

NV2 - How to Perform a Notarization

0:00

Hello and welcome to the Texas Secretary of State's Notary Public Training video series.

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In this lesson, you will learn how to perform a notarization.

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We will cover what are the basics of a notarized document, what are the four steps ensuring the perfect notarization, and when should you refuse to notarize a document.

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Before we go into how to perform a notarization, let's cover what a notary is allowed to do in the state of Texas.

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A notary can witness signatures of signers on documents, take a deposition or notarize a protest, make certified copies of non recordable documents, and can notarize acknowledgments.

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You should always read a notarial certificate carefully, both to determine the type of notarization called for and to ensure you are not notarizing to statements outside of your authority.

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You should also briefly review the documents contents to ensure you are not mentioned in the document attesting to facts outside of your authority as a notary public and that it matches any information contained in the notarial certificate.

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As a Texas notary public, you have statewide jurisdiction to perform notarizations throughout the state.

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With a few exceptions, you may not have jurisdiction to notarize on AUS Military base or Indian Reservation.

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If asked to notarize at these locations, you may need to research to determine jurisdiction.

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Now let's discuss what a notarized document typically contains.

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Documents generally have two sections, the body of the document, which includes the date of the document, information regarding the document's purpose, and the signature of the signer.

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It will also have the notarial certificate describing whose signature was notarized, when and where the notarization took place, and the signature and seal of the notary.

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As a notary public, you have the responsibility to understand the type of notarization presented on the document and to ensure you perform it correctly.

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We will cover more about the types of notarial acts in our next video.

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Your duty as a notary public is to ensure the body of the document is reasonably complete and the notarial certificate is properly executed.

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As a notary, you are not able to determine or change the wording, phrases, or definitions within the body of the document.

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If presented with a document that requires you to attest to statements outside of your authority as a Texas notary public, you should refuse to notarize the document until the owner or attorney has corrected the contents.

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When performing the duties of a notary public, there are a few steps that are necessary to ensure you have performed a complete notarization.

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These steps include one ensuring the individual who is signing the document is personally before you 2.

3:09

Identifying the signer through a valid form of identification 3.

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Recording the notarization in your notary record book 4.

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Notarizing and executing a true and correct notarial certificate.

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Let's discuss these steps in more detail.

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When an individual brings a document to you, you as the notary have a responsibility to ensure that the signer of the document is personally appearing before you at the time of the notarization.

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A personal appearance cannot be made via fax, telephone, a spouse or friend's permission, or by power of attorney for an absent principal.

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Personal appearance may be made by video conference only if you are commissioned as an online notary public.

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To notarize a document when the signer did not personally appear before you at the time of the notarization is good cause for the Secretary of State's office to take action against your notary public Commission and could result in you facing criminal charges.

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If you were to notarize a document for someone who was not present at the time of notarization, you can be charged with a Class A misdemeanor or felony and have your Commission revoked.

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Let's talk more about notarizing a document with a power of attorney.

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Performing a notarization when the signer has a power of attorney involves careful consideration.

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You should ensure that the person before you has the following items with them.

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The Power of Attorney document proving they have the ability to sign for the principal listed on the document a valid form of identification and are physically present before you.

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If all three of these steps are met, you will need to ensure the signer before you signs the document with their own signature.

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They are not allowed to sign the document with the signature of the principal, which would be considered forgery.

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After the POA has signed their name to the document, they should indicate next to their signature they are signing this document as the power of attorney for the principal.

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Now that you have confirmed the signer is present, you must properly identify them to verify their identity.

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There are three methods in which you may verify the signer's identity.

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One, accepting A valid identification card or document, 2 personally knowing the signer, or three by oath of a credible witness who is personally known or provides valid identification.

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Let me explain more about these different methods of identification.

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To accept a valid identification card or passport, the ID must be issued by the United States federal government or any US state government.

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Also, the ID must contain a photograph and signature of the signer and must not be expired.

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The types of I DS authorized for use by Texas notaries are a state issued driver's license, an official non driver's identification card, a United States passport, permanent resident cards, or a United States military identification card if it contains a photograph and signature of the signer.

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If notarizing a document relating to a residential real estate transaction, you may accept an unexpired passport issued by a foreign country as proof of identity.

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A second method of identifying a signer is by you personally knowing the signer.

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You must have a reasonable certainty who the signer is and have known them for an extended period of time to consider them personally known.

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Only use this method of identification if you are certain of the signer's identity.

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If using this method of identification, you, as the notary must notate in your record book that the signer is personally known to you.

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The third method for identifying a signer is by accepting the oath of a credible witness who is personally known to you or has provided A valid form of identification.

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This method of identification is generally for a signer who has no form of identification and cannot be reasonably expected to obtain an acceptable ID.

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By using this method you are stating you personally know the credible witness or the credible witness has provided valid identification and the credible witness personally knows the signer.

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The purpose of this requirement is to maintain a chain of personal knowledge from the signer through the credible witness to the notary.

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If using this method of identification you miss, the notary must record in your record book the information of the credible witness, including their name and mailing address.

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A best practice would be to make additional notes that will help you remember particular information about the notarization and the method of identification.

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In the event the situation is out of the ordinary, you must also administer an oath or affirmation to the credible witness to swear to the truthfulness of their relationship with the signer.

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Such as, do you solemnly swear that you personally know this document signer to be the individual she claims to be?

8:40

Let's review some important requirements about identifying A signer.

8:45

You must always record the method of identification for the signer in your record book.

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You cannot use a foreign passport or ITE for verifying identification unless the document is transferring a residential real estate property from the signer to another person.

9:02

A failure to properly identify the individual whose signature is being notarized is good cause for the Secretary of State's office to take action against your notary public Commission.

9:15

For each notarization, you must record the required information in your notary record book.

9:22

This information includes the date of the notarization, the date of each document being notarized, the type of notarization performed, a brief description of the instrument being notarized, the name of the signer, grantor, or maker, the mailing address of the signer, grantor, or maker, the method and type of identification.

9:45

If land is conveyed or charged by the document being notarized, you must also record the name and mailing address of the grantee and the county where the land is located.

9:57

If using a credible witness for identification, you must record the method and type of identification used in your record book.

10:06

When recording the method and type of identification used for the notarization, it is important you do not record personal information.

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Notary record books and other materials must be kept in a safe and secure manner.

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A failure to safely and securely maintain your notary materials is good cause for the Secretary of State's Office to take action against your notary public Commission.

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Record books should not be shared between notaries.

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Each notary public must have their own individual notary record book.

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The records of notarizations must be kept for 10 years following the last notarization entered into the book.

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If after 10 years has passed, you may turn your record book into the local county clerk's office instead of destroying it.

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A failure to keep a notary record book, as described in Texas Government Code Chapter 406, is good cause for the Secretary of State's office to take action against your notary public Commission.

11:12

For each notarial act, you must complete a true and correct notarial certificate.

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The notarial certificate is the wording, usually at the end of the document, which identifies the type of notarial act performed.

11:27

Different types of notarial acts may require you to perform additional notarial duties to ensure the certificate is true and correct.

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All notarial certificates should include, at a minimum, the following information.

11:42

The name of the signer.

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The date of notarization, the state and county in which the notarization took place, and language evidencing the type of notarial act performed.

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You, as the notary should ensure the signing party has signed the document before affixing your signature and seal.

12:02

Once the signer has completed their task, you may sign the document exactly as your name appears on your Commission and affix your seal properly.

12:12

Your seal should be close to your signature on the document, but should not overlap any wording unless absolutely necessary.

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The goal is to ensure that everything is legible.

12:24

If a document is presented to you without a notarial certificate, you cannot perform the notarization.

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You should not affix your seal or signature to a document if the notarial certificate is missing.

12:37

Instead, you may present the signer with samples of notarial certificates found on our website and allow the signer to choose the appropriate certificate for their document.

12:47

Or you may inform them to come back with a document that includes a proper notarial certificate.

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Let's cover some very important facts to remember.

12:58

The signer may choose the notarial certificate and you may attach the chosen certificate to the document.

13:05

You may not choose the notarial certificate for the signer, as this is considered practicing law and is strictly prohibited unless you are also an attorney.

13:15

If a document is presented to you with a notarial certificate that includes additional certifications of fact, such as the signing.

13:23

Party is of American nationality.

13:26

Married, 50 years old.

13:28

Is an employee of XYZ Company?

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You should refuse to notarize the document and request the signer or an attorney attest to these facts as part of the document's content, not the notarial certificate.

13:41

A failure to complete a true and correct notarial certificate at the time your signature and seal are affixed to the document is good cause for the Secretary of State's office to take action against your notary public Commission.

13:56

You must ensure you perform the proper notarial procedure as described in the certificate before you sign and apply your seal.

14:05

A notary public is authorized to refuse to perform a notarial act for specific reasons.

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You should only refuse a request for notarial services after careful deliberation.

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If you believe the document will be used for an unlawful or improper purpose.

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You should refuse to notarize the document presented to you.

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However, please carefully deliberate the decision to refuse a notarization if you believe this is your justification.

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A decision to refuse a notarization should not have bias against the signer or the body of the document.

14:42

If a document is presented to you and you are unsure of the proper procedure to complete the notarization or the notarial certificate is inaccurate, you should refuse to notarize the document presented to you.

14:56

Signatures on a document should be made with the signer's ability to understand the impact of the document.

15:03

If you believe a signer does not have the capacity to understand the contents of a document they are signing, you should refuse to notarize the document and request they contact an attorney to help them review its contents.

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All signatures on a document should be made willingly and without duress.

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If you believe the signer is acting under coercion or undue influence, you should refuse to notarize the document and request they seek help from their attorney.

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Thank you for watching the Texas Secretary of State's Notary Public Training video how to perform a Notarization.

15:41

We hope you learned about Texas Notaries Public and invite you to continue your notary education by watching more of our educational videos on our Texas Secretary of State's website.