



NOTARY PUBLIC



STATE OF IDAHO NOTARY PUBLIC HANDBOOK



IDAHO
Secretary of State's Office

IDAHO NOTARY PUBLIC HANDBOOK

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You can download the Idaho Notary Public Handbook PDF on any device!

This edition reflects statutory changes made by the 2019 Legislature.

This handbook was designed to provide information to current and prospective notaries public in Idaho in order to increase understanding of the powers and duties of the office.

Any statements by the office of the Secretary of State regarding notaries or notarial acts are not intended as legal advice and should not be construed as such. If you have specific legal questions regarding your acts or conduct as a notary, please seek professional legal advice.

Alternate accessible formats of this handbook will be provided upon request.

For further information, or to offer your suggestions and comments on how this handbook can be improved, call (208) 334-2301 or email ntaa@sos.idaho.gov

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CHAPTER 1 – GENERAL INFORMATION

OVERVIEW

Everybody knows what a notary public does, right? Actually, there is much misunderstanding and confusion about what the proper role and duty of a notary is. A notary public does not “legalize” documents, or verify the accuracy or truthfulness of the content or statements made in a document, and yet the role that a notary plays in ascertaining the identity of the person who signs a document, placing that person under oath, if required, and determining the signer’s intent and willingness to consent to the transaction is vital in modern society.

A notary public is a public official commissioned by the Idaho Secretary of State to administer oaths and affirmations, take acknowledgments, witness signatures, and perform other duties as permitted by state law. A notary should be familiar with Idaho notary laws and to follow the standards of reasonable care for performing a notarial act.

As a public official, a notary is acting on behalf of the State of Idaho.

RESOURCES

This handbook provides you with information to familiarize notaries with their responsibilities in performing notarial acts and is designed to be a primary resource for Idaho notaries public. We encourage you to familiarize yourself with the contents and keep it readily available so that you can utilize it when questions arise. You can download it to your desktop, personal device, or print out a copy for easy access any time. We’ve also included an index in this edition to help you find the information you’re looking for quickly and easily.

Other primary sources of information for Idaho notaries are the web pages of the Certification & Notary Services section of the Idaho Secretary of State’s website: <https://sos.idaho.gov/notaries-apostilles-authentications/>. Save this link to your favorites so it’s handy whenever the need arises. The website contains the most current information for notaries. You are also welcome to contact the staff of the Notary and Certifications Division by phone at (208) 334-2301 or email: ntaa@sos.idaho.gov.

You should never attempt to complete a request for notarial services until you fully understand what you are doing. The job of a notary public is much more complex than most people realize. It is your responsibility to know what you can and cannot do, what you are supposed to do, and how to do your job correctly. Again, we urge you to take a few minutes to familiarize yourself with the information and format of the handbook and the website so that you can find the answers to your questions quickly and easily. These resources are designed to help you—take advantage of them!

THE NOTARY'S FUNCTION

A notary acts as an official, unbiased witness to the identity, the comprehension, the intent, and the signature of the person who comes before the notary for a specific purpose. The person may be taking an oath, giving oral or written testimony, or signing or acknowledging a signature on a legal document. In each instance, the notary attests certain formalities have been observed.

Notaries must constantly be aware every notarial act affects the legal rights of others. Carelessness or negligence by the notary may injure these rights. Upon conviction of a violation of these rights, the notary may be punished as provided by law.

Integrity and skill are required of notaries in the discharge of their duties. The mere mechanical performance of their office does not ensure the added degree of authenticity that is the hallmark of the notarial act. Simply affixing your seal and signing your name does not constitute a proper notarization in the state of Idaho—EVER! As you go through this handbook, pay very close attention to the exact requirements for various notarial acts. A notary may be held personally responsible for improper, negligent, or fraudulent actions.

REMEMBER

The person whose signature, oath, or acknowledgment is being notarized MUST personally appear before the notary at the time the notarial act takes place.

THE NOTARY'S RESPONSIBILITY

The notary's primary function is to be a witness to the identity, the comprehension, and the intent of a person who is signing a document, taking an oath, or acknowledging a signature which means that one of the notary's greatest responsibilities is to be able to truthfully testify that the notary did, in fact, witness the act he or she claimed to have notarized. In other words, the person whose signature, oath, or acknowledgment is being notarized MUST personally appear before the notary at the time the act takes place.

There are no exceptions to this requirement. It is impossible to witness an event if it does not take place in your presence. "Notarizing" without the personal appearance of the signer at the time of the notarial act is de facto negligence and can be just cause for revocation of your notarial commission.

INTEGRITY AND IMPARTIALITY

A notary public is expected to be a person of proven integrity appointed by the Secretary of State to act as the state's "official witness" in any matter requiring the notary's services. Because the primary purpose of the notary is to deter fraud, the notary's integrity must be unquestionable.

Every notarial act performed by a notary public is done under the notary's oath of office and the statement made on every notarial certificate completed by a notary public is done under that oath. If the notarial certificate states that the document was "signed before" the notary, that's exactly what the notary's official testimony is claiming: The document was signed in the notary's presence. If the notary certificate contains the words "Subscribed and sworn to before me", that, too, means the document was signed in the notary's presence and the notary administered an oath to the signer, who swore under penalty of perjury that the statements and information contained in the document were true and correct to the best of his or her knowledge.

The words contained in the notarial certificate are not mere formalities; they are the notary's "witness statement" telling what happened, where it happened, when it happened, and who was involved. The accuracy and completeness of every notarial certificate is a fundamental expectation of the office.

FEES

Idaho notaries may charge for performing any notarial act. The maximum fee allowed for performing a notarial act is \$5. Idaho Code 51-133(1). Notaries may also charge a travel fee for actual and reasonable travel expenses. Idaho Code 51-133(2). Employers can't require a notary to surrender the notary fee to the employer. However, an employer can prohibit a notary from charging a notary fee for notarial acts performed in the scope of the notary's employment.

NOTARY LIABILITY

Notaries are required to file a \$10,000 surety bond when they apply for a new or subsequent commission. Idaho Code 51-121(3). Many notaries think that the bond is insurance that protects them; that is not the case. The bond is posted to cover damages incurred by the victim of the notary's negligence or malfeasance. If a successful claim is made against the notary's bond, the notary will have to pay the bonding company back and cover any losses in excess of \$10,000 as well. Idaho does not require notaries to obtain liability insurance; however, it is wise to discuss the need for such coverage with an insurance professional.

A properly kept notary journal is the very best insurance that a notary can have. It provides evidence that the notarial information on a document is true and correct and that the signer had personally appeared to the notary when the notarization took place.

NOTE!

A surety bond is not insurance; it only covers damages incurred to a victim of the notary's negligence or malfeasance. It's a good idea to discuss additional protection with an insurance professional.

JURISDICTION

Idaho notaries have jurisdiction to perform their official duties in every Idaho county.

There is often some confusion about whether an Idaho notary can notarize a document that came from or is going to another state or country. The basic rule is if the signer is in the notary's presence, and the notary is physically located within their geographic jurisdiction, the notarization may be performed. So if a person has a document that was created in Florida, but the person is currently in Idaho and requests his signature be notarized, an Idaho notary may provide the service (as long as all other conditions are met, of course). There is nothing that inherently prevents an Idaho notary from notarizing documents that originated outside of Idaho. Remember, however, that the notary must be careful to correctly identify the venue (the state and county where the notarization was performed) on the document. Many times this information will be entered on the preprinted certificate (i.e., "State of Florida, County of Broward") and the Idaho notary will have to cross out the incorrect venue and enter the correct information (i.e., "State of Idaho, County of ____"). See Example 1.

State of Florida _____	State of Idaho
County of _____	Ada
This record was signed before me on _____ by _____.	

Notary Signature	
Affix seal/stamp as close to signature as possible.	

Example 1

CHAPTER 2 – BECOMING A NOTARY PUBLIC

There are certain procedures that must be observed in order to obtain a notary commission from the state of Idaho. Applying for an Idaho notary commission is a multi-step process. In order to complete the process successfully, you will have to follow the directions carefully. If you meet all of the requirements for holding the office, you can begin the application process. After submitting the required documents to the Secretary of State's office, you will be notified when the Secretary of State has issued your Certificate of Commission. You will need to print out your Certificate as proof that your commission has been issued, so that you may purchase your official notary stamp and journal and be ready to assume your notarial duties. Below are more specific details about the process of becoming a notary public or renewing a commission.

QUALIFICATIONS

To become a notary public, you must:

- » **Be at least 18 years of age**
- » **Be a citizen or permanent legal resident of the United States**
- » **Be a resident of or have a place of employment or place of practice in Idaho**
- » **Be able to read and write**
- » **Not be disqualified to receive a commission pursuant to Idaho Code §51-123**

TERM OF OFFICE

The term of office for a notary public is six years. A notary may be commissioned or recommissioned by submitting the required documentation to the Secretary of State's office as required by law. Term limits don't apply to notaries. You may serve for as long as you wish.

Upon completion of the application process, the Secretary of State's office will send the notary a Certificate of Commission, showing the notary's official name, address, the term of the commission, the commission number, and the commission expiration date. The Certificate of Commission is the official proof that the person is a notary public for the state of Idaho. If the notary moves out of state, and/or ceases to maintain a place of business or practice in Idaho his/her commission is automatically terminated. A change of employment during a notary's term of office does not terminate the commission. However, your employer *may* cancel your bond, thus cancelling your commission and you would be required to reapply. If you are a state employee and your bond has been obtained through the Bureau of Risk Management, you are required to resign your commission upon termination of your state job. If your employer does not allow you to take your stamp with you, you should ask that it be destroyed and purchase a new stamp.

OBTAINING A COMMISSION

The Secretary of State wants to make the process of applying for a new or renewal commission as easy as possible; however, there are specific statutory requirements that must be met. On this page and the following page, you will find detailed information on how to become a notary, how to renew your commission, how to change your name on your commission, and when and how to notify the office of other changes that the law requires. You will also find links to the online fillable forms that should accompany your requests and notifications. The information in this chapter is current as of the date of this edition of the handbook; however, you should check the website <https://sos.idaho.gov/notaries-apostilles-authentications/> for the most accurate and up-to-date information and requirements.

The basic process for obtaining a commission involves these three steps:

1. Obtain a notary surety bond from a licensed bonding agent (usually an insurance agent)
2. Complete the online application, print it out, and have it notarized
3. Send the application, the original bond, and the \$30 filing fee to the Secretary of State's office

WARNING: Carefully read and follow the full instructions to assure that the process will go smoothly. Failure to follow the directions correctly could result in delays, frustration, and additional expense.

Some important things to note about the notary application process: You do not have to use your full legal name for the commission. We can accept an application that uses at least one initial and your surname, or your nickname and surname, as long as you can prove your identity to the notary who notarizes your application, statement, and oath of office. We recommend you use the name you ordinarily use in your normal course of business. The important thing is that you are consistent: The name on the bond, on the application, and the signatures on those documents must be exactly the same. This becomes your "official notary name and signature" and must be used consistently on every notarial act you perform.

There are statutory time guidelines that must be followed. You must send the required documentation and the filing fee together. (State employees must contact Department of Admin for state employee instructions, then submit the documents to the Secretary of State's office.) Incomplete submissions will be rejected.

The notary is solely responsible for submitting the required documents for requesting a commission or for updating contact information during the term of office. It is your responsibility to understand the process and coordinate the activities necessary to assure that your application is completed accurately, notarized correctly, and the necessary attachments—the bond and the filing fee—are included with the submission.

THE FILING FEE IS NON-REFUNDABLE.

ELECTRONIC NOTARIZATION (REMOTE NOTARIZATION)

Effective January 1, 2020, Idaho notaries will be authorized to perform notarial acts for remotely located individuals. Idaho Code 51-114A. Notaries will be required to utilize tamper-evident, communication technology which provides an electronic recording of both audio and video to be preserved as part of the record. The remote notarization process requires identity verification, access to the electronic document to be notarized, and a pathway for the transfer of the document with the recorded audio and visual presentation of the notarial act.

A notary public may perform a notarial act for a remotely located individual if the notary has either personal knowledge of the identity of the individual, or has satisfactory evidence by oath or affirmation from a credible witness appearing before the notary public, or has obtained satisfactory evidence of the identity by using at least two different types of identity proofing.

The notarial act must be completed by an electronic process that allows the notary public to communicate by sight or sound, and when necessary, be consistent with the other applicable laws to facilitate communication with individuals who have sight or vision impairments. The performance of the notarial act must then be preserved electronically, including the audio and visual portion, and retained for at least ten years.

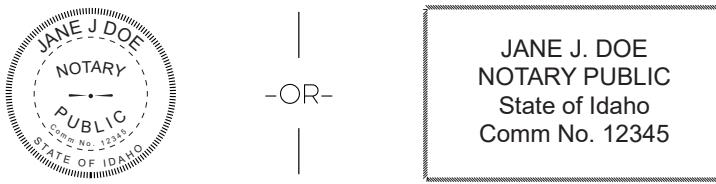
UPDATING YOUR INFORMATION

Notaries are required by law to provide certain information as part of the application process, including their name, physical residence address, mailing address, personal telephone number, employment information, and whether the notary intends to provide electronic notary services. This information must be updated as necessary during the notary's term of office. You must notify the Secretary of State's office within 30 days of any changes. An amended Certificate of Commission will be issued when your name or city of residence changes and you will have to obtain a new stamp showing the updated information. The Contact Information Update form is a fillable form on the website.

NOTARY SEAL/STAMP

It is the responsibility of the notary to obtain and keep an official seal/stamp. A new stamp must be purchased whenever the information shown in the stamp (such as the notary's name) changes or if your stamp includes your expiration date. The state does not provide the stamp. They may be purchased from most stationery, stamp, or office supply stores. It is the notary's responsibility to assure the stamp is correct and complies with the requirements described below. Do not expect the retailer or manufacturer to know the requirements. Provide this page to the vendor if there are any questions.

Below (Example 2) an illustration of the combination seal/stamp that is mandated for Idaho notaries:



Example 2

Your notary certificate, as provided by the Idaho Secretary of State, grants you the authority to purchase a notary stamping device. Notary stamps purchased on or after October 1, 2018, shall conform to the following standard (as per I.C. 51-117, 118):

1. The device must be an inked stamp, which provides an image that is readily visible upon copying.
2. The device must have a serrated or milled-edge border.
3. The device must be in a rectangular or circular form.
4. The device shall not exceed two and one-fourth (2.25) inches by one (1) inch if rectangular, or one and three-fourths (1.75) inches in diameter if circular.
5. Your commission expiration date *may* be included (*optional*). e.g.: *My Commission Expires January 1, 2020*
6. The device must include the following, and **nothing more**:
 - Notary Public
 - State of Idaho
 - The notary's name (exactly as it appears on their certificate)
 - The notary's state-issued commission number.

If any of the information contained in the seal/stamp changes during the notary's term of office, the stamp must be replaced. Handwritten corrections to the impression are not allowed. The outside circular or rectangular border is a **REQUIRED** part of the stamp. When you use this seal/stamp, you do not have to enter the information contained in the stamp again by hand on a notarial certificate.

The design and content of an electronic seal/stamp should be the same as the ink stamp.

See the list of Recommended Vendors for contact information about stamp suppliers who have agreed to produce only compliant stamps for Idaho notaries at: <https://sos.idaho.gov/notary-public-resources/>.

DO NOT ORDER YOUR STAMP UNTIL YOU HAVE RECEIVED YOUR CERTIFICATE OF COMMISSION FROM THE SECRETARY OF STATE'S OFFICE.

NOTARY JOURNAL

It's a good idea for Idaho notaries to keep a notary journal in which all notarial acts are recorded. The journals should be either a permanent, bound paper journal designed to deter fraud or a permanent, tamper-evident electronic journal.

Each journal entry should include the date and time of the notarization; the type of notarial act, a description of the document (usually the document date and type); the type of identification used; the signature, printed name, and address of the person for whom the notarial act was performed (except for certified deposition transcripts or certified copies); and the fee (if any) charged for the notarization.

Paper journals may be obtained from a local office supply store or other retailer. They are also available online. There are different formats available; you may choose whichever you prefer as long as the records are chronologically numbered and the book is designed in such a way as to deter any deletion, alteration, or modification of the pages. You may not use a loose-leaf notebook.

Electronic journals should be commercially produced and create chronological, sequential, and nonmodifiable records that can be accessed upon demand.

Some notaries may wish to keep one journal at work and another for personal use. Others may want to use both an electronic and a paper journal.

REMEMBER

The information that Idaho notaries keep in a journal should not violate the privacy rights of the signers. Specific information unique to the identity of the signer, such as license numbers, social security numbers, or birth dates should never be entered into the notary journal.

It is the notary's personal responsibility to maintain possession of all journals created during the entire time the notary holds an active commission. A notary does not have to turn his/her journal in when the commission is renewed; one journal may, in fact, contain the records for several years if the notary does only a few notarizations.

COURSE OF STUDY

As of July 1, 2019 the Idaho Secretary of State's office will be providing a free, online course study to applicants who do not hold a commission as a notary public in the state of Idaho. Idaho Code 51-122. The course will cover the laws, rules, procedures and ethics relevant to notarial acts, covered in this handbook. To begin this course go to <https://sos.idaho.gov/notary-training>.

CHAPTER 3 - NOTARIZING DOCUMENTS

THE NOTARIAL PROCESS

When we talk about "notarizing a document", most of the time we really mean notarizing, or authenticating, a signature in some way. So let's break down the steps you'll take whenever you are asked to perform a notarization involving a signature:

1. Require personal appearance
2. Review the document
3. Identify the signer(s)
4. Determine competency and willingness
5. Create the journal record
6. Complete the notarial certificate

The processes for administering an oath as a separate notarial act and certifying a copy of a document are slightly different. We'll discuss them in the next chapter. These are the steps you always complete when taking an acknowledgment, witnessing a signature, or performing a jurat.

REQUIRE PERSONAL APPEARANCE

We've said it before and we'll say it again: **REMEMBER** – When taking an acknowledgment, witnessing a signature or performing a verification on oath or affirmation (jurat), the signer must personally appear to the notary at the time the notarization takes place. Personal appearance means the person must be in the notary's physical presence. In order to lawfully complete a notarial certificate, you are always attesting that the notarial act occurred "before you" and that you witnessed some particular action.

REVIEW THE DOCUMENT

Notaries are not verifying or validating the contents of the document being notarized and there is no reason for the notary to read the document. However, before the notary can move on to the other steps, you should glance through the document in order to determine three important things:

1. To verify what kind of document it is and to determine if the signer understands what they are signing.
2. To determine the type of notarial act required.
3. To determine who is supposed to sign the document. This step will tell you the name of the signer and how the person is to be identified and sign. It will also help you learn if the document will be signed by the person acting in a representative capacity.

IDENTIFY THE SIGNER

In the state of Idaho, there are only two ways that you may identify a person who requests a notarization:

- » **Personal Knowledge** – A person whom you have known for a considerable period of time and would recognize anywhere, and anytime can be identified on the basis of "personal knowledge." This is a subjective standard, but notaries should be guided by the understanding that, in the event of a legal challenge to the signer's identity, the notary would have to positively identify the person in court. Often, this may be many years after the notarization took place. Personal knowledge is generally considered the best form of identification and thus requires no further proof of identity.
- » **Satisfactory Evidence** – There are two types of "satisfactory evidence"—Documentary Proof and Credible Witnesses.
- » **Documentary Proof** – The most frequently utilized type of satisfactory evidence to positively identify a person who is otherwise unknown, or only slightly known, to you is by means of examining some kind of identification document. The notary should request signed and/or pictured, government-issued ID before performing a notarization for someone they do not know well. Acceptable forms of identification include a passport, driver's license, or government issued ID that is current or expired less than three years. Many times it will be necessary to use more than one piece of identification to conclusively identify a person. Notaries are cautioned that some forms of ID, such as bank cards, credit cards, and non-pictured government-issued cards (Social Security or Medicare cards) are not acceptable as primary identifiers. Although, they may, in certain circumstances, be used in conjunction with another ID to establish a person's identity. Notaries are not expected to be authorities on all types of identification. However, they are urged to use common sense and reasonable care when presented with identification that appears to have been altered or tampered with in some way, or when the picture or description of the person on the

card does not match the person standing in front of the notary. If there is any doubt as to the person's identity, the only safe practice is to refuse to take an acknowledgment, witness a signature, or perform a jurat.

» **Credible Witness** – The other means of identifying a person for notarial purposes is the most misunderstood, the most complicated, and the least likely to be available at the time the situation arises without having made prior arrangements. The credible witness must be:

- Either personally known to the notary, or identified on the basis of documentary proof as defined above; and
- Physically in the notary's presence at the time of the notarization; and
- Steps to a proper notarization using a credible witness:
 1. Properly identify the credible witness.
 2. Place the credible witness under oath:
"Do you swear under penalty of perjury that this is _____?"

The signer signs the document (if not already signed). Complete the notarial certificate on the document. When a credible witness is used for identification of a document signer:

- » Three people are involved – the notary, the signer, and the credible witness.
- » All three people must personally appear to the notary when the notarization takes place.
- » A credible witness may not appear to the notary by means of real time two-way audio/visual communication.

DETERMINE THE SIGNER'S COMPETENCY AND WILLINGNESS

A notary may refuse to perform a notarization if the notary determines that (1) the person does not appear to be competent or have the capacity to execute the record, or (2) the person is not signing the document knowingly or voluntarily. The signer should appear to be lucid and understand what is happening while the notarization is being performed.

Generally speaking, willingness can be inferred simply from the fact the signer has requested that the notarization be performed. There are, however, situations where additional care must be taken by the notary. For example, when the signer appears to be under pressure or duress or under the influence of alcohol or other substances.

In situations where there is a question of pressure being put on the signer, the notary can ask any others in the room to leave and then engage the signer in conversation about the transaction. There is a difference between a person being unwilling or pressured to sign a document and being unhappy about the circumstances that have made it necessary for him or her to sign that document. When in doubt, the notary can get an opinion from an attorney or medical professional familiar with the signer.

If there is a question about the signer's competency or willingness, the notary may refuse to perform the notarization or suggest that it should be done at a later time as circumstances warrant. Notably, the law allows notaries to refuse to perform any notarization unless there is another law specifically prohibiting the notary from refusing.

REMEMBER

Failure to establish the identity, comprehension and intent of the person requesting a notarization to the degree of reasonable care places the notary at risk for being sued for negligence or malfeasance in office.

COMPLETE THE NOTARIAL CERTIFICATE

The final step in the notarization process is what most people think being a notary public is about—completing the notarial certificate/block. The certificate must be executed at the same time the notarial act is performed, and must include:

1. The venue—This is the state and county where the notarization is performed. This is not always the state and county in which the notary resides or works. See “Jurisdiction” on page two and three.
2. The statement of particulars—This is a declaration describing the type of the notarial act performed, the date on which it was performed, and the person for whom it was performed. The notary may need to refer to Idaho Code 51-116 or Chapter four of this handbook, to help with the wording and format.
3. The notary’s official signature—The notary’s wet signature or official electronic signature must be affixed to every notarial certificate. The official name on the notarial seal and the notary’s official signature must correspond with the notary’s commissioned name on file with the office of the Secretary of State.
4. The notary’s official seal/stamp—The requirements for the seal/stamp are explained on page five and six.

A diagram of a notarial certificate/block, showing the four required components, is below (Example 3).

The diagram illustrates a notarial certificate block with the following components:

- Venue:** State of _____ and County of _____.
- S.o.P. (Statement of Particulars):** This instrument was signed or acknowledged before me on _____ by _____.
Print name of signer(s)
- Seal or Stamp:** A bracketed area indicating where the notary's official seal or stamp would be placed.
- Notary Signature:** A line for the notary's signature.

Example 3

Over the course of your career as a notary public, you may encounter many different notarial certificates. Some may be very short and concise, (like the example above), and some may be long, wordy, and almost incomprehensible. All should contain the four basic elements. Recognizing the components of the certificates will help you in determining what type of notarial act is called for as well as assuring all the required elements are included.

Many times notaries are presented with documents that do not have a notarial certificate or the preprinted notarial certificate was completed for another signer. When that situation is presented, the notary must complete a proper notarial certificate by writing, typing, stamping, or attaching one to the document as close to the signer's signature as possible.

If an error is made while completing the notarial certificate, any incorrect or omitted information may subsequently be corrected by the notary. Remember though, a change or correction may not be made to the impression of the notarial seal/stamp.

In the next chapter we will explain the types of notarial acts and how you complete typical certificates for each type of notarization.

CHAPTER 4 - TYPES OF NOTARIAL ACTS

Below are some of the legally authorized notarial acts that can be performed in Idaho:

- » Taking acknowledgments
- » Witnessing signatures
- » Verification upon oath or affirmation (jurat)
- » Administering oaths
- » Certifying copies of a record

On the following pages, we will explain the particulars of each act and provide you with illustrations of some types of notarial certificates that you will likely encounter. Understand that you will most likely see variations in the preprinted notarial certificates, but you should be able to figure out what type of notarial act is being anticipated and how to fill in any blanks. Some preprinted notarial certificates, instead of providing blank spaces for you to enter information, will indicate multiple choices for certain details. You should either circle the appropriate information or cross through the other options.

Please note that after January 1, 2020, all of the following examples of notarial acts can be completed by electronic notarization.

UNABLE TO DETERMINE TYPE OF NOTARIZATION

If you are unable to determine the type of notarial act, or if you do not understand what information is to be entered in a particular space, then you should request assistance before attempting to complete the notarization. It is the requestor's responsibility to tell the notary what type of notarial act is needed. As ministerial officials, notaries do not have the authority to decide on the appropriate type of notarization to perform. If the document does not have a preprinted notarial certificate on it and the signer cannot indicate to you what is needed, then you may not proceed with the notarization.

Information about how to perform each of seven notarial acts is provided below with examples of corresponding certificates, showing how they should be completed.

TAKING ACKNOWLEDGMENTS

The notarial act of taking an acknowledgment requires the signer to personally appear before the notary, but it does not require the notary to witness the act of signing. Often the party has previously signed the record before bringing it to the notary. In those cases, the requirements are met when the signer verbally acknowledges to the notary that he/she signed the document, and the notary has: (1) properly identified the signer; and (2) verified the signature to be that of the signer (usually by comparing the signature on the document to the signature on the ID and the one made by the signer in the notary's journal).

In taking an acknowledgment, the notary must do the following:

- » Require the personal appearance of the signer.
- » Review the document to determine the type of document and type of notarial act required.
- » Identify the signer as the person who is supposed to sign the document.
- » Verify the signature on the document is the signer's, by watching them sign the document. If it has already been signed, compare the signature on the document to one on the signer's ID and the signature made by the signer in the notary's journal.
- » Have the signer verbally acknowledge the signature is his or hers. Complete the notarial certificate.

EXAMPLES OF TYPICAL NOTARY CERTIFICATES FOR ACKNOWLEDGMENTS:

1. This is a simple, basic form from 51-116(1), IC. (Example 4):

State of Idaho
County of _____

This record was acknowledged before me on _____, by _____ .
Print name of signer(s)

Affix seal/stamp as close to signature as possible.

Notary Signature

Example 4

2. This is a longer form. The only difference is it contains a longer written statement. (Example 5):

State of Idaho
County of _____

On this _____ day of _____, 20_____, before me, a notary public for the State of _____, personally appeared _____, known to me to be the person named in the foregoing, and acknowledged to me that _____ executed the same as _____ a free act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in the certificate first above written.

Notary Signature
[Idaho notaries must complete the following if not part of stamp.]

Affix seal/stamp as close to signature as possible.

Printed Name _____
My Commission expires: _____, 20_____

Example 5

EXAMPLES OF TYPICAL COMPLETED NOTARY CERTIFICATES FOR ACKNOWLEDGMENTS:

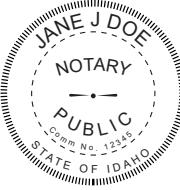
1. The basic form should be completed like the example below. (Example 6):

State of Idaho
County of Ada

This record was acknowledged before me on Nov. 5, 2019, by John Smith (only).

Print name of signer(s)

Affix seal/stamp as close to signature as possible.


Jane J. Doe
Notary Signature

Example 6

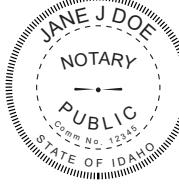
2. This is how to complete a more elaborate notarial certificate (Example 7):

State of Idaho
County of Ada

On this 5th day of November, 2019, before me, a notary public for the state of Idaho, personally appeared John Smith (only), known to me to be the person named in the foregoing, and acknowledged to me that he executed the same as a free act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in the certificate first above written.

Affix seal/stamp as close to signature as possible.


Jane J. Doe
Notary Signature
[Idaho notaries must complete the following if not part of stamp.]

Printed Name _____
My Commission expires: _____, 20 _____

Example 7

Notes:

- » The key word to look for to determine if you are doing an acknowledgment is “acknowledged” in the written statement.
- » There are many variations on the wording of acknowledgments; these are only two of the most common versions.
- » In preprinted notarial certificates with several blank spaces in them, try inserting the name of the signer and/or pronouns referring to the signer.
- » It is a good habit to enter the word “only” in parentheses after entering the name(s) of the signer(s), so additional names cannot be entered later in an attempt to indicate that other signatures were notarized.
- » Because the combination seal/stamp includes the necessary information, you do not have to enter the information below your signature. You should line through that part of the certificate to indicate you did not “just forget” to complete it.
- » An acknowledgment can also be made by an individual acting (signing) on behalf of another person or entity. This is called an acknowledgment in a representative capacity and the person who is appearing before the notary will be signing on behalf of a business or corporation, a trust, with a Power of Attorney or with some other authorization that allows them to sign for another person or legal entity. See page 16 for more information and examples of proper acknowledgments by persons signing in a representative capacity.

WITNESSING SIGNATURES

Witnessing a signature is exactly that—you watch the signer sign the document. Occasionally someone will bring a document to you that has already been signed, the preprinted form calls for you to witness the person sign the document. In situations like that, you must have the person sign the document again in your presence. It is not necessary for the signer to cross out the first signature; he or she should just sign again as close to the original signature as possible. When witnessing a signature, the notary will do the following:

- » Require the personal appearance of the signer
- » Review the document to determine the type of document and type of notarial act required
- » Identify the signer as the person who is supposed to sign the document
- » Have the signer sign the document as you watch
- » Complete the notarial certificate

EXAMPLES OF TYPICAL NOTARY CERTIFICATES FOR WITNESSING SIGNATURES:

1. This is a version of the basic form as described in 51-116(4), IC. (Example 8):

State of Idaho County of _____	This record was signed before me on _____ by _____.

Notary Signature	
Affix seal/stamp as close to signature as possible.	

Example 8

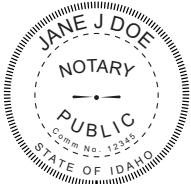
2. This is another style of notarial certificate that you may see. (Example 9):

In the County of _____, State of _____ . On this _____ day of _____, _____, before me, the undersigned Notary Public personally appeared _____, personally known to me, proved to me through document evidence, or identified by a credible witness to be the person named in the foregoing, and executed the same.	Notary Signature
Affix seal/stamp as close to signature as possible.	Printed Name _____ My Commission expires _____, 20 ____.

Example 9

EXAMPLES OF TYPICAL COMPLETED NOTARY CERTIFICATES FOR WITNESSING SIGNATURES:

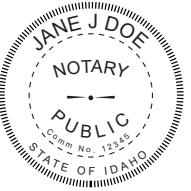
1. The basic signature certificate should be completed like this (Example10):

State of Idaho County of <u>Ada</u>	This record was signed before me on <u>November 17, 2019</u> by <u>John Smith (only)</u> .
 Jane J. Doe Notary Signature	
Affix seal/stamp as close to signature as possible.	

Example10

2. This is how to complete a more elaborate notarial certificate. (Example11):

In the County of <u>Ada</u> , State of <u>Idaho</u> , On this	
17th day of <u>November</u> , <u>2019</u> , before me, the undersigned Notary Public personally appeared	
<u>John Smith (only)</u> , personally known to me, proved to me through document evidence, or identified by a credible witness to be the person named in the foregoing, and executed the same.	

Affix seal/stamp as close to signature as possible.	 Jane J. Doe Notary Signature
	Printed Name _____
	Commission Number _____
	My Commission expires _____, 20_____. _____

Example11

Notes:

- » The format of the notarial certificate may vary, as seen in the above examples; as long as all information required by law is included, the style of the notarial certificate is not important.
- » The key words to look for to determine if you are to witness the signature are "signed," "subscribed," or "executed."
- » It is a good habit to enter the word "only" in parentheses after entering the name(s) of the signer(s) so additional names cannot be entered later in an attempt to indicate that other signatures were notarized.
- » Be sure to line through the inapplicable "multiple choice" options provided in the preprinted certificate.
- » Because the combination seal/stamp includes the necessary information you do not have to enter the information below your signature.
- » If a preprinted certificate requests information that is contained in the stamp or that is not required by Idaho law, such as a commission number, a simple line through that part of the form will indicate the information has not been forgotten or ignored.

REPRESENTATIVE CAPACITY SIGNERS

As mentioned above, there are occasions when the person who requests a notarization will be signing the document on behalf of another person or another entity. This usually happens when someone is signing on behalf of a corporation, a trust, as a personal representative, or with a power of attorney.

When notarizing a document that is being signed by someone other than the person or entity designated as the signer, the notary should determine (1) the identity of the person who is actually signing the document, and (2) the type of authority to sign for that person or entity in this particular transaction.

Idaho Code §51-116(2) specifies that an acknowledgment in a representative capacity must be completed with the name of the person who signed the document, the type of authority in which it was signed, and the name of the party or entity on whose behalf it was signed.

Here is an example of how to complete such a notarial certificate. (This is how you would complete the information if the signer is using a power of attorney as the basis for signing the document.) Note that you will most likely have to add the information about the type of authority of the signer and the person or entity who was expected to sign the document (Example 12):

State of Idaho County of Ada	<p>This record was signed before me on November 17, 2019 by John Smith (only), as Attorney-in-fact for Mary Smith.</p> <p>JANE J. DOE NOTARY PUBLIC State of Idaho Comm No. 12345</p> <p>Jane J. Doe Notary Signature</p> <p>Affix seal/stamp as close to signature as possible.</p>
---------------------------------	--

Example 12

NOTES:

- » When notarizing a document that is being signed by someone other than the person or entity designated as the signer, the notary should determine:
 - the identity of the person who is actually signing the document, and
 - the type of authority the designated signer has to sign for the represented person or entity in this particular transaction.
- » The above information may be determined using the same methods that are used to determine identity:
 - Personal knowledge
 - Satisfactory evidence
 - Documentary proof
 - Credible witness
- » Most documents' notarial certificates do not anticipate that the document will be signed by someone other than the person or entity whose name appears on the document, so the notary will have to adjust the preprinted notarial certificate accordingly. You may wish to substitute a correct notarial block by lining through the preprinted block and attaching a correct form with the signer's permission.

If the signer is signing under the authority of a power of attorney, the notary should remember to verify that the principal is still living. A power of attorney automatically terminates upon the death of the principal and can never be used for a deceased person.

VERIFICATION UPON OATH OR AFFIRMATION/SIGNED AND SWORN ("JURAT")

The most demanding process is taking a verification upon oath or affirmation, also commonly known as performing a jurat. For some legal uses, the document would be inadmissible or useless if the jurat is not properly completed. Performing a jurat requires a notary to do two things: (1) Witness the person signing the document—just like the signature witnessing above, and (2) Administer an oath, placing the person under penalty of perjury if the statements made in the document are proven false. A notary is not responsible for the truthfulness or accuracy of the document, and the person who takes the oath may, in fact, not be telling the truth. As long as you have administered an oath, you have done your job.

Suggested oath to be administered when performing a jurat notarization:

"Do you swear that the information contained in this document is true and complete to the best of your knowledge and ability?"

When called upon to perform a jurat notarization, the notary will do the following:

- » Require the personal appearance of the signer
- » Review the document to determine the type of document and type of notarial act required
- » Identify the signer as the person who is supposed to sign the document
- » Have the signer sign the document as you watch
- » Administer the above (or similar) oath
- » Complete the notarial certificate

EXAMPLES OF TYPICAL NOTARY CERTIFICATES FOR JURATS:

1. The first one is from 51-116(3), IC (Example 13):

State of Idaho
County of _____

This record was signed and sworn before me on _____ by _____
Print name of signer(s)

Affix seal/stamp as close to
signature as possible.

Notary Signature

Example 13

2. Another type of jurat certificate (Example 14):

State of Idaho
County of _____

On this _____ day of _____, 20_____, _____ personally appeared before me and
having been duly sworn did herein execute the above record for the purposes stated.

Affix seal/stamp as close to
signature as possible.

Notary Signature

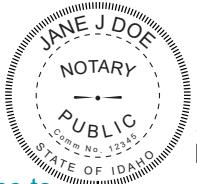
Example 14

EXAMPLES OF TYPICAL COMPLETED NOTARY CERTIFICATES FOR JURATS:

1. The basic jurat certificate should be completed like this (Example 15):

State of Idaho
County of Ada

This record was signed and sworn before me on November 17, 2019 by John Smith (only).
Print name of signer(s)



Jane J. Doe
Notary Signature

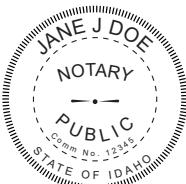
Affix seal/stamp as close to
signature as possible.

Example 15

2. The second type of jurat certificate should be completed like this (Example 16):

State of Idaho
County of Ada

On this 17th day of November, 2019, John and Mary Smith personally appeared before me and having
been duly sworn did herein execute the above record for the purposes stated.



Jane J. Doe
Notary Signature

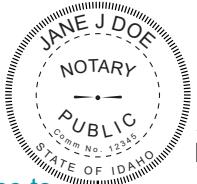
Affix seal/stamp as close to
signature as possible.

Example 16

3. The third type of jurat certificate has a changed state venue should be completed like this Example 17):

State of Florida — State of Idaho
County of Ada

This record was signed and sworn before me on November 17, 2019 by John Smith (only).
Print name of signer(s)



Jane J. Doe
Notary Signature

Affix seal/stamp as close to
signature as possible.

Example 17

Notes:

- » The format of the notarial certificate may vary, as seen in the above examples. As long as all information required by law is included, the style and exact wording of the notarial certificate is not important.
- » When determining whether to perform a jurat, remember you are looking for instructions to do two things: Witness a signature and administer an oath. Key words are "signed and sworn," "subscribed and attested," or "affirmed and executed" (any combination of those six verbs indicating that an oath was administered and the document was signed in the notary's presence).
- » It is a good habit to enter the word "only" in parentheses after entering the name(s) of the signer(s), so that additional names cannot be entered later in an attempt to indicate that other signatures were notarized.
- » Did you notice that the preprinted form in the third sample included the state in the venue? You have to correct that by lining through the incorrect information and writing in the state and county where you actually performed the notarization.

ADMINISTERING OATHS

Although notaries are fully authorized to administer oaths as a separate notarial act, most of the time they are done in conjunction with a signature—a jurat. There is no standardized language mandated for various situations requiring an oath. In most cases, the accompanying document will include or indicate the proper language for the specific oath to be administered.

CERTIFYING COPIES OF DOCUMENTS

An Idaho notary public may be asked to certify or attest that a copy of a document or other record is a full, true, and accurate transcription or reproduction of that which was copied. Because you are not verifying a signature, there is no need for you to require the presence of any particular individual, nor are you required to identify anyone in conjunction with the notarial act of certifying a copy. There are two ways to fulfill a request for a certified copy of a document:

1. CERTIFICATION OF COPY

When asked to certify a copy, the notary should:

- » Examine the document to determine that it is an unaltered original.
- » Verify that the document may be lawfully copied and certified (see below for prohibitions on certifying certain documents)
- » Personally photocopy the document
- » Note that the requester does not sign the copy at all—only the notary's signature appears on the copy of the document.

2. CERTIFICATION BY DOCUMENT CUSTODIAN

A customer may bring you a copy of a document and request it be certified. In this situation, the notary should:

- » Require the customer to certify the copy is a true and accurate copy of the original and sign the statement of certification
- » Place the customer under oath and perform a jurat notarization of the customer's signature
- » Complete the notarial certificate

Some documents will contain a warning they are not to be copied. Such documents cannot be copy certified. Note: If you make a copy of a document and language appears indicating the copy is void, you may not certify that copy.

Below are charts showing some types of documents notaries are often asked to copy certify. This is not a comprehensive list, but includes most of the frequently requested documents.

Typical “Public” Documents

DO NOT COPY OR CERTIFY

- Birth Certificates
- Death Certificates
- Marriage Licenses
- Divorce Decrees
- Court Orders
- Adoption Records
- School Transcripts
- FBI Fingerprint Cards
- Motor Vehicle Titles
- Recorded Documents

Typical “Private” Documents

MAY COPY AND CERTIFY

- Driver's Licenses
- Student ID Cards
- Employee ID Cards
- Passports
- Diplomas
- Certificates or Awards
- Professional Licenses
- Personal Documents
- Bills or Invoices
- Photographs

EXAMPLES OF PROPERLY COMPLETED NOTARIAL CERTIFICATES FOR COPY CERTIFICATIONS:

1. Direct certification
2. Certification by document custodian

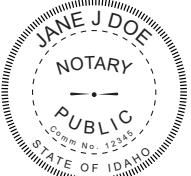
First, have the customer write the certification statement on the document.

CERTIFYING TRANSCRIPTS OF AFFIDAVITS OR DEPOSITIONS AND MAKING PROTESTS OF NEGOTIABLE INSTRUMENTS

The notarial act of certifying or attesting a transcript of an affidavit or deposition and making a protest of a negotiable instrument may be performed only by notaries who are knowledgeable of the applicable associated legal requirements. See Example 18 and Example 19.

State of Idaho
County of Ada

I certify this to be a true and correct copy of the diploma from Idaho State University issue to John Smith made by me on November 17th, 2019.

Jane J. Doe
Notary Signature

Affix seal/stamp as close to signature as possible.

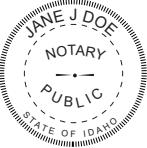
Example 18

I certify that this is a true and correct copy of my diploma from Idaho State University in my possession and made by me on November 17th, 2019.

Signed John Smith

State of Idaho
County of Ada

This record was signed and sworn before me on November 17th, 2019 by John Smith (only).

Jane J. Doe
Notary Signature

Affix seal/stamp as close to signature as possible.

Example 19

CHAPTER 5 – SPECIALIZED INFORMATION

NOTARIZING DOCUMENTS WRITTEN IN A FOREIGN LANGUAGE

The Idaho Secretary of State's office is frequently asked if Idaho notaries may notarize a document written in a foreign language. The answer is generally "maybe." The language a document is written in is not the most important factor in determining whether or not you can perform the requested notarial act.

It is absolutely critical that you, first and foremost, READ the notarial certificate and clearly understand what you are being asked to do before you agree to the notarization. If the notarial certificate is not in English, you must have it translated before going forward. Once you can read the notarial certificate, you simply go through the normal "checklist":

- » **Require the personal appearance of the signer.**
- » **Review the document to determine the type of document and type of notarial act required.** You can take an acknowledgment, witness a signature, perform a jurat, or make a certified copy of some documents, but that's where your authority ends. Notaries in many other countries have broader authority than American/Idaho notaries. Sometimes the documents call for the notary to verify facts or conditions beyond what is allowed by our laws. One example is a form calling for the notary to certify that the signer is alive. As much as that seems like a reasonable certification to make—after all, you cannot take an acknowledgment, witness a signature, or complete a jurat unless the signer is personally appearing to you and able to communicate with you. Idaho notaries cannot attest that the person is alive. So, if that's what the certificate calls for, you will have to refuse the request.
- » **Identify the signer as the person who is supposed to sign the document.** You are required to apply the same criteria for determining identity for foreign language documents as for any other—personal knowledge or satisfactory evidence (documentary proof or credible witness). The difference is that often the signer may not have a driver's license or other ID from Idaho or the United States. That's okay! As long as you are able to read the information on the ID and use it to identify the person in front of you as being the person who is supposed to sign the document, you can use a foreign ID, such as the passport. You also have the right to ask for more than one piece of identification. Many non-citizens will have a "green card", which is certainly an acceptable ID. If the signer presents you with an ID you cannot read, such as a card written in Russian, Chinese, or Arabic, for instance, you may either request additional identification or you should refuse the request.
- » **Complete the notarial certificate.**

Regardless of the language the document is written in, the notarial certificate must be in English in order for you, as an Idaho notary public, to complete it. Even if you are fluent in another language, you must use English for all notarial acts.

You may certify copies of certain foreign language documents using the same process and criteria as you would for any other document.

NOTARIZING/CERTIFYING RECORDS TO BE SENT TO A FOREIGN COUNTRY (APOSTILLES AND AUTHENTICATIONS)

The Idaho Secretary of State's office provides state certification for notarized or certified documents that are to be sent to, or used in, a foreign country. Both types of certification, apostille and authentication, verify the notary public is authorized to provide the notarization or certification and that he/she has done so in accordance with Idaho laws. Whether the document requires an apostille or authentication depends completely on which country will be receiving the document. The Idaho Secretary of State's office has adopted a single, universal form that meets the requirements of the Hague Convention for apostilles and has been approved by the U. S. Department of State for authentications. We can only provide certifications of Idaho notaries public or Idaho notarial officers as listed above.

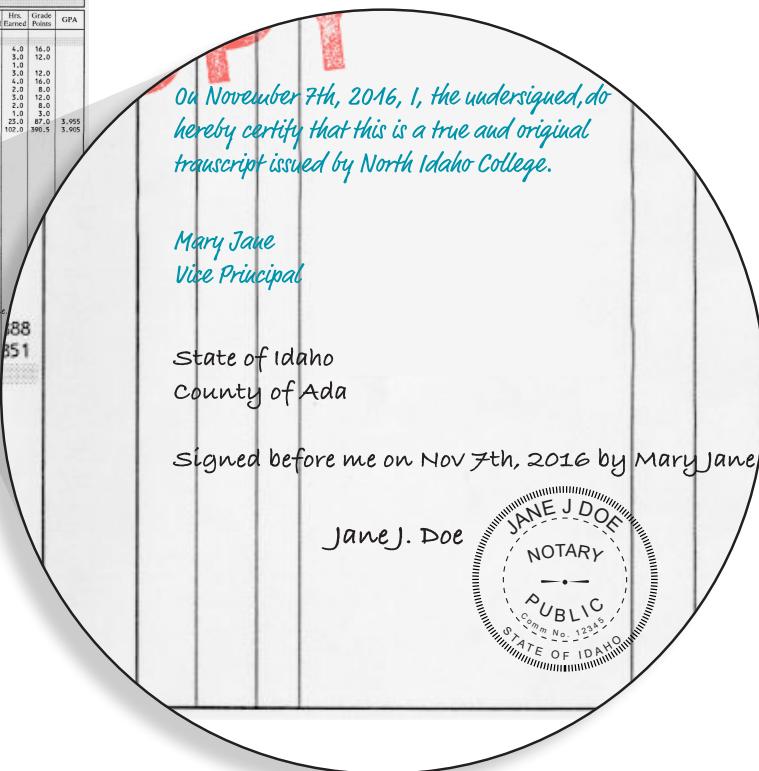
If you are asked to notarize something that will be submitted for either type of certification, there is nothing special that you are being asked to do—except doing the notarial certificate 100% correctly! As long as you follow the appropriate instructions as provided in this handbook and complete a full notarial certificate, the requested state certification can be provided.

Based on the experience of the Idaho Secretary of State's office, there are some common errors that cause the documents to be returned. Be aware of the following:

- » If you are asked to certify a copy of a document, refer to the information on pages 20–21 of this handbook before complying with the request. Be sure you are authorized to certify the document and then be sure to do so properly.
- » In most cases you will be notarizing someone's signature. All the notary rules apply in those cases:
 - Make sure there is a signature to notarize.
 - Make sure you witnessed the signing or the acknowledgment of the signature. The person who signed the document must have personally appeared before you.
 - Complete a full notarial certificate – even if the preprinted form does not require certain information.
 - If there is no preprinted notarial certificate, ask the customer what kind of notarization is required (see Chapter 4 of this handbook). If the customer does not know, advise him or her to find out from the entity requesting the document or the author of the document.

SPECIAL NOTE: Notarizing and/or Certifying Official School Records for Foreign Use – (See Example 20).

Student Name: [REDACTED]		SSN: [REDACTED]	ID: [REDACTED]	Birthdate: [REDACTED]																																																																																																																																																																																																																																																																																																						
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Student is in good standing and is eligible to receive unless otherwise stated. This transcript is not official unless it bears the signature and impression seal of the Registrar.																																																																																																																																																																																																																																																																																																										
<table border="1"> <thead> <tr> <th>Disc</th> <th>Crs. No.</th> <th>Course Title</th> <th>Grade</th> <th>Hrs. 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Example 20

State-certified copies of school transcripts or diplomas are frequently requested for foreign exchange students. These require an additional step before the apostille or authentication can be issued.

1. An authorized school official (Principal, Registrar, etc.) must certify the document:
 - » Sample wording for school official certifying an original school document:

On ____(date)__, I the undersigned, do hereby certify that this is a true and original ___(specify the type of document)__ issued by ___(name of school)___.

[Signature of school official]
[Printed name and official title]

- » Sample wording for school official certifying a copy of a school document:

On ____(date)__, I the undersigned, do hereby certify that this is a true and unaltered copy of the original (specify the type of document) issued by (name of school).

[Signature of school official]
[Printed name and official title]

2. A notary public must then notarize the school official's signature using a certificate for a signature witness.

Here is an illustration of how a typical school transcript should be notarized for an exchange student. See Example 21:

HIGH SCHOOL TRANSCRIPT		SCHOOL INFORMATION		LEVEL: 11 TH		SCHOOL YEAR	
STUDENT INFORMATION		NAME: Tampa High School		Credit Earned	Final Grade	Course Title	
FULL NAME: Jane Doe	ADDRESS: 123 Diner St., Orlando, FL 12345	ADDRESS: 123 Tampa Lane, Tampa, FL 12344	1.0	B	English 12		
PHONE NUMBER: 555-555-5555	DATE OF BIRTH: 01/01/2000	PHONE NUMBER: 444-444-4444	1.0	A	Calculus		
PARENT/GUARDIAN: John Doe	EMAIL ADDRESS: info@tampahigh.com	1.0	A	Physics w/lab			
ACADEMIC RECORD				0.5	A	Photography	
SCHOOL YEAR: 2009-2010 GRADE LEVEL: 9 TH		SCHOOL YEAR: 2010-2011 GRADE LEVEL: 10 TH		0.5	A	Yearbook	
Course Title	Credit Earned	Final Grade	Course Title	Credit Earned	Final Grade	Driver's Education	
English 9	1.0	A	English 10	1.0	A	Studio Art	
Algebra I	1.0	A	Algebra II	1.0	A	Piano	
Biology w/lab	1.0	A	Chemistry w/lab	1.0	A		
American History	1.0	A	World History	1.0	A		
Drawing	1.0	A	Latin I	1.0	A		
Martial Arts I	0.5	A	Martial Arts II	0.5	A		
MS Office	0.5	A	Piano	0.5	A		
Total Credits: 6	GPA: 4.0	Cumulative GPA: 4.0	Total Credits: 6	GPA: 4.0	Cumulative GPA: 4.0	Total Credits: 6	GPA: 4.0
SCHOOL YEAR: 2011-2012 GRADE LEVEL: 11 TH		SCHOOL YEAR: 2012-2013 GRADE LEVEL: 12 TH					
Course Title	Credit Earned	Final Grade	Course Title	Credit Earned	Final Grade		
English 11	1.0	B	English 12	1.0	A		
Algebra II	1.0	A	Calculus	1.0	A		
Marine Biology w/lab	1.0	A	Physics w/lab	1.0	A		
American Government	0.5	A	Photography	0.5	A		
Economics	0.5	A	Yearbook	0.5	A		
Latin II	1.0	A	Driver's Education	0.5	A		
Web Design	1.0	A	Studio Art	1.0	A		
Total Credits: 6	GPA: 4.0	Cumulative GPA: 4.0	Total Credits: 6	GPA: 4.0	Cumulative GPA: 4.0		
<p><i>On May 7th, 2018, I, the undersigned do hereby certify that this is a true and original transcript issued by Tampa High School.</i></p> <p><i>MARY J. SMITH</i> A: 4 : 24 d: y e: 6</p> <p><i>Mary Smith</i> Principal</p> <p><i>I do hereby self-certify that this is the official transcript and record of Jane Doe's academic studies of 2009-2013.</i></p> <p><i>Jane J. Doe</i></p> <p><i>Mary Smith</i> Title: Principal</p> <p><i>Example 21</i></p>							
<p><i>On May 7th, 2018, I, the undersigned do hereby certify that this is a true and original transcript issued by Tampa High School.</i></p> <p><i>MARY J. SMITH</i> A: 4 : 24 d: y e: 6</p> <p><i>Mary Smith</i> Principal</p> <p><i>I do hereby self-certify that this is the official transcript and record of Jane Doe's academic studies of 2009-2013.</i></p> <p><i>Jane J. Doe</i></p> <p><i>Mary Smith</i> Title: Principal</p> <p><i>Example 21</i></p>							

Example 21

The same format should be used for report cards. If you have any questions, please call our office. Because these documents almost always require state certification (apostille or authentication), an incorrect notarization will delay the transmittal of the document to the student's home country and may delay the student's further education.

NOTARIZING FOR SIGNERS WITH DISABILITIES OR SPECIAL SIGNATURES

There may be a circumstance when a person is physically unable to sign his or her name on a document but needs a notarization. Several options exist in such cases, including: signature by mark, signature by stamp, signature by electronic means, and signature by third party.

Signature by Mark, Stamp, or Device. "Signature" is defined in Idaho law as "a tangible symbol or an electronic signature that evidences the signing of a record." What this means to a notary is that a person who uses a mark, stamp, or an electronic signing device to sign a document can have that signature notarized just as if it was signed with pen and ink. The same rules apply: If the document calls for the person to sign in front of you (signature witness or jurat), then you must see the signature be affixed to the document. If the document calls for an acknowledgment, you have to verify the person's signature by comparing it to another example as well as take the signer's verbal acknowledgment. You need not indicate how the signature was made when completing the notarial certificate. See Example 22.

Mark	
Mark affixed by <u>John Smith</u> in the presence of the undersigned notary <u>Jane J. Doe</u> .	
State of Idaho County of <u>Ada</u>	
I, <u>Jane J. Doe</u> , a notary public, do hereby certify that on this <u>17th</u> day of <u>November, 2017</u> personally appeared before me <u>John Smith</u> , who, being by me first duly sworn, declared that he made his mark on the foregoing instrument, and that the statements therein contained are true.	
<u>Jane J. Doe</u> Notary Public	

Example 22

Signature by Third Party. If an individual is physically unable to sign a document, Idaho law allows the individual to direct another person, other than the notary, to sign the individual's name for him or her. Obviously, both the signer and the person whom he/she directs to sign their name must be physically present during the notarization. The notary then has to modify the notarial certificate to include the phrase, "Signature affixed by (name of other individual) at the direction of (name of individual named in the document)" or words to that effect. This is an example of how such a signature and notarization would look. See Example 23.

John Smith	Signature affixed by <u>Mary Smith</u> at the direction of John Smith
John Smith	State of Idaho County of <u>Ada</u>
Signed before me by <u>John Smith</u> on <u>November 7, 2019</u>	
<u>Jane J. Doe</u> Notary Public	

Example 23

Remember, in all situations requiring another person's assistance, that person should be an unbiased, independent third party who is not in any way a beneficiary to the transaction.

CHAPTER 6 – IDAHO NOTARY LAWS & RULES

Notary Laws – Title 1, Chapter 5, Part 6

51-101. Short title. This chapter shall be known and may be cited as the “Revised Uniform Law on Notarial Acts”.

51-102. Definitions.

- As used in this chapter:
- (1) “Acknowledgment” means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.
 - (2) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
 - (3) “Electronic signature” means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.
 - (4) “In a representative capacity” means acting as:
 - (a) an authorized officer, agent, partner, trustee, or other representative for a person that is not an individual;
 - (b) a public officer, personal representative, guardian, or other representative, in the capacity stated in a record;
 - (c) an agent or attorney in fact for a principal; or
 - (d) an authorized representative of another in any other capacity.
 - (5) “Notarial act” means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, certifying or attesting a transcript of an affidavit or deposition, and noting a protest of a negotiable instrument.
 - (6) “Notarial officer” means a notary public or other individual authorized to perform a notarial act.
 - (7) “Notary public” means an individual commissioned to perform a notarial act by the secretary of state.
 - (8) “Official stamp” means a physical image affixed to a tangible record or an electronic image attached to or logically associated with an electronic record.
 - (9) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal entity.
 - (10) “Personal appearance” or “appear personally” means the notarial officer is physically close enough to see, hear, communicate with and receive identification documents from the individual seeking notarization and any required witness.
 - (11) “Record” means information inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
 - (12) “Sign” means, with present intent to authenticate or adopt a record by:
 - (a) Executing or adopting a tangible symbol; or
 - (b) Attaching to or logically associating with the record an electronic symbol, sound, or process.
 - (13) “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.
 - (14) “Stamping device” means:
 - (a) A physical device capable of affixing to a tangible record an official stamp; or
 - (b) An electronic device or process capable of attaching or logically associating an official stamp with an electronic record.
 - (15) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
 - (16) “Verification on oath or affirmation” means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

51-103. Applicability. This chapter applies to a notarial act performed on or after the effective date of this act.

51-104. Authority to perform notarial act.

- (1) A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.
- (2) A notary public may not perform a notarial act with respect to a record to which the notary public or the notary’s spouse is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

51-105. Requirements for certain notarial acts.

- (1) A notary public who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notary public and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.
- (2) A notary public who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notary public and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.
- (3) A notary public who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notary public and signing the record has the identity claimed.
- (4) A notary public who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.
- (5) A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in section 28-3-505(2), Idaho Code.

51-106. Personal appearance required. If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notary public.

51-107. Identification of individual.

- (1) A notary public has personal knowledge of the identity of an individual appearing before the notary public if the individual is personally known to the notary public through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.
- (2) A notary public has satisfactory evidence of the identity of an individual appearing before the notary public if the notary public can identify the individual:
 - (a) By means of:
 - (i) A passport, driver's license or government-issued nondriver identification card that is current or expired not more than three (3) years before performance of the notarial act; or
 - (ii) Another form of government identification issued to an individual that is current or expired not more than three (3) years before performance of the notarial act, that contains the signature or a photograph of the individual, and that is satisfactory to the notary public; or
 - (b) By a verification on oath or affirmation of a credible witness personally appearing before the notary public and known to the notary public or whom the notary public can identify on the basis of a passport, driver's license or government-issued nondriver identification card that is current or expired not more than three (3) years before performance of the notarial act.
- (3) A notary public may require an individual to provide additional information or identification credentials necessary to assure the notary public of the identity of the individual.

51-108. Authority to refuse to perform notarial act.

- (1) A notary public may refuse to perform a notarial act if the notary public is not satisfied that:
 - (a) The individual executing the record is competent or has the capacity to execute the record; or
 - (b) The individual's signature is knowingly and voluntarily made.
- (2) A notary public may refuse to perform a notarial act unless refusal is prohibited by a law other than this chapter.

51-109. Signature if individual unable to sign. If an individual is physically unable to sign a record, the individual may direct an individual other than the notary public to sign the individual's name on the record. The notary public shall insert "Signature affixed by (name of the other individual) at the direction of (name of individual)" or words of similar import.

51-110. Notarial act in this state.

- (1) A notarial act may be performed in this state by:
 - (a) A notary public of this state; or
 - (b) Any other individual authorized to perform the specific act by the law of this state.

- (2) The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- (3) The signature and title of a notary public described in subsection (1) (a) or (b) of this section conclusively establish the authority of the officer to perform the notarial act.

51-111. Notarial act in another state.

- (1) A notarial act performed in another state has the same effect under the law of this state as if performed by a notary public of this state if the act performed in that state is performed by:
 - (a) A notary public of that state;
 - (b) A judge, clerk, or deputy clerk of a court of that state; or
 - (c) Any other individual authorized by the law of that state to perform the notarial act.
- (2) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- (3) The signature and title of a notarial officer described in subsection (1) (a) or (b) of this section conclusively establish the authority of the officer to perform the notarial act.

51-112. Notarial act under authority of federally recognized Indian tribe.

- (1) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notary public of this state if the act performed in the jurisdiction of the tribe is performed by:
 - (a) A notary public of the tribe; or
 - (b) Any other individual authorized by the law of the tribe to perform the notarial act.
- (2) The signature and title of an individual performing a notarial act under the authority and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- (3) The signature and title of a notarial officer described in subsection (1) (a) or (b) of this section conclusively establish the authority of the officer to perform the notarial act.

51-113. Notarial act under federal authority.

- (1) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notary public of this state if the act performed under federal law is performed by:
 - (a) A judge, clerk, or deputy clerk of a court;
 - (b) An individual in the military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
 - (c) An individual designated as a notarizing officer by the United States department of state for performing notarial acts overseas; or
 - (d) Any other individual authorized by federal law to perform the notarial act.
- (2) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.
- (3) The signature and title of an officer described in subsection (1) (a), (b) or (c) of this section conclusively establish the authority of the officer to perform the notarial act.

51-114. Foreign notarial act.

- (1) As used in this section, "foreign state" means a government other than the United States, a state or a federally recognized Indian tribe.
- (2) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notary public of this state.
- (3) If the title of office and indication of authority to perform notarial acts in a foreign state appear in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.
- (4) The signature and official stamp of an individual holding an office described in subsection (3) of this section are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- (5) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

- (6) A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

51-115. Certificate of notarial act.

- (1) A notarial act must be evidenced by a certificate. The certificate must:
- Be executed contemporaneously with the performance of the notarial act;
 - Be signed and dated by the notary public;
 - Identify the jurisdiction in which the notarial act is performed; and
 - Indicate the date of expiration, if any, of the notary public's commission.
- (2) If a notarial act regarding a tangible or electronic record is performed by a notary public, an official stamp must be affixed to the certificate.
- (3) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) and (2) of this section and:
- Is in a short form set forth in section 51-116, Idaho Code;
 - Is in a form otherwise permitted by the law of this state;
 - Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or
 - Sets forth the actions of the notary public and the actions are sufficient to meet the requirements of the notarial act as provided in sections 51-105, 51-106 and 51-107, Idaho Code, or law of this state other than this chapter.
- (4) By executing a certificate of a notarial act, a notary public certifies that the notary public has complied with the requirements and made the determinations specified in sections 51-105, 51-106 and 51-107, Idaho Code.
- (5) A notary public may not affix the notary public's signature to, or logically associate it with, a certificate until the notarial act has been performed.
- (6) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the Secretary of State has established standards pursuant to section 51-127, Idaho Code, for attaching, affixing or logically associating the certificate, the process must conform to the standards.

51-116. Short form certificates. The following short form certificates of notarial acts are sufficient for the purposes indicated if completed with the information required by section 51-115(1) and (2), Idaho Code:

- (1) For an acknowledgment in an individual capacity:

State of _____
County of _____

This record was acknowledged before me on _____ by _____
Date _____ Name(s) of individual(s)

Signature of notary public
(Stamp)

My commission expires: _____

- (2) For an acknowledgment in a representative capacity:

State of _____
County of _____

This record was acknowledged before me on _____ by _____
Date _____ Name(s) of individual(s)

as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed)

Signature of notary public
(Stamp)

My commission expires: _____

- (3) For a verification on oath or affirmation:

State of _____
County of _____
Signed and sworn to (or affirmed) before me
On _____ by _____
Date Name(s) of individual(s) making statement

Signature of notary public
(Stamp)
My commission expires: _____

(4) For witnessing or attesting a signature:

State of _____
County of _____
Signed (or attested) before me on _____ by _____
Date Name(s) of individual(s)

Signature of notary public
(Stamp)
My commission expires: _____

(5) For certifying a copy of a record:

State of _____
County of _____
I certify that this is a true and correct copy of a record in the possession
of _____
Dated _____

Signature of notary public
(Stamp)
My commission expires: _____

51-116A. Acknowledgment by entity on behalf of another entity.

(1) As used in this section:

- (a) A corporation, partnership, limited liability company, trust or other legal entity that is the party executing an instrument and the party, or one of the parties, to be bound thereby shall be referred to as the "maker" of the instrument;
- (b) A corporation, partnership, limited liability company, trust or other legal entity that is a partner, manager, member, trustee or other authorized representative of the maker shall be referred to as the "constituent entity" of the maker;
- (c) The natural person who signs the written instrument as an officer, partner, manager, member, trustee or other authorized representative of the constituent entity shall be referred to as the "signer"; and
- (d) An acknowledgment of an instrument executed by a maker acting through a constituent entity shall be referred to as a "compound acknowledgment."

(2) A compound acknowledgment of an instrument shall be made in a form that substantially conforms to the statutory form of acknowledgment for an entity of the same legal form as either the maker or the constituent entity; provided, however, that any acknowledgment that satisfies the requirements of subsection (3) of this section shall suffice.

(3) A compound acknowledgment shall:

- (a) Identify the signer;
- (b) State the signer's official title, capacity or authority to sign on behalf of the constituent entity, or recite that the signer is authorized to sign on behalf of the constituent entity;
- (c) Identify the constituent entity or constituent entities;
- (d) Recite the constituent entity's official title, capacity or authority to act on behalf of the maker, or the relationship of the constituent entity to the maker, or the position the constituent entity holds in or with the maker, or that the constituent entity is authorized to act on behalf of the maker; and
- (e) Identify the maker.

(4) As an example only, a compound acknowledgment for a maker that is a partnership, acting through a constituent entity that is a corporation, may take the following form:

STATE OF _____)
) ss.
COUNTY OF _____)
On this ____ day of _____, ____, before me, _____, a Notary Public in and
for said State, personally appeared _____ (signer), known or identified to me (or proved
to me on the oath of _____) to be the _____ (officer title) of _____
(constituent entity) a _____ corporation, one of the partners in the partnership
of _____ (maker), a _____ partnership, and the partner or one of the
partners who subscribed said partnership name to the foregoing instrument, and
acknowledged to me that he executed the within instrument on behalf of said corporation,
and that such corporation executed the same in said partnership name.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and
year in this certificate first above written.

Notary Public for _____
Residing at _____
My commission expires _____

51-117. Seal.

- (1) Each notary public shall provide and keep an official seal, which shall be a rubber stamp with a serrated or milled-edge border in a rectangular or circular form and includes the words "Notary Public," the notary public's name, the words "State of Idaho," and nothing more.
- (2) The seal shall be impressed below or near the notary public's official signature on each notary certificate that the notary administers.
- (3) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall promptly notify the commissioning officer or agency on discovering that the device is lost or stolen.

51-118. Stamping Device.

- (1) The stamping device for tangible records must be an inked stamp that provides an image of the notary's official stamp that meets the requirements of section 51-117, Idaho Code, and that is readily visible upon copying. The stamp shall not exceed two and one-fourth (2.25) inches by one (1) inch if rectangular or one and three-fourths (1.75) inches in diameter if circular.
- (2) The stamping device for electronic records must be an electronic device or process that provides an image of the notary's official stamp that meets the requirements of section 51-117, Idaho Code, and that is readily visible upon copying.
- (3) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable.
- (4) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall promptly notify the commissioning officer or agency on discovering that the device is lost or stolen.

51-120. Notification regarding performance of notarial act on electronic record -- selection of technology.

- (1) A notary public may select one (1) or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.
- (2) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the secretary of state has established standards for approval of technology pursuant to section 51-127, Idaho Code, the technology must conform to the standards. If the technology conforms to the standards, the secretary of state shall approve the use of the technology.

51-121. Commission as notary public - qualifications - no immunity or benefit.

- (1) An individual qualified under subsection (2) of this section may apply to the secretary of state for a commission as a notary public. The applicant shall comply with and provide the information required by the secretary of state and pay any application fee.
- (2) An applicant for a commission as a notary public must:
 - (a) Be at least eighteen (18) years of age;
 - (b) Be a citizen or permanent legal resident of the United States;
 - (c) Be a resident of or have a place of employment or place of practice in this state;
 - (d) Be able to read and write; and
 - (e) Not be disqualified to receive a commission under section 51-123, Idaho Code.
- (3) Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office and submit it to the secretary of state.
- (4) Before issuance of a commission as a notary public, the applicant for a commission shall submit to the secretary of state an assurance in the form of a surety bond or its functional equivalent in the amount of ten thousand dollars (\$10,000).
 - (a) The assurance must be issued by:
 - (i) A surety or other entity licensed or authorized to do business in this state; or
 - (ii) The risk management office in the department of administration for the state of Idaho if the applicant is regularly employed by the state and the commission is required in the scope of that employment.
 - (b) The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the secretary of state. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give thirty (30) days' notice to the secretary of state before canceling the assurance. The surety or issuing entity shall notify the secretary of state no later than thirty (30) days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the secretary of state.
- (5) On compliance with this section, the secretary of state shall issue a commission as a notary public to an applicant for a term of six (6) years.
- (6) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees.

51-122. Course of study. The secretary of state or an entity approved by the secretary of state shall offer regularly a course of study to applicants who do not hold commissions as notaries public in this state. The course must cover the laws, rules, procedures and ethics relevant to notarial acts.

51-123. Grounds to deny, refuse to renew, revoke, suspend or condition commission of notary public.

- (1) The secretary of state may deny, refuse to renew, revoke, suspend or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence or reliability to act as a notary public, including:
 - (a) Failure to comply with the provisions of this chapter;
 - (b) A fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the secretary of state;
 - (c) A conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty or deceit;

- (d) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit;
 - (e) Failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the secretary of state or any federal or state law;
 - (f) Use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right or privilege that the notary does not have;
 - (g) Violation by the notary public of a rule of the secretary of state regarding a notary public;
 - (h) Denial, refusal to renew, revocation, or suspension of, or placing a condition on, a notary public commission in another state; or
 - (i) Failure of the notary public to maintain an assurance as provided in section 51-121(4), Idaho Code.
- (2) If the secretary of state denies, refuses to renew, revokes, suspends or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with chapter 52, title 67, Idaho Code.
- (3) The authority of the secretary of state to deny, refuse to renew, suspend, revoke or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

51-124. Database of notaries public. The secretary of state shall maintain an electronic database of notaries public:

- (1) Through which a person may verify the authority of a notary public to perform notarial acts; and
- (2) That indicates whether a notary public has notified the secretary of state that the notary public will be performing notarial acts on electronic records.

51-125. Prohibited acts.

- (1) A commission as a notary public does not authorize an individual to:
 - (a) Assist persons in drafting legal records, give legal advice or otherwise practice law;
 - (b) Act as an immigration consultant or an expert on immigration matters;
 - (c) Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or
 - (d) Receive compensation for performing any of the activities listed in this subsection.
- (2) A notary public may not engage in false or deceptive advertising.
- (3) A notary public, other than an attorney licensed to practice law in this state, may not use the term "notario" or "notario publico."
- (4) A notary public, other than an attorney licensed to practice law in this state, may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the internet, the notary public shall include the following statement, or an alternate statement authorized or required by the secretary of state, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities. If the form of advertisement or representation is not broadcast media, print media or the internet and does not permit inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.
- (5) Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person who seeks performance of a notarial act by the notary public.

51-126. Validity of notarial acts. Except as otherwise provided in section 51-104(2), Idaho Code, the failure of a notary public to perform a duty or meet a requirement specified in this chapter does not invalidate a notarial act performed by the notary public. The validity of a notarial act under this chapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than this chapter or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

51-127. Rules.

- (1) The secretary of state may adopt rules to implement this chapter. Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules may include but are not limited to the following:
 - (a) Prescribing the manner of performing notarial acts regarding tangible and electronic records;
 - (b) Including provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;
 - (c) Including provisions to ensure integrity in the creation, transmittal, storage or authentication of electronic records or signatures;
 - (d) Prescribing the process of granting, renewing, conditioning, denying, suspending or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public;
 - (e) Including provisions to prevent fraud or mistake in the performance of notarial acts;
 - (f) Establishing the process for approving and accepting surety bonds and other forms of assurance under section 51-121(4), Idaho Code; and
 - (g) Providing for the course of study under section 51-122, Idaho Code.
- (2) In adopting, amending or repealing rules about notarial acts with respect to electronic records, the secretary of state may consider, as far as is consistent with the provisions of this chapter:
 - (a) The most recent standards regarding electronic records promulgated by national bodies, such as the national association of secretaries of state;
 - (b) Standards, practices and customs of other jurisdictions that substantially enact this chapter; and
 - (c) The views of governmental officials and entities and other interested persons.

51-128. Notary public commission in effect. A commission as a notary public in effect on the effective date of this act continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after the effective date of this act is subject to and shall comply with the provisions of this chapter. A notary public, in performing notarial acts after the effective date of this act, shall comply with the provisions of this chapter.

51-129. Savings clause. This chapter does not affect the validity or effect of a notarial act performed before the effective date of this act.

51-130. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

51-131. Relation to electronic signatures in global and national commerce act. This chapter modifies, limits or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. 7001 et seq., but does not modify, limit or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

51-132. Filing fees.

- (1) The fee for filing an application for appointment as a notary public shall be thirty dollars (\$30.00).
- (2) The fee for filing an application for electronic notarization authorization shall be twenty dollars (\$20.00).
- (3) There shall be no fee charged for filing a letter of resignation, a certified copy of a judgment of conviction, a certified copy of findings of fact or extract therefrom, public record of proof of material misstatement of fact in an application, certified copy of order adjudging incompetency, or notice of death.
- (4) The fee for filing notice of change of name or address shall be five dollars (\$5.00).
- (5) The fee for filing notice of cancellation of a notary bond shall be five dollars (\$5.00).
- (6) The fee for a notary public database extraction shall be twenty-five dollars (\$25.00).
- (7) The fee for a certified copy of a notary public record shall be ten dollars (\$10.00) plus twenty-five cents (.25) per page.

51-133. Notary fee.

- (1) A notary public may, for any notarial act, charge a fee not to exceed five dollars (\$5.00).
- (2) In addition to the fee, a notary public may be compensated for actual and reasonable expense of travel to a place where the notarial act is to be performed.
- (3) An employer shall not require a notary public in his employment to surrender a fee, if charged, or any part thereof to the employer. An employer may, however, preclude such notary public from charging a fee for a notarial act performed in the scope of the notary's employment.

CHAPTER 7 - REMOTE ONLINE NOTARIZATION

OVERVIEW

These rules will govern the performance of notarial acts for remotely located individuals by the use of communication technology under Title 51, Chapter 1, Idaho Code. Only notaries public who have been authorized to perform notarial acts with respect to electronic records and by the Secretary of State under Title 51, Chapter 1, Idaho Code for remotely located individuals are governed. Additional specifications for the use of tamper-evident technologies for notarial acts performed with respect to electronic records are described in Title 51, Chapter 1, Idaho Code (I.C.) and Idaho Administration Procedures Act (IDAPA) 34, Title 07, Chapter 01.

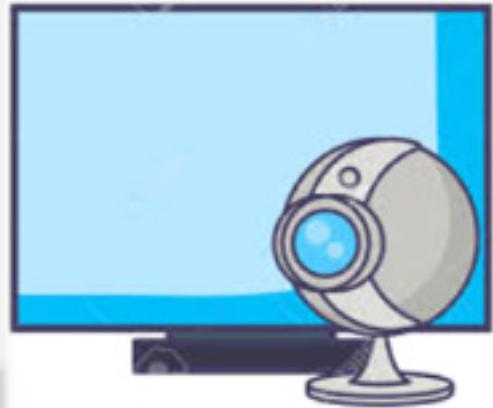
TAMPER-EVIDENT COMMUNICATION TECHNOLOGY

Tamper-Evident communication technology is required to perform any remote notarial act. This tamper-evident communication technology shall consist of a digital certificate complying with the X.509 standard adopted by the International Telecommunication Union or a similar industry-standard technology. This digital certificate will then allow the notary public to notify the Secretary of State of the notarial acts they will be performing using communication technology, under I.C. 51-114A. A notary shall select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. Although, an individual may not require a notary public to use a technology that the notary public has not selected.

DIGITAL CERTIFICATE

A notary public may not perform a notarial act with respect to an electronic record if the digital certificate does not comply to these rules under IDAPA 34.07.01.012.02:

- » **Has expired;**
- » **Has been revoked or terminated by the issuing or registering authority;**
- » **Is invalid; or**
- » **Is incapable of authentication.**



COMMUNICATION TECHNOLOGY QUALIFICATIONS

This tamper-evident communication technology must be able to perform certain duties before being used for a notarial act. Under IDAPA 34.07.01.015.01 the communication technology chosen for remote notaries must:

- » Provide synchronous audio-visual feeds of sufficient video resolution and audio clarity to enable the notary public and remotely located individual to see and speak with each other; and
- » Provide a means for the notary public reasonably to confirm that a record before the notary public in the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature.
- » Provide reasonable security measures to prevent unauthorized access to the live transmission of the audio-visual feeds, the methods used to perform the identity proofing process.

REMOTE ONLINE NOTARIZATION QUALIFICATIONS

IDAPA 34.07.01.011.01 states the qualifications to perform notarial acts for remotely located individuals, a notary public must:

- » **Be duly commissioned as a notary public** under Section 51-121, Idaho Code;
- » **Be authorized by the Secretary of State to perform electronic notarizations;** and
- » **Provide notice by application to the Secretary of State** that the notary public will be performing notarial acts facilitated by communication technology.

PERSONAL KNOWLEDGE OF REMOTELY LOCATED INDIVIDUALS

A notary public has satisfactory evidence of the identity of a remotely located individual if the notary public has personal knowledge of the individual or if the notary public has satisfactory evidence of the individual by oath or affirmation of a credible witness appearing before the notary as provided in I.C. 51-107. A credible witness may be a remotely located individual if the notary public, credible witness, and the individual whose statement is the subject of the notarial act can communicate by using communication technology. A remotely located credible witness must meet the same requirements of the identity proofing process, unless the notary public has personal knowledge of the remotely located credible witness.

IDENTITY PROOFING

1. Knowledge—Based Authentication

A knowledge—based authentication is an identity assessment used by notary public to identify an individual that is based on a set of questions formulated from public or private data sources.

- » The remotely located individual must answer a quiz consisting of a minimum of five questions related to the individual's personal history or identity;
- » Each question must have a minimum of five possible answer choices;
- » At least 80% of the questions must be answered correctly;
- » All questions must be answered within two minutes;
- » If the remotely located individual fails the first attempt, the individual may retake the quiz one time with 24 hours;
- » During a retake of the quiz, a minimum of 40% of the prior questions must be replaced;
- » If the remotely located individual fails the second attempt, the individual is not allowed to retry with the same notary public within 24 hours of the second failed attempt; and
- » The notary public must not be able to see or record the questions or answers.

2. Credential Analysis

The analysis of an identity credential must use public or private data sources to confirm the validity of the identity credential presented by a remotely located individual and, at a minimum:

- » Use automated software process to aid the notary public in verifying the identity of each remotely located individual
- » Require that the identity credential passes an authenticity test, consistent with sound commercial practices that use appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identity credential is not fraudulent or inappropriately modified;
- » Use Information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identity credential details; and/or
- » Enable the notary public visually to compare for consistency the information and photograph on the identity credential and the remotely located individual as viewed by the notary public in real time through communication technology.

RECORD RETENTION

A notary public may maintain one or more journals in which the notary public chronicles all notarial acts that he notary public performs with respect to remotely located individuals. A journal may be created on a tangible medium or in an electronic format using an industry—standard data file format. If the journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. An entry in a journal must be made contemporaneously with the performance of the notarial act.

A notary public shall retain an audio-visual recording required under I.C. 51-114A, in a computer or other electronic storage device that protects the audio-visual recording against unauthorized access by password or cryptographic process. The recording must be created in an industry-standard audio-visual file format and not include images of any record in which a remotely located individual made a statement or on which a remotely located individual executed a signature. The recording must be retained for at least ten (10) years after the recording is made. On the death of adjunction of incompetency of a current or former notary public, the notary public's personal representative or guardian or any person knowingly in possession of a recording shall:

- » Comply with the retention requirements of this subsection;
- » Transmit the recording to one or more repositories under IDAPA 34.07.01.016.03; or
- » Transmit the recording in an industry—standard readable data storage device to the Secretary of State.

A recorder shall accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certifies that the tangible copy is an accurate copy of the electronic record.

REPOSITORIES

A notary public, a guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public may, by written contract, engage a third person to act as a repository to provide the storage required under IDAPA 34.07.01.016.02. A third person under contract shall be deemed a repository under I.C. 51-114A. The contract shall:

- » Enable the notary public, the guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public to comply with the retention requirements of IDAPA 34.07.01.016.02 even if the contract is terminated; or
- » Provide that the information will be transferred to the notary public, the guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public if the contract is terminated.

CERTIFICATE OF NOTARIAL ACT USING COMMUNICATION TECHNOLOGY

As per I.C. 51-114A, a certificate for a notarial act for a remotely located individual, whether in standard or short form, will include additional language to indicate that the notarial act was performed using communication technology and will be sufficient if it is substantially as follows:

"This notarial act involved the use of communication technology."

IMPORTANT DOS & DON'TS FOR IDAHO NOTARIES PUBLIC

DO make sure the person whose signature, acknowledgment, or oath is being notarized personally appears to you when the notarization takes place. **ALWAYS. EVERY TIME. NO EXCEPTIONS EVER.**

DO make sure you understand what notarial act is required before notarizing a document.

DO NOT notarize your own signature.

DO NOT notarize anyone's signature on a document in which you are named.

DO NOT notarize a document on which your spouse is a party.

DO NOT notarize a document in which either the notary or the notary's spouse has a direct benefit.

DO NOT sign as a representative of an entity and then notarize any signature on that same document.

DO NOT engage in the unauthorized practice of law.

DO NOT place your seal/stamp in such a way it obstructs any other part of the notarial block.

DO call (208) 334-2301 if you have a question or are unsure how to notarize a document or complete a journal entry.

If you have questions or would like more information:

sos.idaho.gov

- or -

(208) 334-2301

GLOSSARY

Acknowledgment. A notarial act which requires the person who has already signed a document to personally appear before the notary and state (acknowledge) that he/she willingly signed the document for the purposes for which it was intended. The notary does not have to actually see the person sign the document, but does have to actually witness the person acknowledge the signature. (See pages 10 - 13)

Affirmation. An oral promise on one's personal honor that the information given is true and accurate to the best of the signer's knowledge. Also known as an oath.

Affidavit. A written statement in which the person attests under penalty of perjury that a statement is true.

Apostille. A certificate of notarial authority issued by the Idaho Secretary of State. It certifies the notarial block is completed according to Idaho statutes and that the notary was commissioned and in good standing at the time the notarization was performed. (See pages 23 - 25)

Attorney-in-fact. A person (not necessarily a lawyer) who is given written authority to sign and/or act on behalf of another individual (the principal), normally through a document called a power of attorney.

Attest. To confirm (usually in writing) that a document is genuine or that statements made in a document are true.

Authentication. A certificate of notarial authority issued by the Idaho Secretary of State. It certifies that the notarial certificate is completed according to Idaho statutes and the notary was commissioned and in good standing at the time the notarization was performed. (See pages 23 - 25)

Certificate of Commission. The official document issued by the Idaho Secretary of State granting a notary commission. It shows the notary's official name, the notary's city of residence, and the beginning and ending dates of the commission.

Certified Copy. An exact, complete and unaltered copy of a document attested as a true copy of the original. See pages 20 - 23 for more information.

Communication Technology. An electronic device or process that allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound, and when necessary, facilitates communication with individuals with hearing, sight or speech impairments.

Commission Number / Notary Number. A unique identifier associated with a particular notary public. Idaho notaries should indicate this information on a notarial certificate or other documents.

Comprehension. The ability to understand something. A notary is responsible for determining that all parties seeking notarization understand what they are signing or affirming.

Credible Witness. Someone who is either personally known or satisfactorily identified to the notary who can swear to the identity of a person requesting a notarization.

Deposition. A written statement used in legal matters transcribed from oral testimony given under oath or affirmation.

Digital Certificate. An electronic "password" that allows a person, organization to exchange data securely over technology.

Electronic Notarization / eNotarization. The process by which a digital document is notarized using electronic signatures of both the signer and the notary public and includes the attachment of an electronic notarial seal. For more information, see the [SOS webpage](#) on this topic.

Electronic Signature. An electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign a record.

Forgery. False signature, written document, or other creation, made to imitate the true signature, document, or creation, with the intent to defraud.

Identity Proofing. A process or service by which a third party provides a notary public with means to verify the identity of a remotely located individual by a review of personal information from a public or private source.

Intent. The purpose for which something is done.

Jurat. The notarial act that certifies the notary as having witnessed the signing of a document and administered an oath or affirmation, in which the signer declares the document to be truthful and accurate. (See pages 23 - 26)

Jurisdiction. The geographic area over which authority extends. An Idaho notary public has the authority to perform notarizations anywhere in the state of Idaho. An Idaho notary's jurisdiction does not extend to any other states or foreign countries.

Medallion Signature Guarantee. A verification/guarantee of signatures on stocks and bond transactions that can only be done by a security broker or dealer participating in a medallion program.

Negligence. Failure to use reasonable care that would be expected of any other person in a similar situation.

Notarial Acts. The official actions of a notarial officer: To take acknowledgments; to administer oaths; to witness or attest signatures; to perform jurats; to certify or attest copies; to transcribe and certify depositions; and to note a protest of a negotiable instrument. (See Chapter 4)

Notarial Officer. A notary public or other individual, such as a judge, clerk of court, or active duty military officer who is authorized to perform notarial acts.

Notary Public. An individual commissioned to perform notarial acts by the secretary of State.

Notary Stamp / Notarial Seal. The official seal of the notary.

Oath. A statement of truth, either written or verbal, given under penalty of perjury.

Perjury. Making a false statement under oath; generally punishable by fine and/or imprisonment.

Personal Appearance. The notarial requirement that the person who signs a record must be in the notary's physical presence or appear by live two-way audio/visual communication at the time of the notarization. (See page 7)

Power of Attorney. A written authorization to represent or act on another's behalf in private affairs, business, or some other legal matter.

Reasonable Care. The use of ordinary prudence and intelligence exercised in similar circumstances.

Record. A document; information that is inscribed on a tangible or electronic medium which is retrievable in a perceivable form.

Remote Notarization. Utilization of live two-way audio/visual technology to perform a notarial act.

Remotely Located Individual. An individual who is not in the physical presence of the notary public who performs a notarial act.

Representative Capacity. Acting on behalf of another person or entity, particularly when signing a document in place of the named person or entity, such as an officer, agent, partner, trustee, guardian, or attorney-in-fact.

Sign. To intentionally execute a record by means of a written, typed, stamped, or electronic affixed signature.

Signature. A tangible symbol or an electronic signature that evidences the signing of a record.

Signature Guarantee. See Medallion Signature Guarantee above.

Statement of Particulars. The required declaration in a notarial certificate that describes the details of the notarial transaction. (See page 8)

Subscribe. To sign.

Surety Bond. A three-party agreement that legally binds together a principal who needs the bond, an obligee who requires the bond (such as a notary), and a surety company that sells the bond.

Swear. To take an oath.

Tamper-evident Technology. A device or process that makes unauthorized access to the protected object easily detected.

Testify. To make a declaration to substantiate a fact; bear witness or give evidence, especially under oath in court.

Venue. The location (state and county) where a notarization is performed.

Witness. A person called upon to observe an event, a transaction, signing, etc., in order to testify concerning it if it is later held in question or challenged.

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