

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

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

#### Reorganization of the Department of Education

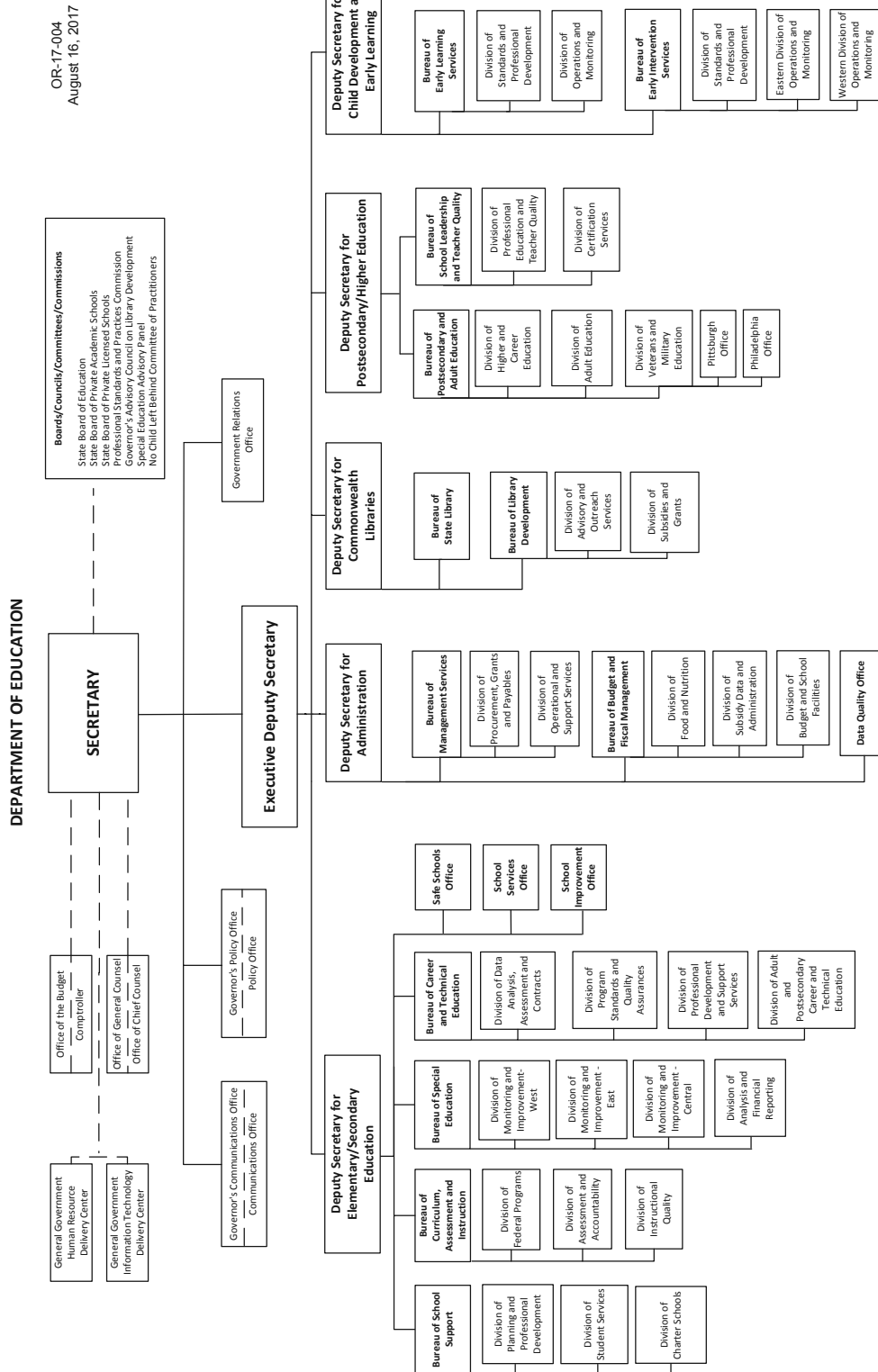
The Executive Board approved a reorganization of the Department of Education effective August 16, 2017.

The organization chart at 47 Pa.B. 5229 (September 2, 2017) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

*(Editor's 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. 17-1447. Filed for public inspection September 1, 2017, 9:00 a.m.]

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# Title 7—AGRICULTURE

## DEPARTMENT OF AGRICULTURE

[ 7 PA. CODE CH. 28b ]

### Commercial Kennel Exercise of Nursing Mothers

The Department of Agriculture (Department) rescinds Chapter 28b to read as set forth in Annex A.

#### *Authority*

This statement of policy is rescinded under section 901 of the Dog Law (act) (3 P.S. § 459-901).

#### *Description*

Chapter 28b applied to Department-licensed “commercial kennels,” a term defined in section 102 of the act (3 P.S. § 459-102). It was intended to clarify the commercial kennel exercise provisions of the act and provide direction to commercial kennel owners regarding the requirements of exercise for nursing mothers in commercial kennels.

After Chapter 28b was adopted, a lawsuit was brought against the Department seeking, among other things, a determination that Chapter 28b contradicted the act and violated the underlying Legislative intent. The lawsuit, *Barbara Keith et al. v. Commonwealth of Pennsylvania, Department of Agriculture* (394 M.D. 2014), was brought in Commonwealth Court. On September 9, 2016, Commonwealth Court granted summary judgment for the petitioners and specifically determined that § 28b.1 directly contradicted express provisions of the act and violated the Legislative intent of the act.

#### *Purpose*

This statement of policy rescinds an unnecessary statement of policy that the Commonwealth Court determined contradicted express provisions of the act and violated the Legislative intent of the act.

#### *Summary of Major Features*

This statement of policy rescinds Chapter 28b which: 1) required in § 28b.1 that a nursing mother at a commercial kennel be provided daily access to an exercise area meeting the applicable requirements of the act; 2) required in § 28b.2 that an owner of a commercial kennel, as part of the annual kennel license application process, set forth a plan to provide daily exercise to nursing

mothers; and 3) provided in § 28b.3 that a failure to adhere to the referenced daily exercise plan may be considered material misrepresentation and may constitute grounds for revocation or refusal of the kennel license.

#### *Fiscal Impact*

##### *Commonwealth*

This statement of policy will not have fiscal impact on the Department or the Commonwealth.

##### *Political subdivisions*

This statement of policy will not have fiscal impact on political subdivisions and will not create additional enforcement or administrative costs.

##### *Private sector*

This statement of policy will not have appreciable fiscal impact on the private sector.

##### *General public*

This statement of policy will not have appreciable fiscal impact on the general public.

##### *Paperwork Requirements*

This statement of policy does not have appreciable impact on paperwork requirements.

##### *Effective Date*

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

RUSSELL C. REDDING,  
*Secretary*

(*Editor’s Note:* Title 7 of the *Pennsylvania Code* is amended by deleting statements of policy in §§ 28b.1—28b.3 to read as set forth in Annex A.)

**Fiscal Note:** Fiscal Note 2-189 remains valid for the final adoption of the subject regulations.

#### **Annex A**

#### **TITLE 7. AGRICULTURE**

#### **PART II. DOG LAW ENFORCEMENT BUREAU**

#### **CHAPTER 28b. (Reserved)**

#### **§§ 28b.1—28b.3. (Reserved).**

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