

## FREQUENTLY ASKED QUESTIONS

### **What must a document contain to be notarized?**

For a document to be notarized, it must contain:

- 1) text committing the signer in some way,
- 2) an original signature of the signer, not a photocopy (if a signature is required).
- 3) a notarial “certificate,” which may appear on the document itself or on an attachment.

### **Does witnessing/attesting a signature require the document be signed in the presence of the notary?**

YES. If the notary certificate states “subscribed and sworn/affirmed to me...,” then it must be signed in the notary’s presence.

### **What if the document is already signed when brought to me for notarizing?**

If the document has already been signed, the notary should ask the person to sign the document again, either above or below the signature.

See the next question for an exception.

### **Does an acknowledgment require that the document be signed in my presence?**

An acknowledgment does not need to be signed in your presence. The person who signed the document must appear before you and acknowledge they are the signer and that they signed it.

### **Do I have to verbally administer an oath when performing a verification?**

A verification contains the words “signed and sworn (or affirmed) before me...” When this language is used, you must verbally administer an oath to the signer prior to the execution of the document. An oath can be administered as follows: “Do you swear that the statements in this document are true?” When a person is unable to “swear” due to personal or religious beliefs, the following oath may be used: “Do you affirm that the statements contained in this document are true?”

To notarize the jurat without administering the oath can affect the validity of the document.

### **What are the qualifications to be a notary?**

To be a notary a person a person must:

- be at least 18 years old;
- be a citizen or permanent resident of the U.S.;
- not be disqualified to be a notary under Iowa Code section 9B.23;
- be a resident of the state of Iowa or a resident of a state bordering Iowa if their place of work or business is in Iowa;
- be able to read and write English; and
- file an application, submit an Oath of Office, and a \$30.00 filing fee with the Secretary of State. See Iowa Code section 9B.21.

### **How long is a notary's commission?**

- for a resident of Iowa, the term is 3 years;
- for residents of bordering states, whose place of work or business is in Iowa, the term is 1 year;
- for a member of the General Assembly, the commission is equal to term of office.

### **Can I renew my commission?**

After you receive your notary commission, the Secretary of State will send you a renewal application before your commission expires. If your commission has expired, you may not act as a notary in Iowa. See Iowa Code section 9B.21A.

### **Can a notary charge a fee?**

A notary in Iowa may charge a reasonable fee for their services. However, a notary cannot refuse to perform a service because a person is not a client/customer nor may the notary's employer restrict the notary from providing services because a person is not a client/customer of the employer.

### **Where can I perform my duties?**

Iowa notaries may notarize anywhere within the geographical boundaries of the State of Iowa.

### **Do I need a notary bond?**

No. Iowa no longer requires a bond.

### **What if I change my name or address?**

If you change your name, you may use your new name or continue using your former name through the end of your term. If you use your new name, inform the Secretary of State's

Office immediately of the change. Occasionally, a third party requests certification of a Commission. The Secretary of State cannot certify a commission when the notary's name has changed and is different than what the records reflect. If you move, inform the office of your new home address. If you change employers, notify the office of the your new employer and new address.

**Can I assist a person who cannot sign a document due to a physical disability?**

Yes. A person who cannot sign a document due to a physical disability may request that you or another person sign their name to the document. A rubber stamp, a mark, or a facsimile of the disabled person's signature or mark may also be used. The person who signs the document or affixes the facsimile must be in the presence of the disabled person at the time of the notarization. Pursuant to Iowa Code section 9B.9 the words "signature affixed by (name of individual) at the direction of (name of individual)".

**What forms of identification can I request?**

The best forms will include a picture, a physical description, a signature for you to compare and be issued by a governmental agency. A valid driver's license, passport, school or work identification can all be used. You may request as much identification as you feel necessary to verify the person's identity. See Iowa Code section 9B.7.

**What are the most common errors and omissions made by notaries?**

1. Failure to sign the document.
2. Failure to witness a signature.
3. Omitting names and dates from the notarization.
4. Failing to administer an oath.

**As an Iowa notary, must I use a stamp on all documents that I notarize?**

Yes, Iowa law requires that a notary **MUST** use a stamp on all documents notarized. See Iowa Code sections 9B.17 and 9B.18.

**Can I use my commission to notarize in other states?**

Iowa notary commissions can only be used in Iowa. Other states have notary laws regarding their notaries.

**Can a notary prepare legal documents?**

No. A notary does not have the authority to prepare legal documents. As a notary, your only duty is to perform the notarial act and complete the certificate. See Iowa Code section 9B.25.

**Is it all right to notarize photocopies and carbon copies of documents?**

Copy certification is an act where the notary determines a photocopy is a full, true and accurate reproduction of an original, privately held document. The typical types of documents for copy certification are business documents, diplomas, passports, and copies of letters. The notary should supervise the photocopying of the document. Notaries must avoid certifying copies of documents that are public records, such as birth/death certificates, court records and deeds. See Iowa Code section 9B.5.

**What is an Apostille?**

An Apostille is a certificate issued by the Secretary of State used for notary authentication that is required by certain countries. It is an official certificate confirming the existence of your notary commission. See Iowa Code section 9B.14.

### **Can I be sued for a notarization I make?**

Yes, a notary can be sued. The most frequent causes of lawsuits are notarization of a signature not made in the notary's presence and the notary's failure to positively identify the signer. Use reasonable care to protect yourself against being sued. If you know and understand the law and responsibilities regarding notaries, your risk of liability will be reduced.

### **If I fail to correctly notarize a document signature, what is the effect of my mistake?**

An incorrect notarization of a document signature does not invalidate the contents of the document itself. It only relates to the signature and may be considered a "non-notarized" signature. The implications depend on the nature and purpose of the document. It may render the document void, or have little effect. See Iowa Code section 9B.26.

### **May I notarize a document in which I have an interest?**

Pursuant to Iowa Code section 9B.4, a notary is prohibited from performing a notarial act with respect to a record the notary or notary's spouse is a party of has a direct beneficial interest. Such a notarial act is voidable.

### **What notarial acts may be performed by a person other than a one notary commissioned or appointed by the Secretary of State?**

A person authorized by *Iowa Code* §9B.10 to perform notarial acts may perform the same acts as a commissioned appointed notary.

**What must a notary other than one commissioned or appointed by the Secretary of State, include in a notarial certificate?**

The certificate must include the signature and title of the office held by the person, i.e. clerk of court. If the notary is a commissioned officer on active duty in the military, the certificate must also include the officer's rank.

**What is the procedure for filing a complaint against a notary?**

If a person believes a notary public has acted improperly in performing a notarial act, a complaint should be filed with the Secretary of State. To obtain a complaint form call, 515-281-5204. Or, write to Secretary of State, Notary Division, Lucas Building, Des Moines, IA, 50319.

Upon receipt of the complaint, an informal investigation will be conducted to determine if a formal hearing should be held on whether the notary's appointment should be suspended or revoked, or whether other disciplinary action should be taken. At the formal hearing, both the complainant and the notary have an opportunity to present evidence for consideration by the Secretary of State. See Iowa Code section 9B.23.