

DEPARTMENT OF STATE

Secretary of State

NOTARY PROGRAM RULES

8 CCR 1505-11

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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 sections 12-55-106.5, 12-55-111(4), and 12-55-112(4.5)(b), 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 "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 six months 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 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.
 - 2.1.4 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.

2.1.5 Examination. The Secretary of State's open book examination will test the applicant's understanding of notary duties contained in the following:

- (a) Title 12, Article 55 (The Notaries Public Act) 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. 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 include his or her notary identification number in an electronic notarization.

2.2.3 For purposes of section 12-55-106.5(1), C.R.S., a notary's name means the notary's printed legal name.

2.2.4 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.

2.2.5 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.

2.2.6 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) If the notary moves out of Colorado; or

- (5) 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 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 Notaries Public Act 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 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.
- 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.
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Editor's Notes

History

Rule 7 eff. 05/01/2010.

Entire rule eff. 11/30/2014.