

SECRETARY OF STATE

STATE OF INDIANA

200 W. WASHINGTON STREET, INDIANAPOLIS, IN 46204

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ADMINISTRATIVE PROCEDURES FOR INVESTIGATING NOTARY PUBLIC MISCONDUCT, APPLICATION DENIAL, AND COMMISSION REVOCATION

General

This policy establishes the administrative procedures for investigating notary public misconduct and provides the mechanisms for submitting complaints to the Office of the Indiana Secretary of State. Once the Secretary of State's Business Services Division (Division) is notified that an individual has notarized documents without a notary commission or that a notary public has committed a prohibited act or used their notary commission inappropriately, as outlined in the administrative rules and under the National Notary Association's Code of Conduct, the Division may investigate the complaint and may revoke or deny a commission. Additionally, this policy contemplates the steps the Division should take if notified that an individual is no longer qualified to serve as a notary public. Finally, this policy establishes the administrative procedures for application denial and commission revocation.

Relevant Law

Indiana Code § 4-21.5

Indiana Code § 33-42-12(1)-(3)

Indiana Code § 33-42-13-1

Indiana Code § 33-42-13-3

Division Procedures for Investigating Notary Public Misconduct

Complaints must be submitted to the Division by completing the designated form on INBiz (insert URL when available). Once received, the Division will contact the complainant by e-mail or phone to notify them of receipt and request they provide all relevant documents, if not already submitted.

The Division may investigate complaints to determine if the notary public committed a prohibited act under Ind. Code § 33-42-13-3 or if the individual notarized documents without holding a notary commission. After investigation, if the Division finds the notary public has not committed a prohibited act, the Division will notify the complainant by mailing or emailing a non-action letter.

If the Division finds merit to the complaint, the Division will issue a show cause letter and, if necessary, request a formal interview with the notary public. After further investigation, if the Division finds that the notary public has violated Ind. Code § 33-42-13-3, the Division will determine what action to take against the notary public's commission, consistent with the violation. The Division may deny, revoke, suspend, or impose conditions upon the notary public's commission or refuse renewal, under Ind. Code § 33-42-13-1.

If the Division finds merit to the complaint and the individual does not hold a valid notary commission, the Division will issue a Cease and Desist letter to the individual and may refer the complaint to the Office of the Attorney General or other appropriate law enforcement agency. Additionally, the Division may send the complaint to the Indiana Supreme Court Disciplinary Commission if the individual is an attorney or is under the supervision of an attorney. Under Ind. Code § 33-42-13-1, the Division may deny the individual future notary public commission applications.

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Division Procedures for Notification of Failure to Maintain Qualifications to be a Notary Public

Notaries public must maintain the qualification requirements set forth by Ind. Code § 33-42-12 throughout the duration of their commission. If the Division receives notice and confirms that a notary public has not maintained the requirements or did not meet the requirements at the time of application, the notary public's commission will be suspended and the notary public will be sent a Cease and Desist letter, indicating that they must provide proof of bond or cure of other deficiency within ten (10) business days. If the Division does not receive an updated bond or if other deficiencies are not cured, the Division will revoke the notary public's commission.

Division Procedures for Denial or Revocation

If a notary public violates Ind. Code § 33-42-13-1 and the Division denies or revokes a commission, the applicant or notary (Respondent) is entitled to timely notice under Ind. Code § 4-21.5, Administrative Order and Procedures Act. The Division will notify the Respondent of the denial or revocation by e-mail (application denial) or mail (revocation). The Respondent may dispute the denial or revocation by sending the Division a request for a hearing within thirty (30) days of the date listed on the notification email or letter.

After a request for a hearing has been received, the Division will send the Respondent a confirmation letter acknowledging receipt and explaining that the matter will be assigned to an Administrative Law Judge (ALJ). The ALJ will issue an order setting the hearing date, time, and location, and will send a copy to the Respondent and the Division.

The hearing will be recorded and sent to Rev.com using the "bill us" feature to create a transcript of the hearing. During the hearing, the Division will present evidence and the Respondent or Respondent's counsel may present evidence on behalf of the Respondent. The ALJ will issue an order within ninety (90) days of the hearing. The final order will be subject to judicial review upon appeal. The appeal must be submitted within thirty (30) days of the ALJ order.

***Disclaimer:** This document shall be used in conjunction with applicable rules and laws. It does not replace or add to applicable rules and laws, and if it conflicts with these rules or laws, the rules and laws shall control.*

Revision History

1. July 19, 2021; Initial Release