c)
Rko 211.03	RSA 91-A:1; RSA 541-A: 30-a, III(c)
Rko 211.04	RSA 541-A: 31(c); RSA 541-A: 16, I(a), (b); RSA 541-A: 30-a, III(c); RSA 91-A:7-c, III; RSA 541-A:31, V (d)
Rko 211.05	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-b, IV
Rko 212.01	RSA 91-A: 1; RSA 541-A: 16, I(a), (b)
Rko 212.02	RSA 91-A: 1; RSA 541-A: 16, I(a), (b)
Rko 212.03	RSA 541-A: 16, I(a), (b); RSA 541-A: 1, XIV
Rko 212.04	RSA 541-A: 30-a, III(k)
Rko 212.05	RSA 541-A: 16, I(a), (b); RSA 541-A: 33, I
Rko 212.06	RSA 541-A: 16, I(a), (b)
Rko 213.01	RSA 541-A: 31, I; RSA 541-A: 29; RSA 541-A: 1, I, IV
Rko 213.02	RSA 541-A: 30-a, III(d), (e)
Rko 213.03	RSA 541-A: 33, II
Rko 213.04	RSA 541-A: 30-a, III(c)
Rko 213.05	RSA 541-A:31, IV; RSA 541-A:16, I(a); RSA 541-A:33, I
Rko 213.06	RSA 541-A: 30-a, III(c)
Rko 213.07	RSA 541-A: 30-a, III(c); RSA 541-A: 16, I(a), (b)
Rko 213.08	RSA 541-A:35; RSA 541-A: 16, I(a), (b)
Rko 213.09	RSA 91-A:7-b, IV; RSA 541-A 16, I(a), (b)
Rko 214.01	RSA 541-A: 30-a, III(i); RSA 541-A:16, I(a), (b)
Rko 214.02	RSA 541-A: 30-a, III(i)
Rko 214.03	RSA 541-A: 30-a, III(i)
Rko 214.04	RSA 541-A: 35
Rko 214.05	RSA 91-A: 7-b, V
Rko 214.06	RSA 541-A: 30-a, III(i); RSA 541: 3-5
Rko 214.07	RSA 541-A: 30-a, III(i); RSA 541: 3-5
Rko 214.08	RSA 541-A: 16, I(b)
Rko 214.09	RSA 91-A:7-c
Rko 215.01	RSA 541-A: 16, I(a), (b)
Rko 216.01	RSA 541-A:32
Rko 216.02	RSA 541-A:32
Rko 216.03	RSA 541-A: 16, I(a); RSA 541-A:30-a, III(g)
Rko 217.01	RSA 541-A: 38; RSA 541-A: 16, I(a), (b)
Rko 217.02	RSA 91-A: 7-b, III(b); RSA 541-A: 16, I(a), (b)
Rko 218.01	RSA 5:40; 541-A: 30-a, III(l), VII
Rko 218.02	RSA 541-A: 16, I(a), (b); Laws 2022, Ch. 250:6, 7; RSA 91-A: 7-c
Rko 218.03	RSA 541-A: 16, I(a), (b); RSA 91-A: 7-a
Rko 219	RSA 541-A: 16, I(b), (3); RSA 541-A: 16, I(c)
Rko 220	RSA 541-A: 16, I(b), (3); RSA 541-A: 16, I(c)
Rko 221	RSA 541-A: 16, I(d)
Rko 222	RSA 541-A: 11, VII; RSA 541-A: 16, II(a)
Rko 223	RSA 541-A: 30-a, III(j); RSA 541-A: 16, I(a), (b); RSA 541-A: 22, IV

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Thomas F. Kehr** Title: **Right-to-Know Ombudsman**
Address: **Room 313, State House Annex** Phone #: **(603) 271-3277**
25 Capital St. Fax#: **(603) 271-6316**
Concord, NH 03301 E-mail: **Thomas.kehr@sos.nh.gov**
TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Wednesday, September 13, 2023, 4:30 PM**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, September 6, 2023, 1:00 PM**
Place: **Room 405, State House Annex**
25 Capital St.
Concord, NH 03301

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant):

FIS # 23:178, dated 8/02/2023

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable as these are new rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

There is no cost or benefit attributable to the proposed rules. The \$25 filing fee is attributable to RSA 91-A:7-b,I.

A. To State general or State special funds:

None

B. To State citizens and political subdivisions:

None

C. To independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

These rules implement the provisions of Laws 2022, Ch. 250, which establishes the existence of the Office of the Right-to-Know Ombudsman as a simpler and less expensive alternative to the Superior Court. Whether to pursue a claim against a political subdivision for an alleged violation of RSA 91-A in this new forum, or instead pursue it in the Superior Court, is within the control of the person making such a claim. These proposed rules do not mandate or assign any new, expanded, or modified programs or responsibilities to any political subdivisions in such a way as to necessitate additional local expenditures by political subdivisions.