

Army Regulation 27-55

Legal Services

Notarial Services

**Headquarters
Department of the Army
Washington, DC
17 November 2003**

UNCLASSIFIED

SUMMARY of CHANGE

AR 27-55

Notarial Services

This revision--

- o Changes the military occupational specialties 71D to 27D, and 550A to 270A (paras 1-7a and 2-2a(1)).
- o Changes the address of the Legal Assistance Policy Division (para 1-7c).
- o Implements recent legislative changes to 10 USC 1044a(b) authorizing designated civilian employees located outside the United States to perform as military notaries (paras 1-7b and 2-2a(5)).
- o Adds the requirement to maintain a notary log (para 3-5b).
- o Removes the requirement to include social security numbers of witnesses (fig 4-1).
- o Adds appendix B, Military Notary, summarizing notarial authority, duties and guiding principles for military notaries.

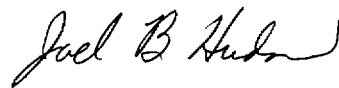
Legal Services

Notarial Services

By order of the Secretary of the Army:

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General, United States Army
Chief of Staff

Official:



JOEL B. HUDSON
Administrative Assistant to the
Secretary of the Army

History. This publication is a major revision.

Summary. This regulation covers policies and procedures for United States Army military and civilian personnel performing notarial services as part of their official duties.

Applicability. This regulation applies to the Active Army, the Army National Guard (ARNG), the Army National Guard

of the United States (ARNGUS), the U. S. Army Reserve (USAR), and all Department of the Army civilians during periods of peace and war during partial and full mobilization. During mobilization, the proponent may modify chapters and policies contained in this regulation.

Proponent and exception authority.

The proponent of this regulation is The Judge Advocate General. The Judge Advocate General has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation. The Judge Advocate General may delegate this authority, in writing, to a division chief within the proponent agency in the grade of colonel or the civilian equivalent.

Army management control process.

This regulation does not contain management control provisions (AR 11–2).

Supplementation. Supplementation of this regulation and establishment of command or local forms are prohibited without approval from the Office of The Judge

Advocate General, 1777 North Kent Street (10th Floor), Rosslyn, VA 22209.

Suggested improvements. Users are invited to send comments and suggested improvements on DA form 2028 (Recommended Changes to Publications and Blank Forms) directly to Legal Assistance Policy Division, Office of The Judge Advocate General, 1777 North Kent Street (10th Floor), Rosslyn, VA 22209.

Distribution. Distribution of this publication is available in electronic media only and is intended for command levels B, C, D, and E for the Active Army, the Army National Guard (ARNG), the Army National Guard of the United States (ARNGUS), and the U. S. Army Reserve (USAR).

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Glossary

Chapter 1 Introduction

1–1. Purpose

This regulation sets forth the authority of United States Army personnel to administer oaths, to take affidavits, sworn statements, depositions, acknowledgments, and provide other notarial services as part of their official duties.

1–2. References

Required and related publications and prescribed and referenced forms are listed in appendix A.

1–3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary.

1–4. Responsibilities

a. The Judge Advocate General (TJAG) will set all policies involving administering oaths and the provision of notarial services throughout the Army.

b. The Chief, Legal Assistance Policy Division, Office of The Judge Advocate General, is delegated the authority to grant exceptions to this regulation.

c. The Commandant, Judge Advocate General's Legal Center and School, Army will develop a course of instruction to train noncommissioned officers (NCO) with a 27D military occupational specialty code (MOSC) on this regulation and applicable law.

d. The Commandant, NCO Academy of the United States Army Soldier Support Institute, Fort Jackson, South Carolina will instruct all NCOs with a 27D MOSC at the Basic Noncommissioned Officer's Course for Legal NCOs on this regulation and applicable law.

e. Staff Judge Advocates (SJA) and commanders will—

(1) Ensure compliance with applicable laws and this regulation regarding the provision of all notarial services within their commands.

(2) Ensure that only individuals authorized by this regulation are serving as notaries within their commands.

(3) Authorize, in accordance with paragraph 2–3, civilian employees to obtain commissions as civil notaries and to provide notarial services as a part of their official duties.

(4) Authorize, as appropriate, payment or reimbursement of expenses associated with the procurement of notarial seals or state notarial commissions by civilian employees, when required in the performance of their official duties. (See para 2–3e and f.)

(5) Ensure individuals providing notarial services possess sufficient judgment and maturity.

(6) Ensure appropriate supervision and training are provided to all individuals providing notarial services.

(7) Revoke or limit, when appropriate, the authority of any individual to provide notarial services as part of his or her official duties. (See para 3–6.)

(8) In addition to the above, Reserve Component (RC) SJAs (or Legal Service Organization (LSO) commanders) must authorize RC enlisted notaries to perform notarial services in a nonduty status, before such services are performed. The supervising RC SJA (or LSO commander) is responsible for regulating the RC notaries they authorize to perform such services.

f. SJAs will assist commanders execute their responsibilities under this regulation.

g. Supervisors will ensure that notaries are trained in accordance with paragraph 1–8.

1–5. Authority

The authority of United States Army personnel to provide notarial services is based on Federal, State, and foreign law. (See paras 2–1, 2–3, and 2–4.) Section 573 of the National Defense Authorization Act for Fiscal Year 1997, Public Law 104–201, Volume 110, U.S. Statutes at Large, p. 2534 made significant changes to 10 USC 1044a(b) and eliminated duty status limitations on notarial authority of certain members of the United States Army Reserve (USAR) and the Army National Guard of the United States (ARNGUS). Pursuant to Section 1103 of the National Defense Authorization Act for Fiscal Year 2002, Public Law 107–107, Volume 115, U.S. Statutes at Large, p. 1236, persons performing notarial acts under 10 USC 1044a may do so without regard to geographic limitation. The validity of notarial acts performed pursuant to 10 USC 1044a is a matter of Federal law. State notarial authority may only be exercised in the state concerned.

1–6. Policy

a. An individual performing notarial services will provide these services with integrity, diligence, and skill.

b. Military notaries will comply with the provisions of this regulation when providing notarial services pursuant to Federal notarial authority.

c. Civil notaries will comply with the provisions of this regulation to the extent that this regulation is not

inconsistent with state or foreign law when providing notarial services pursuant to state or foreign authority. For example, many states do not allow notaries to certify public documents from an official source for any purpose. Thus, to the extent that paragraph 4–5 of this regulation (Certifying copies of documents) is inconsistent with such state law limitations, comply with state law when exercising state notarial authority.

d. Those authorized to provide notarial services under this regulation or other authority may provide such services as part of their official duties, including to civilian employees on matters related to their official duties. They will seek guidance from the SJA on any questions regarding their notarial authority, responsibilities, or duties.

1–7. Exceptions

a. SJAs may appoint, in writing, soldiers in the grades of E–3 and E–4 with a 27D (formerly 71D) MOSC to perform as military notaries. Soldiers appointed must—

- (1) Possess appropriate judgment and maturity.
- (2) Serve under the immediate supervision of a judge advocate or DA civilian attorney.
- (3) Receive training in accordance with paragraph 1–8.

b. SJAs may appoint, in writing, non-attorney United States citizen employees located outside the United States to perform as military notaries. Those appointed must—

- (1) Possess appropriate judgment and maturity.
- (2) Serve under the immediate supervision of a judge advocate or DA civilian attorney.
- (3) Receive training in accordance with paragraph 1–8.

c. Submit requests for all other exceptions to this regulation through command channels to Legal Assistance Policy Division, Office of The Judge Advocate General, 1777 North Kent Street, 10th Floor, Rosslyn, VA 22209.

1–8. Training

a. All notaries must be trained on the content of this regulation and applicable local law.

(1) Supervisors must provide training equivalent to the NCO Academy instruction for soldiers not trained at the Academy. Supervisors may use the Notary Training Support Package developed by The Judge Advocate General’s Legal Center and School and found in the Legal Assistance Database on the Judge Advocate General’s Corps Network (JAGCNet), <http://www.jagcnet.army.mil/LegalAssistance>.

- (2) Supervisors must provide instruction on local applicable law for all notaries.
- (3) Supervisors should ensure that notaries read this regulation, especially appendix B.

b. In addition to legal instruction, supervisors will instruct all notaries on—

(1) Procedures to be followed whenever someone attempts to coerce them to do a prohibited act such as those listed in paragraph 3–3.

(2) How to record statistics on notarial services performed and how to forward those statistics to the supervising SJA office for inclusion in the annual Report on Legal Assistance Services.

Chapter 2 Types of Notaries

2–1. General

a. Federal statutes provide authority for certain designated individuals, within the Army, to provide notarial services. Title 10, United States Code 502, 936, and 1031 (10 USC 502, 936, and 1031) grants certain designated individuals authority to administer oaths in the performance of their duties and for military administration, including, but not limited to, military justice, legal assistance, and claims. (See para 3–1.) Title 10, United States Code 1044a (10 USC 1044a) grants certain designated individuals general powers of a notary public and of a consul of the United States.

(1) Army personnel providing notarial services pursuant to these Federal statutes are referred to as military notaries throughout this regulation.

(2) The authority granted by these Federal statutes to administer oaths and provide notarial services is separate from, and additional to, any authority provided by state or foreign law.

(3) Federal notarial authority and this implementing regulation supersede state authority and laws and may be exercised without geographic limitation. Under the Federal preemption doctrine, notarial services performed pursuant to Federal law are legally effective as notarial services for all purposes. (See para 3–2*a.*)

b. State or foreign law also provides authority for Army personnel to provide notarial services. Army personnel providing notarial services pursuant to state or foreign law are referred to as civil notaries throughout this regulation. There are two types of civil notaries:

(1) Army personnel who, as a result of an application, receive a commission as a public officer from a state or foreign government to perform notarial services.

(2) Certain Army personnel designated by office, rank, or position under state law to provide notarial services. (See para 2–4.)

2–2. Military notaries

a. The following individuals, including RC members whether or not in a duty status, have the general powers of notary public and of a consul of the United States in the performance of all notarial services:

(1) All judge advocates and warrant officers who possess a MOSC of 270A (formerly 550A).
(2) NCOs (including corporals) or legal specialists (appointed by their supervising SJA under paragraph 1–7*a*) who—

(*a*) Possess a primary MOSC of 27D.

(*b*) Serve under the immediate supervision of a judge advocate or Department of the Army (DA) civilian attorney. See "immediate supervision" in the glossary.

(3) NCOs in the grade of E–6 or higher who possess a primary MOSC of 27D and are assigned as legal NCOs for Brigade or larger units, whether or not they work under the immediate supervision of a judge advocate or DA civilian attorney. (RC legal NCOs, however, must have specific authorization from their supervising SJA to perform notarial services independently in a nonduty status. See paragraph 1–4e(8) and 3–3a(12).)

(4) All DA civilian attorneys serving as legal assistance officers.

(5) Those DA civilian employees appointed by their supervising SJA under paragraph 1–7*b*, serving under the immediate supervision of a judge advocate or DA civilian attorney.

(6) All adjutants.

b. Individuals listed in subparagraph *a* may provide notarial services for the following:

(1) All members of any of the United States Armed Forces.

(2) All other individuals eligible for legal assistance under AR 27–3 and other directives and regulations of the Department of Defense (DOD).

(3) All individuals serving with, employed by, or accompanying the Armed Forces outside the United States.

(4) All other individuals subject to the Uniform Code of Military Justice (UCMJ) outside the United States.

(5) DOD civilian employees on matters relating to their official duties (for example, an affidavit or a sworn statement in support of department litigation).

2–3. Civil notarial commissions

a. Commissioned and warrant officers on the active list of the Regular Army, and retired or Reserve commissioned and warrant officers serving on active duty under a call to duty in excess of 270 days, will not obtain or retain commissions as civil notaries, nor accept or retain the same by election, commission, or appointment (10 USC 973). This prohibition does not affect the authority of an officer to serve as a civil notary under paragraph 2–4.

b. Commanders and SJAs may authorize DA civilian employees with a grade of GS–4 or higher to obtain civil notarial commissions and to use these commissions in performance of their official duties.

c. Before authorizing civilian employees to obtain civil notarial commissions, commanders and SJAs will first determine that—

(1) Applicable state or foreign law does not preclude such personnel from obtaining or utilizing commissions as notaries public.

(2) The civilian employees authorized to obtain civil notarial commissions possess appropriate judgment and maturity.

(3) Such personnel otherwise qualify as notaries in accordance with the laws of the state or foreign nation in which they will perform notarial duties.

d. Civil notaries will comply with all limitations imposed by the laws of the state or foreign nation in which they serve when performing notarial services pursuant to the notarial authority granted by that state or foreign nation.

e. Appropriated funds may be used to reimburse civilian employees for expenses incidental to obtaining notarial commissions for use in connection with the performance of their official duties (5 USC 5945).

f. Reimbursement expenses may include, but are not limited to, commission fees, recording fees, surety bond (when required), seal and perforating device (and replacements when required), record book, rubber stamp, renewal fees, and any other expense required to obtain commissions and perform notarial services as part of official duties. Reimbursement or payment of expenses will be in accordance with local procedures. Reimbursement may not be made for professional association dues and other expenses not required to obtain a notarial commission or to perform notarial services.

2–4. State notarial laws

a. The laws of most states authorize certain United States Armed Forces members to provide notarial services within the military without obtaining commissions or appointments as civil notaries. (See para 2–1b(2).) This regulation does

not limit the application of such laws to Army personnel. All officer, enlisted, and civilian personnel so authorized may provide notarial services as part of their official duties to those personnel identified in para 2–2b.

b. Notarial services authorized by states may include the following:

- (1) Administering oaths.
- (2) Taking affidavits.
- (3) Taking sworn statements.
- (4) Taking depositions.
- (5) Taking acknowledgments.
- (6) Certifying copies of documents.

c. Occasionally, a situation may arise for which the exercise of state notarial authority may be warranted. Before exercising such authority, the notary should determine the following:

- (1) The State or States where the instrument is to be used;
- (2) Who has the authority to provide the particular notarial service under the laws of the jurisdiction involved;
- (3) For whom the particular notarial service may be performed under the laws of the jurisdiction involved; and
- (4) Whether a notary public possessing a civil notarial commission as a notary is available, especially in cases involving documents affecting the title to real estate or otherwise required to be entered upon the public record in any state.

d. When exercising State notarial authority, the statutory requirements of the jurisdiction where the instrument will be used determines the legal effectiveness of the notarial acts performed. When a single document requiring acknowledgment is to be used in more than one jurisdiction, the acknowledgement must comply with the laws of all such locations where it will be used.

Chapter 3

Notarial Authority and Duties

3–1. Authority to administer oaths

a. Oaths administered pursuant to this regulation are legally effective for the purposes for which the oaths are administered. (See para 4–4.)

b. The following Army personnel are authorized to administer oaths for all purposes of military administration, including, but not limited to, military justice, legal assistance, and claims:

- (1) All individuals granted authority as military notaries under paragraph 2–2a.
- (2) Officers appointed as summary courts-martial.
- (3) Individuals empowered to authorize searches pursuant to Military Rule of Evidence 315(d), Manual for Courts-Martial, for any purpose relating to search authorizations. (See AR 27–10.)

c. The following Army personnel are authorized to administer oaths to any individual when the oath is administered in conjunction with duties related to these positions:

- (1) President, military judge, trial counsel, and assistant trial counsel for all general and special courts-martial. (See AR 27–10, chap 11.)
- (2) President and counsel for any court of inquiry.
- (3) All officers designated to take depositions.
- (4) Any individual conducting an authorized investigation.
- (5) All recruiting officers.
- (6) Civilian personnel officers and their designated representatives.

d. Any active or Reserve commissioned officer may administer—

- (1) An oath of enlistment (10 USC 502).
- (2) An oath required for the enlistment or appointment of any individual in the Armed Forces (10 USC 1031).
- (3) Any other oath required by law in connection with enlistment or appointment of any individual in the Armed Forces (10 USC 1031).

e. The procedure for administering an oath is at paragraph 4–4.

f. A sample format of the signature of an individual administering an oath for a sworn document is at figure 3–1.

3–2. Legal effects of notarial acts

a. Notarial acts performed pursuant to this regulation are legally effective for all purposes.

b. A notary acts as an official, unbiased witness to the identity and signature of individuals who appear before the notary for some specific purpose, such as taking an oath or affirmation, or signing a legal document.

c. The signature of a notary is not evidence that the notary has knowledge of the contents of the document so signed, other than those specific contents that constitute the signature, execution, acknowledgment, oath, affirmation,

affidavit, verification, or other act that the signature of that notary documents. A certification by a notary public that a document is a certified true copy of an original document is not evidence to show that such notary public had knowledge of the content of the document so certified.

d. The signature of a notary is not a "signature guarantee" such as required for the transfer of a stock certificate or other financial instrument. Signature guarantees must be performed by stockbrokers, bank officials, or other financial institutions that regularly deal with the financial instrument requiring the signature guarantee.

3-3. Prohibitions

a. Individuals authorized to provide notarial services will not—

- (1) Notarize unsigned documents.
- (2) Certify the authenticity of public, official, registered, or court records or documents, nor issue certified copies of such documents or records unless allowed to do so under this regulation or other applicable law or regulation. (See para 4-5.)
- (3) Take an affidavit or an acknowledgment unless the individual who signed the document is actually in their presence. If an oath or affirmation is authorized or required, the notary will administer the oath or affirmation to the individual in person.
- (4) Execute a notarial certificate containing a statement known by the notary to be false.
- (5) Perform any action with intent to deceive, such as predating or postdating a document.
- (6) Authenticate the signature of an individual who did not personally appear before the notary at the time his or her signature was affixed to the document unless the document is resigned in the presence of the notary. (See para 4-3c).
- (7) Perform a notarial act or take an acknowledgment when the notary is a party to, or directly or pecuniarily interested in the transaction.
- (8) Serve as the only witness and as a notary in the same transaction. A notary may sign as one of several witnesses as well as the notary where permitted by law such as in real estate transactions in Georgia, North Carolina, and South Carolina.
- (9) Solemnize marriages as part of their official notarial duties, even if authorized to do so under a state or foreign law granting notaries such authority.
- (10) Provide legal advice unless the notary is also an attorney. While a notary may draft an appropriate power of attorney and answer basic questions concerning that draft, the non-attorney notary may not provide legal advice nor interpretation.
- (11) Notarize a general power of attorney before determining that the client has received advice from an attorney on the nature and effect of a general power of attorney. This advice may be provided to the client in person, via telephone, in a videotaped briefing, or by a written handout prepared by the attorney.
- (12) Perform notarial services as an RC enlisted notary in a nonduty status without the prior approval of their supervising SJA.

b. Notarial authority will not be delegated to another person.

c. No notary will perform—nor be ordered or otherwise required to perform—a notarial act that the notary believes—

- (1) Is for a transaction that the notary knows or suspects is illegal, false, or deceptive;
- (2) Is for a person who is being coerced;
- (3) Is for a person whose demeanor causes compelling doubts about whether the person knows the consequences of the transaction requiring the notarial act;
- (4) Impugns or compromises the notary's impartiality; or
- (5) Is prohibited under this regulation.

d. Civilian employees reimbursed by the United States Government for the costs and expenses associated with obtaining and using their civil notarial commission and seal in performance of their official duties are not prohibited from providing notarial services privately, as long as such services are provided without the use of government property when they are off-duty and off the installation. No fee may be paid to, or received by, Army personnel for providing notarial services during the course of their duties under this regulation.

3-4. Identification of requester

a. In witnessing or attesting to a signature, notaries will determine that the individual appearing before them is the person named in the document to be signed.

b. A notary has acceptable evidence of the identity of the individual whose signature is on a document (and that the individual is within the class of individuals for whom the notarial service may be performed) if that individual is—

- (1) Personally known to the notary,
- (2) Identified upon the oath or affirmation of a credible witness personally known to the notary, or

(3) Identified by picture identification that has the individual's name and/or signature, such as military identification card or driver's license.

3-5. Notarial logs

a. Notaries must be able to confirm notary services they performed many years after the service was provided. It is imperative, therefore, that notaries be consistent in the manner they provide these services.

b. Military notaries will maintain a notarial log. The notarial log will include the names and signatures of the individuals whose signatures or documents were notarized, the general nature of the documents, and the dates and locations the notarial services were performed. Such logs will not be made part of any Army system of records, but should be retained in the possession of the notary. A recommended notary log is available in *QuickScribe*, the Army Judge Advocate General's Corps' approved legal assistance document assembly software.

c. Civil notaries will fully comply with applicable laws requiring them to maintain notarial logs.

3-6. Misconduct

a. Commanders and SJAs may revoke or suspend the authority of any person to provide notarial services as part of his or her official duties for failure to comply with this regulation or other applicable laws regarding the provision of notarial services.

b. Military members may be punished under the Uniform Code of Military Justice (UCMJ), Article 92, for dereliction of duty, or Article 107, for false official statement. Military and civilian personnel are also subject to adverse administrative or adverse personnel actions. Members of the ARNGUS not in Federal (Title 10) service are not subject to the UCMJ, but are subject to the applicable provisions of state codes of military justice or other state law.

[Venue]

With the United States Army in (Country and State) (Foreign Nation)¹

[Body]

(This part of the instrument contains the substance of the affidavit, deposition, or other sworn statement.)

(Signature of person making statement)

(Name of person making statement)

I, (name of notary public), the undersigned official, do hereby certify that the foregoing instrument was subscribed and (sworn)(affirmed) before me this (day of the month) day of (month), (year) by (name of person making statement), whose home address is (insert home address,) and who is known to me to be (a United States Armed Forces member on active duty/performing inactive duty training) (the spouse of a United States Armed Forces member) (an individual accompanying, serving with, or employed by the Armed Forces serving outside the United States). I do further certify that I am, at the date of this certificate, a (commissioned officer) (warrant officer) (noncommissioned officer) (civilian attorney) (adjutant) (civilian employee)² (in (employed by) the United States Army in the rank or grade stated below, that by statute no seal is required on this certificate, and same is executed by me in that capacity.

(Signature of official)

(Name of official)

(Rank, branch of service)

(Command or organization)

Authority: Title 10, United States Code, sections 936 and 1044a, and Army Regulation 27-55.

Notes

¹ If military considerations preclude disclosure of exact place of execution, the language “In a Foreign Nation” or “In a possession of the United States outside of the continental United States” may be inserted.

² Insert appropriate description of the status of the notarial officer.

Figure 3–1. Sample sworn or affirmed document

Chapter 4 Instructions Concerning Formalities of Notarial Acts

4–1. General

Although notarial acts performed pursuant to this regulation are legally valid (para 3–2a), state or foreign law may require more than an acknowledgment or a notary’s signature for a notarized document to be legally effective. For example, some states require documents affecting real property and documents that are being presented to a clerk of court for public recording or filing to be witnessed in addition to being acknowledged by a notary. (See para 4–3d.) In addition, public documents transferred from one nation to another may require additional formalities. (See para 4–6.)

4–2. Contents of oath and notarial certifications

a. The signature of an individual authorized by this regulation to provide oaths or other notarial services with the title of his or her office is prima facie evidence that the signature is genuine, that the individual holds the designated

title, and that the individual is authorized to provide the service. An impressed or raised seal, although desirable, is not required.

b. All notarial services performed under the authority of 10 USC 1044a will also be accompanied by a citation to the authority of the individual to provide the service.

c. While no seal is required by law for notarial services performed by military notaries, the use of a seal is desirable because it enhances the acceptability of the document notarized. An appropriately designed raised seal should be circular in form and mounted on a metal die, suitable for impressing a raised seal on paper. About the upper periphery of the seal should appear the words "Notary Public Authorized Under" and about the lower periphery thereof "10 USC 1044a." In the center of the seal should appear the word "SEAL." However, nothing herein shall be construed to invalidate notarial seals currently in use that, in the opinion of the SJA, substantially comply with this section. (See figures 3-1 and 4-1 for sample formats for the signature of notaries.)

d. When using a notary seal, the seal should be placed as follows:

(1) Raised seal – over the "L.S." (symbol for legal seal) on the document, or over the word "seal," if either appear. If not, the seal should be placed near the notary's signature, but not above, and if possible, not on top of any printed or written information or in any other manner that obliterates or makes printed material illegible.

(2) Ink stamp – near, but not over the "L.S." on the document, or near the word "seal," if either appears. If not, the stamp should be placed near the notary's signature, but not above, and if possible, not on top of any printed or written information or in any other manner that obliterates or makes printed material illegible.

4-3. Acknowledgment

a. An acknowledgment is a formal declaration or admission made by the free act or deed of an individual and executed before a properly authorized official (notary). An acknowledgment includes a certificate or written evidence of the act of acknowledgment made by the notary, as well as the act itself. (See fig 4-1.) Acknowledgments relate primarily to documents affecting land, and many state statutes require that deeds, mortgages, leases, and powers of attorney to convey land or an interest therein be acknowledged.

b. An acknowledgment must be made in the presence of the notary, who will identify both the individual and his or her eligibility to receive notarial services under this regulation. Notaries will decline to take an acknowledgment if identification is not possible. Notaries will ensure that the correct dates are properly inserted for any certificate verified or acknowledged before them. Changes, cross outs, and erasures in the body of the acknowledgment should be avoided. If unavoidable, they will be initialed by the notary wherever they appear.

c. If a signature was affixed outside the notary's presence, the document must be signed again as the notary watches.

d. All documents affecting title to real estate require acknowledgment, and since some states and foreign countries also require witnesses, state or foreign law should be reviewed to determine the appropriate number. The use of three witnesses will comply with the laws of almost every jurisdiction. The name, grade and branch of service of each witness should be typed or printed below the signature of each witness. (See fig 4-1.)

e. Some state statutes and foreign laws require that instruments conveying real or personal property be executed under seal. Therefore, in the space immediately preceding the signature of the individual selling property or appointing an attorney in fact to do so, there should appear the statement "Witness by my hand and seal," or words to that effect. In most jurisdictions, the typing, printing, or writing of the word "SEAL" or the symbol "LS" after the signature will complete the sealing of the instrument. A seal need only be used if required by applicable law.

4-4. Oaths and affirmations

a. Oaths or affirmations are used when taking affidavits or sworn documents.

b. Oaths for military justice matters should be administered in accordance with the provisions of AR 27-10, chapter 11.

c. Individuals administering an oath or affirmation should direct the individual taking the oath or affirmation to stand, and should then raise his or her right hand and say the following: "Do you swear or affirm that the information contained in this document is the truth to the best of your knowledge and belief (so help you God)?"

d. The response should be "I do," "I affirm," or similar words of assent to either an oath or affirmation. After the response is given, the individual taking the oath or affirmation should sign the document. (See fig 3-1 for a sample format of a sworn document.)

4-5. Certifying copies of documents

a. Notaries may make certified copies of some original documents provided that the notary determines that the copy to be certified is a full, true, and accurate transcription or reproduction of the original document, by carefully and personally comparing the copy and original or observing the copying process. Notaries will not make certified copies of public records or of publicly recorded documents, when a certified copy of the record document is available from an official source other than a notary (such as court records, birth certificates, marriage certificates, death certificates, car titles, computer generated tax returns, and military leave and earning statements). Nothing in this section should be

construed to preclude designated officials in Army agencies from authenticating or certifying documents prepared by, or held for, public review by such agencies.

b. Notwithstanding paragraph 4–5*a*, military notaries may authenticate copies of public records or publicly recorded documents from an official source for the following limited purposes:

(1) Military administration, including finance and personnel administration.

(2) Federal administration where allowed by law or other regulation. For example, the Department of Veterans Affairs (VA) allows designated judge advocates to authenticate documents for VA administration.

c. Authentications of copies of public records, or publicly recorded documents from an official source, authenticated under paragraph 4–5*b* will state the purpose for which authenticated (for example, "Authenticated Copy for DFAS," "Authenticated Copy for VA"). See figure 4–2 for a sample format of a document authentication.

4–6. Formalities concerning notarized documents going to or emanating from a foreign country

a. Civil public and notarized documents emanating from one country and intended to be used in, or have legal effect in another country, may, under certain circumstances, require formal affirmation that the notary is exercising proper authority by diplomatic, consular, or state officials from the state of emanation. Most legalization requirements were simplified by nations that signed and ratified the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents (Hague Convention), to which the United States is a party. The appropriate governmental office will issue an "apostille" as the final certification of the document in its country of origin.

b. Civil notaries will comply with applicable state laws regarding the authentication of public and notarized documents emanating from or going to a foreign country. While the authenticating official is frequently the Secretary of State for the jurisdiction, consult the local laws of the jurisdiction.

c. An Apostille for notaries performed by a military notary will be obtained from the U.S. Department of State. This may be obtained by sending the original notarized document with a cover letter setting forth that this is a military notary pursuant to 10 USC 1044a, a daytime telephone number, the country where the document will be used, the appropriate fee (currently, \$6.00 per document) payable to U.S. Department of State, and a self-addressed stamped envelope. These should be mailed to U.S. Department of State, Authentication Office, 518 23rd Street NW, State Annex 1 Washington, DC 20037. Current information can be found at <http://www.state.gov/m/a/auth>.

d. Fees for an apostille, a certificate of authority, or any other authenticating procedure are the client's responsibility.

[Signature]

WITNESS the following signature (and seal) this (6th) day of (February), 2002.

(Signature of person
whose acknowledgment is
being taken) ["SEAL" If necessary]

[Witness]¹Signed and delivered in the presence of:

(Signature of witness)
(Name of witness (printed))
(Rank, branch of service)

(Signature of witness)
(Name of witness (printed))
(Rank, branch of service)

(Signature of witness)
(Name of witness (printed))
(Rank, branch of service)

[Venue]

With the United States Armed Forces in (County and State) (Foreign Nation)²

[Acknowledgment]

I, (name of notary public), the undersigned official, do hereby certify that on this (day of the month) day of (month), (year), before me, personally appeared (name of person whose signature is being acknowledged), (insert home address), and who is known to me to be (a United States Armed Forces member on active duty/inactive duty training) (the spouse of a United States Armed Forces member) (an individual accompanying, serving with, or employed by the Armed Forces serving outside the United States), and to be the identical person who is described herein, whose name is subscribed to, and who signed and executed the foregoing instrument and having first made known to him/her the contents thereof, he/she personally acknowledged to me that he/she signed the same, on the date it bears, as his/her true, free, and voluntary act and deed or uses, purposes, and considerations therein set forth. I do further certify that I am, at the date of this certificate, a (commissioned officer), (warrant officer) (noncommissioned officer) (civilian attorney) (adjutant) (civilian employee)³ (in) (employed by) the United States Army in the rank or grade stated required on this certificate, that by statute no seal is required, and same is executed by me in that capacity.

(Signature of official) (Name of official)
(Rank, branch of service)
(Command or organization)

Authority: Title 10, United States Code, sections 936 and 1044a, and Army Regulation 27-55.

Notes

¹ If signature before witnesses is required for the document, insert the identifying information for each witness here. Social Security Number omitted to reduce identity theft possibility.

² If military considerations preclude disclosure of exact place of execution, insert "In a Foreign Nation"; or "in a possession of the United States outside the continental United States".

³ Insert duty status or other appropriate description of duty status as authorized under federal authority.

Figure 4-1. Sample signature block, witnesses, and acknowledgement certificate

Authenticated Copy for Federal Administrative Purposes

“I have reviewed the original of this document, compared the original to this copy, and authenticated this copy as a full, true, and accurate reproduction of the original. This authentication is executed in my official capacity under the authority granted by Title 10, United States Code, Section 1044a and pursuant to Army Regulation 27-55, paragraph 4-5b.”

(Signature of official)
(Name of official)
(Rank, Branch of Service)
(Command or Organization)

Figure 4–2. Authenticated copy for Federal administrative purposes

Appendix A References

Section I Required Publications

AR 27-3

The Army Legal Assistance Program (Cited in para 2-2.)

AR 27-10

Military Justice (Cited in paras 3-1 and 4-4.)

Section II Related Publications

A related publication is merely a source of additional information. The user does not have to read it to understand this publication.

AR 27-1

Judge Advocate Legal Services

DODD 1350.4

Legal Assistance Matters

Section III Prescribed Forms

This section contains no entries.

Section IV Referenced Forms

This section contains no entries.

Appendix B Military Notary

B-1. Summary

As a military notary, you act as an official, unbiased witness to the identity and signature of individuals who appear before you. Your signature is evidence that you observed the person sign the document and that you confirmed the identity of the signer before you notarized it.

B-2. General authority and notarial duties

a. The attached “*Notary’s Guiding Principles*” (fig B-1) provides a concise statement of your duties and responsibilities.

b. You may obtain guidance from your supervisory judge advocate, civilian attorney supervisor, or the SJA on questions regarding your notarial authority, responsibilities, or duties. In addition, you may find the JAGCNet (<http://www.jagcnet.army.mil>) legal assistance or paralegal forums useful for consulting colleagues. Finally, you may contact personnel in the Office of the Judge Advocate General, Legal Assistance Policy Division, via e-mail at otjagla@hqda.army.mil or via telephone at (703) 588-6708 to discuss notarial duties.

B-3. Notarization distinguished from certification

a. Notarization—The notary’s signature and seal (if required) indicates the person signing the document appeared (physically) before the notary. The signer produced photo identification or the notary knew the individual personally. The document was signed in the notary’s presence.

b. Certification—This is a process that signifies that a document is a true and accurate copy or reproduction of the original. Most public records and documents, such as marriage licenses, birth certificates, divorce decrees, titles, and so forth are recorded in public offices that certify copies. You may authenticate copies of public records or publicly recorded documents from an official source for limited military administration, including finance and personnel administration, for example, “Authenticate Copy for DFAS.” (See AR 27-55, para 4-5, for more details.)

B-4. Restrictions

Notaries will not—

- a.* Notarize unsigned or incomplete documents.
- b.* Execute a notarial certificate containing a statement known to be false.
- c.* Perform any action with intent to deceive, such as predating or postdating a document.
- d.* Authenticate the signature of an individual who did not personally appear before you at the time his or her signature was affixed to the document. (See AR 27-55, para 4-3c.)
- e.* Perform a notarial act when the notary is a party to, or directly or pecuniarily interested in, the transaction.
- f.* Serve as the witness and as a notary in the same transaction. A notary may sign as one of several witnesses as well as the notary where permitted by law, such as in real estate transactions in Georgia, North Carolina, and South Carolina.
- g.* Solemnize marriages as part of the official notarial duties, even if authorized to do so under a State or foreign law granting notaries such authority.
- h.* Provide legal advice unless the notary is also an attorney.
- i.* Notarize a general power of attorney before determining that the client has received advice from an attorney on the nature and effect of a general power of attorney. (The advice may be written or oral. *QuickScribe's* power of attorney application includes the required information.)
- j.* Certify public, official, registered, or court records or documents, nor issue certified copies of such documents or records unless specifically in accordance with AR 27-55. You may make certified copies of some original documents provided you determine that the copy to be certified is a full, true, and accurate transcription or reproduction of the original document, by carefully and personally comparing the copy and original or observing the copying process.
- k.* Make certified copies of public records or of publicly recorded documents when a certified copy of the record document is available from an official source such as, court records, birth certificates, marriage certificates, death certificates, and car titles.

B-5. Notaries will not be compromised

No notary will perform nor be ordered or required to perform a notarial act that the notary believes:

- a.* Is for a transaction, which the notary knows or suspects is illegal, false, or deceptive.
- b.* Is for a person who is being coerced.
- c.* Is for a person whose demeanor causes compelling doubts about whether the person knows the consequences of the transaction requiring the notarial act.
- d.* Impugns or compromises the notary's impartiality.

B-6. Identify requester

In witnessing or attesting to a signature, you must determine that the individual appearing before you is the person named in the document to be signed. You have acceptable identity evidence of that individual if—

- a.* The individual has picture identification documents, such as a military identification card or driver's license;
- b.* You personally know the individual; or
- c.* A credible witness you know affirms the identity of the individual seeking the notarization.

B-7. Notary log/journals

Notaries must be able to confirm notary services performed many years after the service was provided. It is imperative, therefore, that you are consistent in how you provide these services. Use a Notary Log or a similar journal to record the names and signatures of those for whom you notarize. You should retain this log as your own record in case you are ever contacted to confirm your notarial actions. The log **will not** be made part of any Army system of records.

Notary's Guiding Principles

The notary will—

1. Serve in an honest, fair, and unbiased manner.
2. Act as an impartial witness and not profit or gain from any document or transaction he or she notarizes.
3. Require the presence of each signer and oath-taker in order to carefully screen each for identity and willingness, and to observe that each appears aware of the significance of the transaction requiring the notarial act.
4. Not execute a false or incomplete certificate nor be involved with any document or transaction that is false, deceptive, or fraudulent.
5. Not provide unauthorized advice or services.
6. Affix a seal on notarized documents in accordance with AR 27-55 and not allow this universally recognized symbol of office to be used by another or in an endorsement or promotion.
7. Record each of his or her notarial acts in a notary log, a similar journal, or to other secure recording device, and will personally maintain and safeguard it as an important personal record of his or her notarial acts.
8. Respect the privacy of each signer and not divulge or use personal or proprietary information disclosed during execution of a notarial act for other than an official purpose.
9. Obtain instruction on notarization and keep current on the laws, practices, and requirement of the office.

Figure B-1. Notary's guiding principles

Glossary

Section I Abbreviations

AR

Army regulation

ARNGUS

Army National Guard of the United States

DA

Department of the Army

DFAS

Defense Finance and Accounting Service

DOD

Department of Defense

IDN

initial distribution number

IDT

inactive duty training

INS

Immigration and Naturalization Service

LS

legal seal

LSO

Legal Services Organization

MOSC

military occupational specialty code

NCO

noncommissioned officer

para

paragraph

RC

Reserve Component

SJA

Staff Judge Advocate

TJAG

The Judge Advocate General

UCMJ

Uniform Code of Military Justice

USAR

United States Army Reserve

USC

United States Code

VA

Department of Veterans Affairs

Section II Terms

Acknowledgment

A formal declaration or statement before an authorized official, by the individual who signs the document, that the signing of the document is his or her free act and deed.

Active duty

Full-time duty in the active military service of the United States, including active duty for training by members of the United States Army Reserve and Army National Guard of the United States.

Adjutant

Includes adjutants, assistant adjutants, acting adjutants, and personnel adjutants designated by appropriate authority to serve in such capacities.

Affidavit

A written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before an individual having authority to administer such oath or affirmation.

Affirmation

A pledge or formal declaration by an individual as to the truth of his or her statement before an individual authorized to administer the affirmation. An affirmation is often used instead of an oath.

Apostille

A standard certification provided under the Hague Convention for authenticating documents used in foreign countries. An Apostille streamlines the authentication of notarized documents sent between countries.

Attestation

The act of witnessing a document in writing, at the request of the party making the document, and subscribing to it as a witness.

Certificate

A written assurance, or official representation, that some act has or has not been done, some event occurred, or some legal formality has been complied with.

Certification

The process that signifies that a document is a true, and accurate copy or reproduction of the original. The certification usually is "I certify that this is a true and exact copy of the original document", or words to that effect.

Certified copy

A copy of a document or record, signed and certified as a true copy by the individual to whose custody the original is entrusted.

Civil notaries

Individuals designated to perform notarial services pursuant to the law of— or issued a commission as a public notarial officer by— a state, the District of Columbia, a United States territory, commonwealth or possession, or a foreign government.

Commander

A commissioned or warrant officer who, by virtue of that officer's grade and assignment, exercises primary command authority over a military organization, installation, or prescribed territorial area, that under pertinent official directives is recognized as a command.

Immediate supervision

This term means under the direct guidance or management of another. Immediate supervision does not require a supervisor to be present at all times when the individual being supervised is performing his or her assigned duties, nor

does it require a performance rating relationship. However, the supervisor and the person supervised must perform duty in the same general location (for example, in an SJA office or at Soldier Readiness Processing).

Judge Advocate

General and commissioned officers within the Judge Advocate General's Corps. (See AR 27-1, para 3-1.) A judge advocate for the purposes of this regulation also includes any officer authorized to perform legal assistance duties pursuant to AR 27-3.

Military notaries

Army personnel authorized by 10 USC Section 1044a and other Federal law or regulation and this regulation to provide notarial services.

Noncommissioned officer

Enlisted soldiers with the rank of corporal (E-4) and above. This term does not include a soldier with the rank of Specialist (E-4).

Notarial acts

Official acts by notaries performed pursuant to their notarial authority.

Notarial services

For military notaries, notarial services include administering oaths, attesting to the authenticity of signatures, taking acknowledgments, and attesting to and certifying certain classes of documents in order to give them credit and authenticity. For civil notaries, notarial services include the foregoing and other acts as defined by the jurisdiction in which the civil notary is authorized to provide notarial services.

Notarization

The act of a notary in authenticating a document. The notarial certificate appended to a document indicating that the person signing the document personally appeared, produced identification, or was known personally by the individual serving as a notary.

Notary

Either a civil or military notary.

Oath

A pledge whereby an individual swears or affirms as to the truth of his or her statement before a person authorized to administer an oath. The individual taking the oath signifies that he or she is bound in conscience to provide the act faithfully and truthfully.

Official duties

Duties in accordance with applicable law, military regulations, or lawful orders.

Reserve or Reserve Components (RC)

In relevant part, RC refers to members of the USAR, ARNG, and ARNGUS, regardless of duty status, unless otherwise noted.

Seal

An impression placed on a document that, under this regulation or applicable law, has the legal effect of attesting in a formal manner to the execution of that document. The term includes state and military notary impressions or seals. See para 4-3e and Figure 4-1 for use of the word "SEAL" or "LS" by a client or witness other than a notary.

Signature guarantee

A signature guarantee, such as required for the transfer of a stock certificate or other financial instrument, is performed by stock brokers, bank officials, or other financial institutions that regularly deal with the financial instrument requiring the signature guarantee.

Staff Judge Advocate

The principal legal advisor on the staff of an AC commander who possesses general court-martial convening authority. As used in this regulation, this term also includes a chief command counsel on the staff of a major Army command or command judge advocate on the staff of an Active Army commander. Within the RCs, the State Staff Judge Advocate to a State Adjutant General or a Staff Judge Advocate to a Reserve general officer command.

State

As used in this regulation this term includes any of the fifty states of the United States, the District of Columbia, and a U. S. territory, commonwealth, or possession.

State authority

Laws enacted by any one of the fifty states within the United States, the District of Columbia, or a U.S. territory, commonwealth, or possession that authorize individuals to serve as notaries and to provide notarial services.

Subscribe

To sign at the end of the document.

Swear

To administer an oath to an individual. To take an oath; to become bound by an oath duly administered.

Sworn statement

A statement taken under oath or affirmation that the contents of the statement are true.

United States

Includes any of the fifty states of the United States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

Witnessed

The process of attesting to the genuineness of the signing or execution of a document by individuals (witnesses) present at the time the document was signed. Witnesses subscribe their signatures to the document for the purpose of attesting to their presence at the time the document was signed.

Section III**Special Abbreviations and Terms**

This section contains no entries.

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