

## NOTARY COMMISSION INVESTIGATION PROCESS

### Secretary of State Review of Complaint

1. The secretary of state's office (SOS) reviews complaint to ensure it contains all required information. The secretary of state enters the information into the complaint log maintained by the SOS.
2. The SOS confirms receipt of the complaint to the complainant.
3. An initial review is completed and following action taken if applicable:
  - a. Notice of No Authority: SOS notifies complainant that notary public no longer holds a notary commission and no investigation will occur. This letter applies if the notary public's commission has expired or notary has resigned.
  - b. Notice of No Authority: SOS notifies complainant that the complaint does not allege a violation of a notary public law or administrative rule.
4. If it is determined that an investigation is appropriate, then the SOS sends a copy of the complaint to the Notary Commission Investigators.
5. Upon assigning the complaint to an investigator, the SOS sends a letter to the notary public. This letter informs the notary public of the investigation and provides the investigator's name.

### Investigation

1. Upon receipt of complaint, an Investigator conducts discovery. The investigator may request evidence such as a copy of the notary public's journal entry from the relevant notarial act(s), a written response to the allegation from the notary public and may interview the notary public and other witnesses to the notarial act.
2. Investigator reviews all evidence gathered and reviews the relevant sections of the Ohio Revised Code to make a determination.
3. Investigator sends determination letter to the SOS. The letter must state the following information: (1) the name and contact information for the complainant; (2) the allegation(s) filed; (3) a description of the notary public's response, if one was given; (4) a description of the notary public's obligations under law and by administrative rule; (5) and a

recommendation for appropriate discipline, if discipline is recommended. The discipline may be by one of the following: (1) no action; (2) letter of admonition; (3) suspension; or (4) revocation. The investigator must attach all evidence to the determination letter.

4. Investigator sends a copy of the determination letter to the complainant and the notary public named in the complaint.

### **Secretary of State Response Following Investigation**

1. The SOS conducts a timely review the letter of determination.

2. If the SOS determines a violation of law or rule occurred and action is appropriate, the SOS must send a written notice of determination to the complainant and the notary public named in the complaint stating the violation of law or rule and discipline. In due course, the SOS sends a letter to the complainant and the notary public named in the complaint if no discipline is issued.

### **Appeal Process**

1. Upon receipt of the letter of determination from the Secretary of State, the notary public (respondent) has 14 days to request a hearing from the SOS.

2. The respondent sends the request to the SOS and director of business services of the SOS.

3. The SOS schedules a hearing within 15 days after receiving the request for a hearing and notifies respondent of such date.

4. The SOS appoints a hearing officer. The hearing officer must be admitted to the practice of law in Ohio and be knowledgeable of Ohio notary laws.

5. Following the hearing, the hearing officer must issue a report and recommendation to the SOS within 14 days. The hearing officer must send a copy of the report to the respondent or his or her counsel.

6. The respondent may file written objections to the hearing officer's report within 10 days of receipt of the report.

7. The SOS must render a decision within 20 days after the receipt of the hearing officer's report. The SOS sends a response to the respondent or his or her counsel by certified mail.

8. If no hearing was requested, then the SOS may take the following action: (1) revoke the notary public's commission; (2) suspend the notary public's commission for a specified period

of time or until fulfillment of a condition, such as retraining or both; or (3) issue a letter of admonition to the notary public that must be placed in the notary public's record.

9. The respondent may appeal an adverse decision of the SOS under section 119.12 of the Revised Code.