

**Colorado Secretary of State**  
**Notary Program Rules**  
**[8 CCR 1505-11]**

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**Rule 1. Definitions**

- 1.1 “Approved course of instruction” means a live classroom or webcast course approved by the Secretary of State.
- 1.2 “Approved vendor” means a vendor approved by the Secretary of State who provides an approved course of instruction to notaries and prospective notaries for a fee.
- 1.3 “Course provider” means an entity other than an individual that uses the Secretary of State’s curriculum, in addition to any entity-specific practices, to provide notary training to its employees or members free of charge.
- 1.4 “DAN” means the unique document authentication number issued by the Secretary of State and required by section 24-21-520(3), C.R.S., for electronic notarizations.
- 1.5 “Electronic notarization” means a notary’s notarization of electronic records that includes the notary’s and the document signer’s electronic signatures.
- 1.6 “Electronic notarization software” means any software, coding, disk, card, certificate, or program that creates and affixes the notary’s electronic signature.
- 1.7 “Legal proceeding or disciplinary action based on the applicant’s or notary public’s fraud, dishonesty, or deceit” in section 24-21-523(1)(d), C.R.S., means any civil or criminal matter conducted either judicially or administratively concerning activities involving fraud, deceit, or the other violations listed in Rule 1.8.
- 1.8 “Misdemeanor involving dishonesty” in section 24-21-523(1)(c), C.R.S., means a violation of, or a conspiracy to violate, a civil or criminal law involving fraud, dishonesty, bribery, perjury, larceny, theft, robbery, extortion, forgery, counterfeiting,

embezzlement, misappropriation of property, or any other offense adversely affecting a person's fitness to serve as a notary public.

- 1.9 “New applicant” means a person seeking a commission as a Colorado notary for the first time or a formerly commissioned notary in Colorado whose commission has been expired for more than 30 days.

## **Rule 2. Notary Commissions**

### **2.1 Filing and training requirements**

- 2.1.1 All notary filings must be submitted via the Secretary of State's online electronic filing system.
- 2.1.2 No more than 90 days before applying for a commission, a new applicant must successfully complete training and pass the exam administered by the Secretary of State.
- 2.1.3 No more than 90 days before renewing a commission, a notary must successfully complete the renewal training and pass the exam administered by the Secretary of State.
- 2.1.4 The Secretary of State will grant credit only for completion of courses offered by an approved vendor, an approved course provider, or the Secretary of State.
- 2.1.5 The Secretary of State may require a notary who has committed misconduct meriting a disciplinary proceeding to retake and successfully complete the training and exam.
- 2.1.6 Examination. The Secretary of State's open book examination will test the applicant's understanding of notary duties contained in the following:
- (a) Title 24, Article 21, Part 5 (Revised Uniform Law on Notarial Acts) of the Colorado Revised Statutes;
  - (b) Title 38, Article 30 (Titles and Interests) of the Colorado Revised Statutes;
  - (c) Title 1, Article 40 (Initiative and Referendum) of the Colorado Revised Statutes; and
  - (d) The Official Notary Handbook published by the Secretary of State.

### **2.2 Electronic notarization**

- 2.2.1 A notary must submit a notice of intent on the approved form and receive approval from the Secretary of State before the notary may electronically notarize a document. A new applicant may file the intent at the time of application but may only electronically notarize a document after he or she has been commissioned

and approved. A notary may choose to either use a DAN as the notary's electronic signature or adopt a different electronic signature which the notary must always use in conjunction with a DAN. If the applicant intends to use a different electronic signature than a DAN, the applicant must attach an example of the electronic signature, a description of the electronic signature technology, and contact information for the technology's supplier or vendor. A notary must notify the Secretary of State of all electronic signature changes.

2.2.2 A notary must:

- (a) Use a different DAN for each electronic notarization;
- (b) Take reasonable measures to secure assigned DANs against another person's access or use and must not permit such access or use; and
- (c) Request new DANs to replace lost or stolen DANs after notifying the Secretary in the same manner as for a journal or seal.

2.2.3 A notary must verify that the document signer has adopted an electronic signature to function as his or her signature before electronically notarizing a document.

2.2.4 Expiration of the Secretary of State's approval to notarize electronically

- (a) Approval automatically expires:
  - (1) Upon revocation, expiration, or resignation of the notary's commission;
  - (2) 30 days after the notary's name changes unless the notary previously submitted a name change.
  - (3) Upon conviction of a felony;
  - (4) Upon conviction of a misdemeanor involving dishonesty;
  - (5) If the notary no longer has a place of employment or practice or a residential address in the state of Colorado; or
  - (6) Upon the expiration or revocation of the technology described in the notification.
- (b) If approval expires, the notary or the notary's authorized representative must destroy all electronic notarization software and unused DANs unless:
  - (1) The notary's commission expired; and
  - (2) Within 30 days of the commission's expiration, the Secretary of State recommissions the notary and the notary reregisters his or her electronic signature.

### **Rule 3. Notary Trainer Requirements**

#### **3.1 Trainer Application**

3.1.1 A course provider applicant must:

- (a) Submit an application that includes:
  - (1) Procedures to establish the identity of a person attending a live course and ensure that the person is present for the required time;
  - (2) Procedures to ensure that the person receiving the certificate of completion is the same person who completed the course;
  - (3) Copies of any course handout materials, workbooks, and tests; and
  - (4) A draft copy of the certificate of successful completion as required by Rule 3.3.
- (b) Attend in-person or online training provided by the Secretary of State.

3.1.2 A vendor applicant must submit an application that includes:

- (a) Procedures to establish the identity of a person attending a live course and ensure that the person is present for the required time;
- (b) Procedures to ensure that the person receiving the certificate of completion is the same person who completed the course;
- (c) Copies of any course handout materials, workbooks and tests;
- (d) A draft copy of the certificate of successful completion as required by Rule 3.3;
- (e) A detailed curriculum; and
- (f) The required application fee.

3.1.3 Deficient application. The Secretary of State will notify an applicant of any application or curriculum deficiencies. If the applicant fails to cure the deficiency within 30 days after the mailing date of the notice, the Secretary will consider the application rejected. A rejected applicant may request a hearing in accordance with the State Administrative Procedure Act (Article 4 of Title 24, C.R.S.).

#### **3.2 Vendor-specific requirements**

3.2.1 The Secretary of State must approve a vendor's proposed curriculum before a vendor may offer a notary training course. Curriculum must be based on:

- (a) The Colorado Revised Uniform Law on Notarial Acts including but not limited to: the physical presence requirement, duty not to notarize a blank document, duty to use a notarial certificate, disqualifying interest, application procedures, resignation requirements, duty to maintain a journal of notarial acts, revocation proceedings, liability, identification of signers, role of the notary, and official misconduct; and
- (b) Widely accepted best practices, including but not limited to the role of the notary and notarizations for the elderly.

### 3.2.2 Seal of Accreditation

- (a) The Secretary of State will provide a seal of accreditation to a vendor applicant within 60 days after receipt of a subsequently approved application.
- (b) A vendor must prominently display the seal of accreditation on all vendor materials provided to a course attendee.
- (c) A seal of accreditation expires four years after issuance. To renew accreditation, a vendor must submit for reapproval a detailed curriculum; copies of any course handout materials, workbooks, and tests; and the required form and fee.
- (d) A vendor may not assign or transfer a seal of accreditation to another vendor or curriculum without the Secretary of State's approval.
- (e) The seal of accreditation does not imply endorsement of a vendor's products or services or other courses.

### 3.2.3 Vendor's list of attendees. An approved vendor must maintain and, upon request, provide a list of attendees and the following information to the Secretary of State:

- (a) The name of the instructor or instructors who taught the approved course of instruction;
- (b) The date, time, and location of the approved course of instruction;
- (c) Whether proof of completion was issued to each attendee;
- (d) Each course attendee's full name and the type of current government-issued photo identification used to establish the course attendee's identity.

## 3.3 Certificate of completion. When a student successfully completes a course, the approved vendor or course provider must issue the graduate a certificate of successful completion.

### 3.3.1 Approved vendors and course providers must ensure that only a person who has completed an approved course of instruction receives a certificate of successful

completion. Vendors and course providers may not issue a certificate of completion to an attendee who is absent during any substantive part of the course.

- 3.3.2 A certificate of successful completion of an approved course of instruction expires six months from the date of issuance.
- 3.3.3 The certificate of proof of successful completion of an approved course of instruction must contain:
  - (a) The name of the vendor or course provider who provided the course;
  - (b) The name of the person who completed the course;
  - (c) The date of completion of the course;
  - (d) The statement, “This certificate of proof of completion is valid for a period of six months from the date of issuance.”; and
  - (e) For vendors, the seal of accreditation.
- 3.4 Notification of changes. Using their letterhead, approved vendors and course providers must notify the Secretary of State within 30 days of:
  - 3.4.1 A change in physical address or email address.
  - 3.4.2 Substantial changes to an approved curriculum and provide copies of the changes.
- 3.5 Duty to revise training. Approved vendors and course providers must revise approved courses of instruction as necessary to ensure that the courses accurately reflect current Colorado law. Approved vendors and course providers must submit notice of revised training and copies of the revisions to the Secretary of State for review and approval in a format that satisfies Rule 3.4, before offering the revised training to the public.
- 3.6 Enforcement
  - 3.6.1 Duty to respond to the Secretary of State’s written request. Vendors and course providers must respond in writing within 20 business days of receiving a written request from the Secretary of State for any information relating to a complaint or approved course of instruction. The Secretary of State will send a written request to the address or email address listed on the most current application.
  - 3.6.2 Onsite inspections. Approved vendors and course providers must permit the Secretary of State or the Secretary’s designee to attend any approved course of instruction without prior notice at no charge to observe, monitor, audit, and investigate.
  - 3.6.3 Complaints. A person may file a complaint against an approved vendor or course provider with the Secretary of State alleging a violation of these rules. The person

must submit a signed and dated complaint on the Secretary of State's standard form.

3.6.4 Grounds for termination of accreditation or approval. The Secretary of State may terminate an approved vendor's accreditation or approval of a course provider for any of the following reasons:

- (a) Violation of any provision of these rules.
- (b) Misrepresentation of a notary public's duties and authority under Colorado law.
- (c) Deviation from the lesson plan for an approved course of instruction.
- (d) Making representations that the Secretary of State endorses, recommends, or mandates use of any of the vendor's products, goods, or services.
- (e) Failure to timely respond to the Secretary of State's request for communication or otherwise cooperate with an investigation.

3.6.5 Right to appeal termination of accreditation or approval. If the Secretary of State proposes to terminate an approved vendor's accreditation status or approval of a course provider, the vendor or course provider has the right to request a hearing as provided in the State Administrative Procedure Act, (Article 4 of Title 24, C.R.S.)

- (a) If the approved vendor or the course provider does not request a hearing, termination will be effective 30 days after the mailing date of the termination notice.
- (b) Termination does not bar the Secretary of State from beginning or continuing an investigation concerning the vendor or course provider.

#### **Rule 4. Notary Journal Requirements**

4.1 If a current or former notary leaves the notary journal with the notary's firm or employer, as authorized by section 24-21-519(10)(a), C.R.S., the notary must notify the Secretary of State by electronically submitting the required form within 30 days. The notary must provide the notary's firm or employer with a copy of the required form at the time of electronic submission to the Secretary of State.

4.2 A firm or employer in possession of a notary's journal has the same responsibility as a notary to:

4.2.1 Keep the journal secure as detailed in section 24-21-519(4), C.R.S.;

4.2.2 Provide a copy of a requested transaction to a member of the public per section 24-21-519(5), C.R.S, but without certifying the copy or charging a notary fee;

- 4.2.3 Provide the journal to the Secretary of State for auditing or inspection without restriction per section 24-21-519(6), C.R.S.;
  - 4.2.4 Provide the journal to a certified peace officer per section 24-21-519(7), C.R.S.; and
  - 4.2.5 Notify the Secretary of State if the journal is lost or stolen per section 24-21-519(8), C.R.S.
- 4.3 A firm or employer in possession of a notary's journal may:
- 4.3.1 Retain the journal indefinitely; or
  - 4.3.2 Transmit the journal to the Colorado State Archives and notify the Secretary of State per section 24-21-519(10)(a)(I) and (b), C.R.S.

**Rule 5. Remote Notarization**

5.1 Definitions

As used in these Rules, unless stated otherwise:

- 5.1.1 "Audio-video communication" means communication by which an individual is able to see, hear, and communicate with a remotely located individual in real time using electronic means.
- 5.1.2 "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.
- 5.1.3 "Real time" or "in real time" means, with respect to an interaction between individuals by means of audio-video communication, that the individuals can see and hear each other substantially simultaneously and without interruption or disconnection. Delays of a few seconds that are inherent in the method of communication do not prevent the interaction from being considered to have occurred in real time.
- 5.1.4 "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs a notarial act under this Rule 5.
- 5.1.5 "Remote notarization" means an electronic notarial act performed with respect to a record by means of real-time audio-video communication in accordance with Rule 5.
- 5.1.6 "Remote notarization system" means any electronic device or process that allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound such as mainstream videoconferencing

technologies, including those in phone application form, that will record the entire communication.

5.1.7 “Remote presentation” means the transmission to the notary public through the devices or processes referenced in Rule 5.1.6 of an image of a government-issued identification that is sufficient quality to enable the notary public to identify the remotely located individual seeking the notary public’s services.

## 5.2 Requirements to perform remote notarization

5.2.1 A notary public may perform a remote notarization only for a remotely located individual who is located in the state of Colorado.

### 5.2.2 Exclusions

A notary public must not use a remote notarization system to notarize:

- (a) A record relating to the electoral process; or
- (b) A will as defined under section 15-10-201(59), C.R.S., except as required in accordance with 5.2.9(c).

5.2.3 A notary public who performs a notarial act for a remotely located individual by means of audio-video communication must be currently commissioned in the state of Colorado and located in the state of Colorado at the time the notarial act is performed.

5.2.4 The remote notarization system used to perform remote notarizations must be sufficient to:

- (a) Enable the notary public to verify the identity of the remotely located individual and any required witness by means of personal knowledge or satisfactory evidence of identity;
- (b) Enable the notary public to verify that the notary public, the remotely located individual, and any required witness are viewing the same record and that all signatures, changes, and attachments to the record made by the remotely located individual and any required witness are made in real time; and
- (c) Record the interaction such that the verifications may be clearly viewed at a later date.

### 5.2.5 Requirements for ensuring satisfactory evidence of identity

- (a) A notary must determine from personal knowledge or satisfactory evidence that the remotely located individual appearing before the notary

public by means of audio-video communication is the individual that he or she claims to be.

- (b) A notary public has satisfactory evidence of identity if the notary public can identify the remotely located individual by means of audio-video communication by using at least one of the following methods:
  - (1) The oath or affirmation of a credible witness who personally knows the remotely located individual, is personally known to the notary public or presents evidence of identity with government-issued identification as required by section 24-21-507, C.R.S., and is in the physical presence of the notary public or the remotely located individual;
  - (2) Remote presentation of a government-issued identification and the data contained on the identification of the remotely located individual as required by section 24-21-507, C.R.S..

5.2.6 Consistent with section 24-21-508, C.R.S., a notary public may refuse to perform a notarial act under Rule 5 if the notary public is not satisfied that the requirements of this Rule 5 are met.

5.2.7 The certificate of notarial act for a remote notarization must, in addition to complying with the requirements of section 24-21-515, C.R.S., indicate that the notarial act was performed using audio-video technology.

5.2.8 Requirements for audio-video recording

- (a) A notary public must create an audio-video recording of a remote notarization and must:
  - (1) first disclose to the remotely located individual the fact of the recording and the details of its intended storage, including where and for how long it will be stored;
  - (2) Ensure that the remotely located individual explicitly consents to both the recording and the storage of the recording; and
  - (3) Securely store the recording for a period of ten years in compliance with section 24-21-519, C.R.S.
- (b) The notary must make a good faith effort to only include the information required in Rule 5.2.8(c).
- (c) The audio-video recording must contain :
  - (1) At the beginning of the recording, a recitation by the notary public sufficient to identify the notarial act including:

- (A) The name of the notary public;
  - (B) The date and time of the notarial act;
  - (C) A description of the document or documents to which the notarial act relates;
  - (D) The identity of the remotely located individual whose signature will be the subject of the notarial act;
  - (E) The identity of any person who will act as a credible witness, if required, to identify the signer; and
  - (F) The method or methods by which the remotely located individual and any witness, if required, will be identified to the notary public.
- (2) A declaration by the remotely located individual that his or her actions before the notary public are knowingly and voluntarily made;
  - (3) If the remotely located individual for whom the notarial act is being performed is identified by personal knowledge, an explanation by the notary public as to how the notary public knows the remotely located individual and for how long;
  - (4) If the remotely located individual is identified by a credible witness:
    - (A) A statement by the notary public as to how the notary public knows the credible witness and for how long the notary public has known the credible witness or evidence of identity using government-issued identification as required by section 24-21-507, C.R.S.; and
    - (B) An explanation by the credible witness as to how the credible witness knows the remotely located individual;
  - (5) Any other statements, acts, and conduct necessary to perform the requested notarial act.
- (d) The provisions of section 24-21-519, C.R.S., that relate to the security, inspection, copying, retention, and disposition of a notary public's journal apply equally to the security, inspection, copying, retention, and disposition of audio-video recordings required by this section.

#### 5.2.9 Transmittal of record to be notarized

- (a) After the notary public performs the notarial act, the remotely located individual must transmit a legible copy of the record by fax, email, or other electronic means directly to the notary on the same date that the act took place; and
- (b) The notary public must notarize the transmitted copy of the document as soon as received and transmit the same back to the person.
- (c) If the record is a will, as defined under section 15-10-201(59) C.R.S.:
  - (1) The original signed record must be presented to the notary public within 15 calendar days of the date of the remote notarization; and
  - (2) Within three calendar days of receiving the signed record, the notary public must confirm that such record is identical to the record remotely notarized under Rule 5.2, and, if so, affix the notary public's signature and seal on to the original signed record, reflecting the date of the remote notarization.
  - (3) A will of a remotely located testator is not acknowledged in accordance with section 15-11-502(1)(c)(II), C.R.S. unless it is notarized pursuant to all the requirements of 5.2.9(C).

5.3 A notary public must record all remote notarizations in his or her notary journal.

5.4 Notaries performing remote notarization, mainstream videoconferencing technology companies and remote notarization vendors must not use, sell, or offer to sell to another person or transfer to another person any personal information, including related to the individual or the transaction, obtained under this Rule 5 that pertains to the remotely located individual, a witness to a remote notarization, or an individual named in a record presented for remote notarization, except:

5.4.1 As necessary to facilitate performance of a notarial act;

5.4.2 To effect, administer, enforce service, or process a record provided by or on behalf of the individual or the transaction of which the record is a part;

5.4.3 In accordance with this Rule 5 or other applicable federal, state or local law;

5.4.4 To comply with a lawful subpoena or court order; or

5.4.5 In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit of the provider if the personal information concerns only customers or the business or unit and the transferee agrees to comply with the restrictions set forth in this Rule 5.4.