

An Employer's Guide to Managing Its Notary Workforce

A White Paper from the National Notary Association

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Solutions for Employers



**NATIONAL
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ASSOCIATION**

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ABOUT THE NATIONAL NOTARY ASSOCIATION

Established in 1957, the National Notary Association® (NNA) is the leading professional authority on the American Notary office and is dedicated to educating, serving and advocating for the nation's 4.8 million Notaries. The NNA imparts comprehensive notarial knowledge and understanding, promotes a positive public perception of the Notary office, and bolsters consumer protection by promoting best practices. The Association's accredited professional programs, services and model legislation help Notaries advance their careers and serve the American public with the highest level of professionalism and ethics. To learn more, visit us at NationalNotary.org.

ABSTRACT

As public servants, Notaries are appointed by and answerable to their states. They serve the public as official, impartial witnesses to critical business transactions.

As employees of your organization, however, your Notaries are accountable to you—their employer—for providing top-quality customer service and fulfilling organizational goals.

If not properly managed, the dual accountabilities of the Notary-employee can put them at odds between serving the public and supporting your organization. This creates risk for everyone involved—the customer, the Notary, and your company.

An untrained, unsupervised Notary can expose your company to liability. Well-trained and well-managed Notaries, on the other hand, can keep your organization out of the public eye and out of court.

As an employer of Notaries, your organization is accountable for the services they provide to your customers. This white paper provides a strategic framework to help you maximize efficiency while mitigating legal and regulatory risk.

INTRODUCTION

To state it simply, the role of the Notary is to prevent fraud. Employing Notaries puts you on the frontline in the battle against identity theft, forgeries, and other scams and deceptions.

This layer of defense that your Notaries provide is crucial to your organization's success. Without an effective strategy to manage your Notary workforce, your organization's reputation and profitability can be jeopardized.

Why should employers be concerned?

In today's legal and regulatory environment, notarization practices are under particular scrutiny by regulators and lawmakers, as well as by aggressive lawyers exploiting legal vulnerabilities.

While Notaries are obliged to follow state laws and regulations, these requirements are in constant flux. Without vigilance, a change in statute could put your organization out of step and out of compliance.

Established statutes and regulations also vary widely from state to state, which can complicate an organization's ability to create and maintain consistent standards.

What can an employer do?

Having a well-conceived Notary management and oversight plan in place will allow you to address the responsibilities and risks presented by your Notary-employees.

To set up such a plan, you need a strategy. A solid risk management strategy supporting your company's Notaries requires five essential components. Anything less could place your organization squarely at risk.

The 5-Part Risk Management Strategy



Understand
Your Notaries'
Responsibilities



Require
Professional
Training



Establish
Organizational
Policies and
Procedures



Get to Know
Your Notaries



Review Notary
Performance

UNDERSTAND YOUR NOTARIES' RESPONSIBILITIES

A working knowledge of the specialized requirements and practices of Notaries will enable your managers and supervisors to provide effective oversight. This fundamental understanding can also allow them to identify and guide Notary-employees from potentially costly pitfalls.

Why are Notaries important?

Appointed by their states, Notaries are public officials who serve as impartial witnesses to certify certain facts about the signing of documents.

The official process they perform renders documents worthy of the public's trust by offering assurance that:

- A document is authentic.
- The signature is genuine.
- The signer acted willingly.

What is a notarization?

There are many notarial acts that your Notary-employees may be asked to perform. Examples include signature witnessing, proofs of execution, verifications of fact, and protests. Each has its own specific requirements, but all follow basic common practices.

Of the various notarial acts, here are the three most requested:

- **Acknowledgments** require the Notary to certify that he or she has positively identified the signer and that the signer, in the Notary's presence, has acknowledged signing the document and did so willingly. The document may have been signed previously or in front of the Notary.
- **Jurats** (also known as verifications on oath or affirmation) call for the Notary to take the oath or affirmation of the party, who swears or affirms to facts stated in the document, and the Notary witnesses the signing of the document in person.
- **Copy certifications** are allowed only in a limited number of states. The Notary makes a copy of an original document and certifies the copy as true and accurate. The original must not itself be a copy, and it must not be a vital record such as a birth certificate or certificate of marriage.

What are the best practices for notarization?

Because they perform an important function, Notaries are obliged to follow state laws and regulations. While these requirements vary from state to state, there are professional standards of practice that are widely accepted.

1. Signers must appear in-person to have their signatures notarized. Currently, remote online notarizations are allowed in some states under certain circumstances.
2. The Notary must be able to communicate directly with the signer, not through an interpreter or a representative. (One exception: Arizona allows interpreters).
3. The complete document, with all pages and no empty blanks, must be presented for notarization.
4. Documents must be signed willingly without undue influence from others.
5. Notaries must not allow others to use their official seal.
6. The Notary's official seal and journal must be secure and not accessible to others.
7. Notaries must not pre-sign and pre-seal certificates for future use.
8. While documents may be signed and dated before the notarization (in the case of acknowledgments), Notaries must never pre- or post-date their official certificates.
9. Notaries must not give advice or help signers understand or complete documents unless they have professional credentials to do so, such as a license to practice law or provide insurance.
10. Notaries must never notarize their own signatures or act when there is a conflict of interest and they stand to gain by their notarization.

Notaries are obligated to follow state laws and regulations, and they should adhere to professional standards of practice.

REQUIRE PROFESSIONAL TRAINING

Despite the fact that imperfect notarizations can lead to significant adverse consequences and potential liability issues, a majority of states still do not require education or testing to become a Notary. The states that do generally overlook the need for the basic how-tos of notarization.

Why should employers require Notary training?

Businesses are held responsible for all activities performed on the company's premises, whether the activity is the private function of conducting business or the public one of performing notarial acts.

- **If your business is in a state with no training requirement,** you assume the burden and risk of ensuring that your Notary-employees learn and comprehend the laws, rules and professional standards they're obligated to follow.
- **If your business is in a state that does require training,** be aware that state training is limited mostly to the laws that regulate Notary practice. Supplementary training on best practices and professional standards is advised.

What should employers look for in a training course?

As an employer, you should require Notary-employees to complete a qualified course on the rules, requirements and professional standards for performing notarial acts.

If you're unable to allocate the resources, or if you lack the capability to develop such a training, look outside of your organization for a professional Notary program such as the National Notary Association's *Notary Essentials* course or the *Notary Quick-Start Training*.

Companies assume the burden of ensuring that their Notaries understand the laws, rules and professional standards they must follow.

ESTABLISH ORGANIZATIONAL POLICIES AND PROCEDURES

Because your Notaries are also employees, it's important to clarify—for them, for you and for other employees—your organization's policies for Notaries and Notary services. It is vital to clearly document your policies and procedures and to follow them.

What should the policy include?

Your first policy should be to require your Notaries to, above all, comply with the laws, regulations and professional standards of practice for Notaries.

Along this line, we urge that every organization require Notaries to keep a journal of official acts and to use an official seal of office. Though not required by law in all states, these safe, professional practices can help prevent fraud and protect your customers, your Notaries, and your organization.

Establishing clear policies and procedures for Notary-employees helps maximize efficiencies and mitigate risk.

- **Journals** contain documented proof that your Notary acted properly, therefore providing valuable liability protection in the event of lawsuits. An added benefit: employers can review them to monitor a Notary's performance.
- **Seals**, whether a stamp or an embosser, are used to authenticate the Notary's signature and make the notarial act official. Even if one is not required in your state, a seal that's used and safeguarded properly can help prevent fraud.

What else should be considered?

As with all employee policies, a written acknowledgment signed by the affected employee is an important management tool. We suggest you include a Notary-employee agreement document summarizing the responsibilities of both the employer and the Notary-employee.

Other issues to consider when drafting policies and procedures for your Notary team include:

- Availability of Notary services to the public.
- Charging of Notary fees.
- Safekeeping of Notary tools.
- Consequences for the unauthorized use of a Notary seal.

To help employers develop their own guidelines, the National Notary Association has created Standards for Notary Practice, a model set of Notary policies and procedures including a sample Notary-employee agreement. A copy may be obtained by request.

GET TO KNOW YOUR NOTARIES

Managing a team of Notaries requires that you know who they are and where they work. While this seems obvious, a great many organizations keep no such records. This can result in employees performing risk-associated functions without oversight or control.

What information should you record?

Develop and maintain a list of all your Notary-employees and include the branch location, training completion, jurisdiction of commissioning, and appointment expiration date for each. This last item is particularly important, as it will enable you to supervise their commission renewal and ensure there is no lapse.

With a small and stable Notary team, a simple spreadsheet is all it takes to keep track of such basic information. For example:

Proper documentation of key Notary-employee information allows you to record compliance measures and supervise renewals.

Notary Name	Branch Location	Training Completed (date)	Notary Commission (state)	Commission Expiration (date)

For companies with a larger Notary workforce or additional compliance measures to record (such as background checks and examinations), maintaining such data can be a significant task. The National Notary Association's NotaryTracker™ application gives you centralized oversight of your Notary-employees with an off-the-shelf solution.

REVIEW NOTARY PERFORMANCE

As you know, employee evaluations are an essential tool for providing feedback geared at improving worker performance. And yet, many organizations mistakenly treat Notary functions as something outside the employee's reviewable performance.

Why don't companies evaluate Notary performance?

One common excuse is that supervisors do not understand what Notaries do, so they cannot evaluate their performance. Yet, as addressed earlier, it's critical that supervisors understand exactly the role and responsibilities of their Notary-employees.

Another reason companies ignore Notary performance is that the duties are often viewed as a public function outside the scope of a private company's activities. Yet, if a notarization is flawed, there can be serious consequences.

Managers should periodically assess whether their Notary-employees are performing their services properly.

What should a Notary performance review include?

Your performance evaluations for Notary-employees should include criteria specific to their duties as a Notary. This is your opportunity to observe, appraise and coach their work behavior and minimize errors and risk.

Your Notary managers should evaluate whether Notary-employees are:

- Performing their services properly.
- Adhering to sound Notary practices.
- Following established policies and procedures.

Regular, documented performance evaluations are an important way for you to assure that your Notaries are providing excellent customer service, operating efficiently and not posing a liability risk to your organization.

CONCLUSION

Notaries who follow the law and sound professional practices help your organization avoid liability and prevent fraud. By demonstrating a high standard of care and control, you can maximize efficiencies while protecting your customers, your employees, and your organization.

Practice sound risk management

All components of your Notary management and oversight plan must work together to address the unique responsibilities that come with employing Notaries. A well-conceived program should include the following components:

1. A thorough understanding of your Notaries' specialized duty to both their state and to you as their employer.
2. An education requirement to ensure that your Notaries are appropriately and professionally trained.
3. Clearly documented organizational policies and procedures for Notaries separate from other employees.
4. Knowing who your Notaries are, where they work, and other details important for your organization to track.
5. Regularly reviewing the performance of your Notary-employees specific to their role and responsibilities.

With these policies in place, if by chance you have a Notary who performs negligently and your organization becomes embroiled in litigation or investigation, you can document your proactive and conscientious steps to prevent foreseeable harm.

For Additional Information

To receive more information on the NNA's Trusted Notary program, the NotaryTracker™ service, and sample policies and procedures for Notaries, contact:

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