

Notarization of Petition Affidavits

Colorado Secretary of State Training Tutorial [revised 6/4/2020]

<https://www.sos.state.co.us/pubs/notary/tutorials.html>

Welcome to the Notary Petitions eLearning Course. This course will help you to notarize state petition circulator affidavits.

By the end of this module, you should be able to:

- Recognize what's different about notarizing circulator affidavits from other documents
- Notarize circulator affidavits the right way
- Understand what could happen if you don't follow statutes and rules
- Identify and avoid common errors when notarizing petition affidavits

Introduction

The Process

Notarizing a petition affidavit is not an everyday activity, but just like any other notarization it's important that you perform it correctly.

Petition Circulators collect signatures for Candidates and Initiatives to get them on the ballot for an election.

After they collect signatures, they must sign an Affidavit of Circulator to affirm that the signatures are valid. The affidavit must be notarized at the same time it is signed by the circulator.

Collect Signatures >>> Sign Petition Affidavit >>> Notarize Affidavit

Samples

You may be wondering what a petition and an affidavit of circulator look like.

Click each sample below to view it as a PDF.

Sample Candidate Petition

<https://cosos.learnercommunity.com/Files/Cloud/ContentPackage/6/f/c/2423129e710c4f2cb4d0f3d7891f3e11/MajorPartyCandidateFullPetitionNoErrors.pdf>

Sample Initiative Petition

<https://cosos.learnercommunity.com/Files/Cloud/ContentPackage/6/f/c/2423129e710c4f2cb4d0f3d7891f3e11/InitiativeFullPetitionNoErrors.pdf>

Responsibility

Candidates or initiatives could be left off a ballot for an election if there are errors on a circulator affidavit.

Such errors could be made by the circulator, the notary, or both. It's the notary's responsibility to make sure the circulator affidavit is correct before performing the notarization.

The notary can only correct errors on the notary portion of the affidavit, and only the circulator can correct issues with the circulator portion.

It's your responsibility to follow applicable statutes and rules. Failure to do so could result in administrative or civil actions against you.

Knowledge Check

Which two actions must occur at the same time?

- Collect signatures and sign petition affidavit
- X Sign petition affidavit and notarize affidavit
- Collect signatures and notarize affidavit

Knowledge Check

If you notice errors on a circulator portion of an affidavit, what should you do?

- X Have the circulator correct the errors before performing the notarization
- Refuse to notarize the affidavit
- Contact your employer for guidance

What's different?

What's different about petition affidavits?

Petition affidavits have different requirements from contracts or any other documents that you may be asked to notarize:

- There are specific ID requirements (for initiative petitions only)
- Multiple journal entries may be needed
- Some blank lines are acceptable
- You may feel pressure to notarize incorrectly under the circumstances

You'll learn more about each of these points in this section.

ID requirements

ID requirements for the circulator differ depending on the type of petition.

There are two common petition types:

Candidate Petitions

- Circulators must present an acceptable ID from this list
<https://www.sos.state.co.us/pubs/elections/Initiatives/files/AcceptableFormsIdentification.pdf>

Initiative Petitions

- Circulators don't have to be Colorado residents
- Circulators must present an acceptable ID from this list
<https://www.sos.state.co.us/pubs/elections/Initiatives/files/AcceptableFormsIdentification.pdf>
- Circulators must note the type of ID presented in the notary section.
Out-of-state IDs, such as a California driver's license, aren't acceptable.

Pressure to notarize incorrectly

Sometimes you may feel rushed when notarizing petition affidavits, especially if it's the last day before the petitions must be turned in. Or you may feel pressured to notarize incorrectly. Either situation could lead to making a mistake.

When notarizing petition affidavits, you might:

- Receive a large volume of affidavits
- Feel rushed
- Feel time constrained

And you could get pressure from:

- Your employer to rush the notarization or complete it without following the law
- Individual or groups of circulators who want to expedite the notarization process
- Candidates or proponents

Scenario

You may find that the affidavits have been pre-filled in order to speed up the process.

For example, imagine that a circulator brings you a stack of 20 petition sections with 20 circulator affidavits to notarize. The circulator tells you that to speed up the process he has already signed and dated the forms, so you just need to fill out the notary section.

In this scenario, you'll want to make sure the circulator crosses out their signature and date of signing, re-signs next to it, and initials the change in your presence before performing the notarization.

Blank lines

Another difference between circulator affidavits and other documents has to do with blank lines.

Circulators must turn in each petition that contains a signature so that it can be counted. Sometimes the circulator is unable to get all the signature lines completed. For this reason, it's acceptable to have a petition with some blank lines. The petition affidavit still must be signed by the circulator and notarized.

You shouldn't notarize any petition that contains no completed signature lines.

Note: Do not repeat this practice in any other notarization you are asked to perform. Blanks on any other document are unacceptable.

	First Name	MI	Last Name	Signature	Residence Address (Street & Number)	City/Town	County	Date of Signing
1	Joe	MI	Schmoel	<i>Joe Schmoel</i>	10 Sherman St	Denver	Denver	11-15-17
2	Jane	MI	Schmoel	<i>Jane Schmoel</i>	10 Sherman St	Denver	Denver	11-15-17
3	FIRST	MI	LAST	SIGN	RESIDENCE ADDRESS	CITY/TOWN	COUNTY	DATE

<<< **Some blank lines are acceptable on petitions.**

Multiple journal entries

Each petition affidavit should have its own journal entry.

As a reminder, please review the following statutory language regarding journal entries (scroll to see more):

24-21-519. Journal

(1) A notary public shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for ten years after the performance of the last notarial act chronicled in the journal.

(2) A journal may be created on a tangible medium or in an electronic format. If a journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If a

journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the secretary of state.

(3) An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

- (a) The date and time of the notarial act;
- (b) A description of the record, if any, and type of notarial act;
- (c) The full name and address of each individual for whom the notarial act is performed;
- (d) The signature or electronic signature of each individual for whom the notarial act is performed;
- (e) If identity of the individual is based on personal knowledge, a statement to that effect;
- (f) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the type of identification credential presented, if any; and
- (g) The fee, if any, charged by the notary public.

(4) A notary public is responsible for the security of the notary public's journal. A notary public shall keep the journal in a secure area under the exclusive control of the notary, and shall not allow any other notary to use the journal.

(5) Upon written request of any member of the public, which request must include the name of the parties, the type of document, and the month and year in which a record was notarized, a notary public may supply a certified copy of the line item representing the requested transaction. A notary public may charge the fee allowed in section 24-21-529 for each certified copy of a line item, and shall record the transaction in the notary's journal.

(6) The secretary of state may audit or inspect a notary public's journal without restriction. A notary public shall surrender the notary's journal to the secretary of state upon receiving a written request.

(7) A certified peace officer, as defined in section 16-2.5-102, acting in the course of an official investigation may inspect a notary public's journal without restriction.

(8) If a notary public's journal is lost or stolen, the notary public shall notify the secretary of state in writing within thirty days after discovering that the journal is lost or stolen.

(9) On resignation from, or the revocation or expiration of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (1) of this section and inform the secretary of state where the journal is located.

(10) (a) Instead of retaining a journal as provided in subsections (1) and (9) of this section, a current or former notary public may:

- (I) Transmit the journal to the state archives established pursuant to part 1 of article 80 of this title 24; or
- (II) Leave the journal with the notary's firm or employer in the regular course of business.

(b) If notary public acts pursuant to subsection (10)(a) of this section, the notary public is no longer subject to subsection (5) of this section and shall notify the secretary of state in writing whether the notary has transmitted the journal to the state archives or the firm or employer, including the contact information for the firm or employer if the notary leaves the journal with the notary's firm or employer.

(c) Instead of maintaining a journal as required by subsection (1) of this section, a notary public may maintain the original or a copy, including an electronic record, of a document that contains the information otherwise required to be entered in the notary's journal if the notary's firm or employer retains the original, copy, or electronic record in the regular course of business.

(11) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall transmit it to the state archives established pursuant to part 1 of article 80 of this title 24. The person shall notify the secretary of state in writing when the person transmits the journal to the state archives.

Scenario

Justin is a petition circulator. He gave you a stack of circulator affidavits attached to initiative petitions. There are blank lines on some of the signature pages. Justin wrote on the affidavits that his primary residence is in New York. He shows you his New York driver's license.

What should you do? (Select all that apply)

Refuse to notarize the document because any blank lines are unacceptable

Note "New York driver's license" as the type of ID presented in the notary section of the affidavit

X Ask for an acceptable form of ID that is on the list provided by the Secretary of State's office

Refuse to notarize because the circulator is not a Colorado resident

Requirements and steps

Requirements and steps

You've learned what's different about notarizing petition affidavits. Next, you will learn how to notarize a petition affidavit correctly.

The requirements and steps include:

- Physical presence
- Notarial Certificate
- Stamp and Commission
- Correcting a circulator error

Physical presence

A circulator must sign in the physical presence of the notary. This is required.

For this reason, the date of the circulator signature and the notary signature must match.

Notarial Certificate

The Notarial Certificate signature and date should not be pre-filled. And you must not notarize a pre-filled Notarial Certificate.

So what should you do if you come across a pre-filled Notarial Certificate?

- If the signature or date are pre-filled, have the circulator cross it out, re-sign next to it, and initial the change(s).
- **Remember:** The date of circulator and notary must match. If the dates are different, it means there wasn't physical presence.

Stamp and commission

Make sure that your stamp and notary commission are correct.

- Your stamp must be current, correct, and legible
- Your commission must be current
- Your notary contact information must be current

Questions about your commission or how to change your contact information? Review the Secretary of State's notary website. <https://www.sos.state.co.us/pubs/notary/home.html>

Correct a circulator error

If you notice a circulator error, always make sure it is corrected at the time of notarization. Common errors that you may notice include a wrong date or missing signature.

If you need to make a correction:

- Initialing the correction is important
- Make sure to note the correction in your journal
- Know who can make the correction:
 - Only the circulator can correct an error in the circulator section
 - Only the notary can correct an error in the notary Jurat

New statute information

There is new statute information related to petition notarization and petition corrections.

A petition can now be corrected after submission to the Secretary of State's office (SOS). This is only for candidates.

Here's how this works:

1. The SOS notifies candidates with circulator affidavit errors.
2. The candidate then has **five days** to submit a corrected circulator affidavit to the SOS.

Note: It's important to provide accurate contact information. The candidate could contact you for a correction.

Knowledge Check

Which of the following are requirements of petition affidavits that are different from other documents that you may be asked to notarize? (Select all that apply)

- X There are specific ID requirements (for initiative petitions only)
- X Multiple journal entries may be needed
- X Some blank lines are acceptable
- The circulator is not required to sign in your physical presence
- X You may feel pressure to notarize incorrectly

Knowledge Check

Take a look at the affidavit below. Something is wrong with it.

Can you identify the problem? Click on the area that needs to be corrected.

Circulator Name (please print)	
Doe	John
Last Name	First Name
Permanent Residence Address (or location if homeless)	
111 Smith Rd	
Street name and number (no P.O. Boxes)	
Denver	Denver
City/Town	County
CO	80000
State	Zip Code
Sign and Date in the Presence of a Notary	
John Doe	11-15-17
Signature of Circulator	Date of Signing
STATE OF COLORADO, COUNTY OF Denver	
Subscribed and affirmed before me this 16 th day of November, 2017	
Day Month Year	
by John Doe	
Printed name of Circulator above	

Answer: The circulator date of signing does not match the notary date of signing.

To correct this error, the circulator will need to re-sign the affidavit and correct the date of signing.

Consequences

Administrative and civil actions

Be careful when you notarize petition affidavits. If you fail to follow statutes and rules, an investigation may be initiated by the SOS office. As a result you could face administrative and civil actions:

- Administrative action may include suspension or revocation of your commission.
- Civil action may include having to testify about an affidavit that you notarized.

Impact

An incorrect notarization could also impact an election. Your error could prevent an initiative or candidate from getting on the ballot.

Identify and avoid common errors

Tips

Now that you understand the importance of notarizing petition affidavits, here are some tips to identify and avoid common errors:

Look out for pre-filled information

- Make sure to review all information on the affidavit
- For corrections, please refer to the correction section

Look out for dates that don't match

- Refer to the requirements and steps section

Maintain your journal

- Maintain possession of your journal and make sure all required information for each entry is complete

Scenario

You are invited to a coffee shop to notarize documents for a candidate running for office. When you get there, the candidate puts a pile of candidate petitions in front of you and says to get notarizing. You ask who circulated the petition sections, and the candidate says that isn't important. He asks you to just put his wife down as the circulator of all the petitions.

What should you do?

X Explain that you can't notarize the affidavits since there isn't physical presence

Contact your employer for guidance

Notarize the petition affidavits as long as the candidate can provide an acceptable form of ID for his wife

Conclusion

Thank you

Congratulations! You've completed the course. You should now be able to:

- Recognize what's different about notarizing circulator affidavits from other documents
- Notarize circulator affidavits the right way
- Understand what could happen if you don't follow statutes and rules
- Identify and avoid common errors when notarizing petition affidavits

Questions about notarizing a petition affidavit?

Contact the SOS Elections Division at 303-894-2200 x6333

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