

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [ 4 PA. CODE CH. 9 ]

#### **Reorganization of the Pennsylvania Emergency Management Agency**

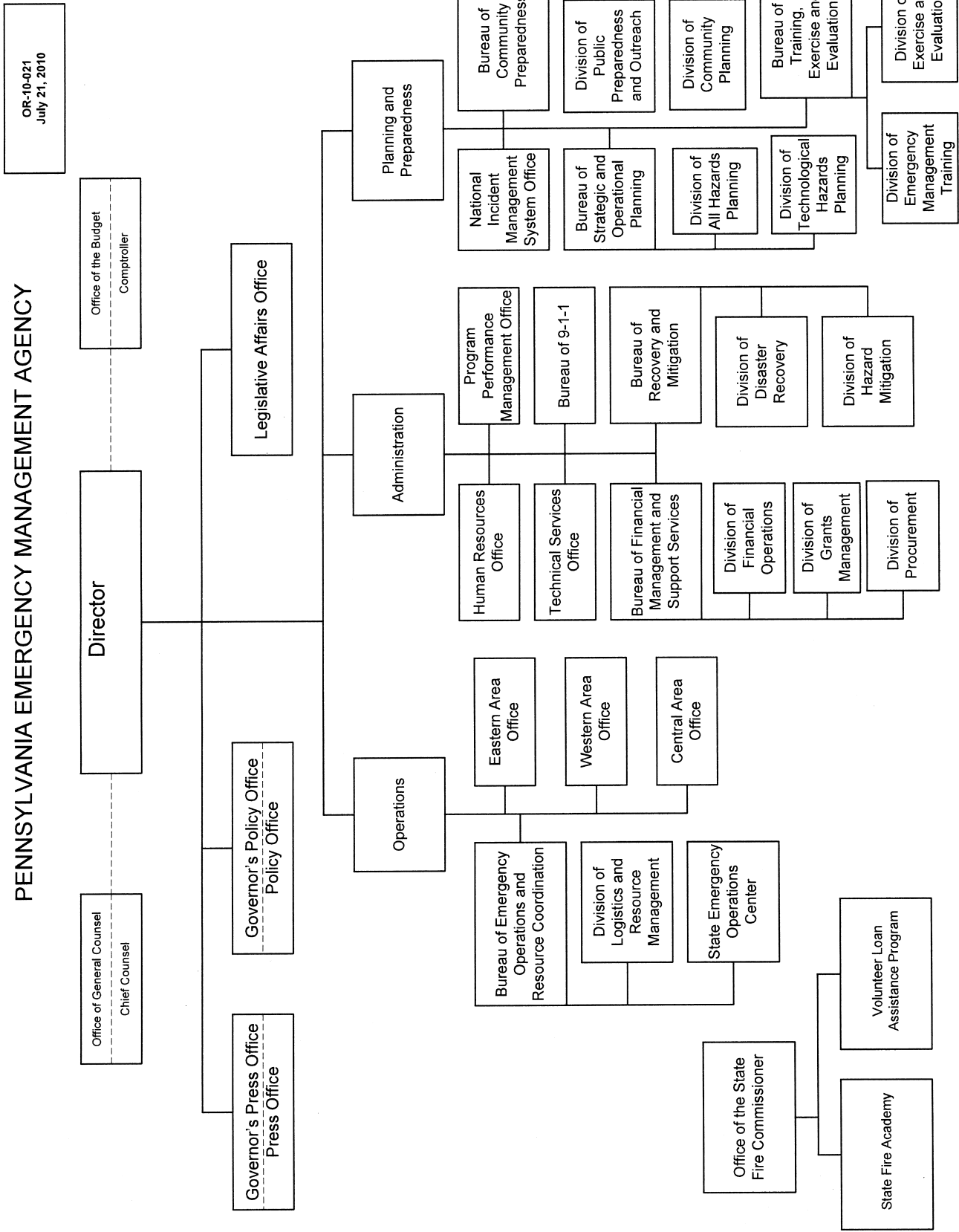
The Executive Board approved a reorganization of the Pennsylvania Emergency Management Agency effective July 21, 2010.

The organization chart at 40 Pa.B. 4395 (August 7, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

*(Editors Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 10-1433. Filed for public inspection August 6, 2010, 9:00 a.m.]

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**DEPARTMENT OF STATE**  
**[ 4 PA. CODE CH. 165 ]**  
**Notaries Public; Incompatible Crimes**

The Secretary of the Commonwealth adds a statement of policy in § 165.1 to read as set forth in Annex A. This statement of policy establishes the policy and application review process of certain applications for appointment to the office of notary public under section 5 of The Notary Public Law (act) (57 P. S. § 151) regarding application to become a notary public. Section 5(b)(1) of the act requires that an applicant may not have been convicted of or pled guilty or nolo contendere to a felony or a lesser offense incompatible with the duties of a notary public during the 5-year period preceding the date of the application.

The purpose of this statement of policy is to provide notice of those misdemeanor crimes which the Secretary considers to be incompatible with the duties of a notary public.

This statement of policy is not intended to circumscribe administrative discretion given to the Secretary under any law, rule or regulation to appoint and commission notaries public. Other applicable laws include 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies). Other applicable sections are section 5(b) of the act and section 22(a) of the act (57 P. S. § 168(a)), which permit the Secretary to reject an application for appointment "for good cause." Applicants must furthermore be "of good character, integrity and ability" under section 3(a) of the act (57 P. S. § 149(a)) to be eligible for the office of notary public. The Secretary must "be satisfied that the applicant is of good moral character" under section 5(b) of the act before issuing a commission. Therefore, while a crime may not directly preclude an applicant from appointment and commission under section 5(b)(1) of the act, conviction of a crime or a lengthy criminal history may nonetheless call into question an applicant's moral character or integrity and thus be good cause for rejection of the application.

Specific questions regarding this statement of policy should be directed to Travis Blouch, Chief, Division of Legislation and Notaries, Bureau of Commissions, Elections and Legislation, Department of State, 210 North Office Building, Harrisburg, PA 17120-0029, (717) 787-5280.

This statement of policy is effective upon publication in the *Pennsylvania Bulletin*.

BASIL L. MERENDA,  
*Acting Secretary*

*(Editor's Note:* Title 4 of the Pa. Code is amended by adding a statement of policy in § 165.1 to read as set forth in Annex A.)

**Fiscal Note:** 16-51. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 4. ADMINISTRATION**  
**PART VIII. BUREAU OF COMMISSIONS,**  
**ELECTIONS AND LEGISLATION**  
**Subpart C. COMMISSIONS**  
**CHAPTER 165. NOTARIES PUBLIC**

Sec.  
 165.1 Statement of policy—lesser offenses incompatible with the duties of a notary public.

**§ 165.1 Lesser offenses incompatible with the duties of a notary public Statement of Policy.**

(a) The Secretary of the Commonwealth reviews applications for appointment to the office of notary public under section 5 of The Notary Public Law (act) (57 P. S. § 151). Section 5(b)(1) of the act requires that the applicant may not have been convicted of or pled guilty or nolo contendere to a felony or a lesser offense incompatible with the duties of a notary public during the 5-year period preceding the date of the application.

(b) Misdemeanor crimes involving a lack of honesty or elements of falsehood and fraud (*crimen falsi*) are considered incompatible with the duties of a notary public, regardless of the jurisdiction in which crimes were committed.

(c) Under Pennsylvania law, misdemeanors include, but are not limited to, the following:

(1) Forgery and fraudulent practices which includes bad checks, insurance fraud and identity theft. See 18 Pa.C.S. Chapter 41 (relating to forgery and fraudulent practices).

(2) Theft which includes receiving stolen property and retail theft. See 18 Pa.C.S. Chapter 39 (relating to theft and related offenses).

(3) Criminal conspiracy if the underlying crime is incompatible. See 18 Pa.C.S. § 903 (relating to criminal conspiracy).

(4) Bribery. See 18 Pa.C.S. § 4701 (relating to bribery in official and political matters).

(5) Perjury or falsification in official matter which includes false swearing, unsworn falsification to authorities and tampering with evidence. See 18 Pa.C.S. Chapter 49, Subchapter A (relating to perjury and falsification in official matters).

(6) Obstructing governmental operations. See 18 Pa.C.S. Chapter 51, Subchapter A (relating to definition of offenses generally).

(d) The Secretary will consider all similar crimes committed in the courts of the United States or any other state, territory, possession or country to be incompatible with the duties of a notary public.

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