

Notice of Hearing

A public hearing will be held by the Office of the Ohio Secretary of State Frank LaRose on Monday, April 21st, 2025, at 1:00 p.m. in the fourth-floor conference room of the Secretary of State's office located at 200 Civic Center Drive, Columbus, OH 43215.

The purpose of the hearing is to solicit comment on Ohio Administrative Code Rules as they pertain to notary procedures.

The specific amended language of the rules can be located on the Register of Ohio's website at <https://www.registerofohio.state.oh.us/>. The impacted rules are as follows:

1. 111:6-1-01: Definitions
2. 111:6-1-02: Notary Commission Education and Testing Requirements
3. 111:6-1-05: Requirements for Online Notarial Acts
4. 111:6-1-06: Complaints
5. 111:6-1-07: Investigations and Discipline

All interested parties are invited to attend the hearing and present oral and/or written testimony. Written comments may also be submitted prior to the hearing to the attention of Stephan Shehy, Director of Public Policy and Legislative Affairs, Office of the Ohio Secretary of State Frank LaRose, 200 Civic Center Drive, Columbus, OH 43215, or sshehy@ohiosos.gov. Should you plan to attend the hearing, please also notify Stephan Shehy at least 24 hours prior to the hearing.

111:6-1-01 Definitions.

(A) "Applicant" means any person applying for a notary commission pursuant to section 147.01 of the Revised Code or an online notary authorization pursuant to section 147.63 of the Revised Code.

(B) "Authorized education and testing provider" and "authorized provider" mean those entities approved by the secretary of state to offer education and testing to notary commission applicants and attorneys pursuant to section 147.021 of the Revised Code and section 147.63 of the Revised Code for online notary authorization.

(C) "Credential analysis" means the same as provided in division (B) of section 147.60 of the Revised Code.

~~(D) "Disqualifying offense" means the same as division (C) of section 147.011 of the Revised Code.~~

~~(E)~~ (D) "Dynamic knowledge-based authentication" means a form of identity proofing as defined by division (G) of section 147.60 of the Revised Code that is based on a set of questions formulated from public or private data sources for which the principal has not provided a prior answer.

~~(F)~~ (E) "Document" means a record consisting of information inscribed on a tangible medium or that is created, generated, sent, communicated, received, or stored in an electronic medium and is retrievable in perceivable form. The term includes "electronic document."

~~(G)~~ (F) "Electronic document" means the same as provided in division (D) of section 147.60 of the Revised Code.

~~(H)~~ (G) "Electronic notarial act" means a notarial act ~~defined~~ listed in section 147.51 of the Revised Code that is performed using an official electronic signature and seal on an electronic document, by an individual commissioned as a notary public pursuant to section 147.01 of the Revised Code.

~~(I)~~ (H) "Electronic Seal" means the same as provided in division (E) of section 147.60 of the Revised Code.

~~(J)~~ (I) "Electronic Signature" means the same as provided in division (F) of section 147.60 of the Revised Code.

~~(K)~~ (J) "Exclusive control" means accessible by and attributable solely to the notary public to the exclusion of all other persons and entities, either through being in the direct physical custody of the notary public or through being secured with one or more biometric password, token or other authentication technologies.

~~(L)~~ (K) "Notarial Act" for purposes of this chapter means an official act that a notary public is authorized to perform by law and as provided in division (H) of section 147.60 of the Revised Code.

~~(M)~~ (L) "Notarial Certificate" means the portion of a notarized document that is completed by a notary public and that bears the notary public's signature, seal and language as required by law.

~~(N)~~ (M) "Notary commission" is a commission issued to a notary public pursuant to sections 147.01 to ~~147.13~~ 147.12 of the Revised Code.

~~(N)~~ (N) "Notary Public" means an individual commissioned by the secretary of state under section 147.01 of the Revised Code. A notary public does not have the authority to perform online notarizations unless also authorized by the secretary of state to perform an online notarization, however, a notary public may engage in an electronic notarial act as permitted under section 147.591 of the Revised Code.

~~(P)~~ (O) "Official electronic signature" means the electronic signature used by a notary public commissioned pursuant to section 147.01 of the Revised Code; and the electronic signature used by a notary public who is authorized as an online notary public pursuant to section 147.63 of the Revised Code.

~~(Q)~~ (P) "Online notarization" means the same as provided in division (I) of section 147.60 of Revised Code. The term includes "online notarial act."

~~(R)~~ (Q) "Online notarization system" means a set of applications, programs, hardware, software, or technology designed to enable a notary public to perform online notarial acts.

~~(S)~~ (R) "Online Notary Public" means the same as division (J) of section 147.60 of the Revised Code.

~~(T)~~ (S) "Principal" means a person whose signature is notarized or a person, other than a credible witness, taking an oath or affirmation from the notary.

~~(U)~~ (T) "Real time" means the actual span of uninterrupted, simultaneous communication during which all parts of an online notarial act using audio-video communication occur.

~~(V)~~ (U) "Record" includes a document as defined in this chapter; an entry in a journal maintained by an online notary public pursuant to section 147.65 of the Revised Code; the audio-video recording required in division (D)(3) of section 147.65 of the Revised Code; and a notary public's record kept by the secretary of state under section 147.05 of the Revised Code.

~~(W)~~ (V) "Remote presentation" means the same as provided in division (L) of section 147.60 of the Revised Code.

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Promulgated Under: 119.03

Statutory Authority: 147.021, 147.032, 147.08, 147.37, 147.62, 147.63, 147.65.

Rule Amplifies: 147.021, 147.032, 147.08, 147.37, 147.62, 147.63, 147.64, 147.65.

Prior Effective Dates: 09/22/2019

111:6-1-02 Notary commission education and testing requirements.

(A) An authorized education and testing provider, as described in sections 147.021 and 147.63 of the Revised Code, must be approved by the secretary of state. A potential authorized education and testing provider must submit a request to be approved as an authorized provider to the secretary of state and must respond to the secretary of state's request for information.

(B) The secretary of state shall provide information on its official website to inform applicants of the authorized providers' names and contact information.

(C) Curriculum for notary commission education shall include, but is not limited to, all of the following:

- (1) The terms of a notary commission;
- (2) Requirements to update and renew a commission;
- (3) Reporting requirement if a notary public is convicted or pleads guilty or no contest to a disqualifying offense;
- (4) Geographic jurisdiction of a notary public;
- (5) Maintaining a notarial journal;
- (6) Requirements for a notary seal;
- (7) What constitutes a notarial act that complies with applicable Ohio law and administrative rules;
- (8) How to perform a compliant notarial act, including examples involving commonly notarized documents;

- (9) Administration of an oath or affirmation;
 - (10) Verifying the identity of the principal;
 - (11) The taking of an acknowledgment;
 - (12) The administration of a jurat;
 - (13) The manner of taking depositions;
 - (14) Signatures by mark;
 - (15) Method to notarize a document signed by a designated alternative signer;
 - (16) Overview and examples of prohibited acts;
 - (17) Explanation of electronic notarizations;
 - (18) What constitutes unauthorized immigration consultant acts and the unauthorized practice of law by a notary;
 - (19) The fees a notary public is permitted to charge;
 - (20) Mandatory reporting that is required of a notary;
 - (21) The conditions under which a commission may be revoked; and
 - (22) Investigation and disciplinary processes.
- (D) Curriculum for online notary authorizations education shall include but not be limited to all notarial rules, procedures and ethical obligations pertaining to online notarizations under sections 147.60 to 147.66 of the Revised Code.
- (E) Curriculum for continuing education for commissions and online authorizations shall include, but not be limited to, any updates to Ohio notary law or the administrative rules.
- (F) Applicants for a notary commission who are required to successfully pass a test pursuant to sections 147.021 and 147.63 of the Revised Code must be tested on all of topics listed in paragraphs (C) and (D) of this rule and any updates to this state's notary law or the administrative rules. An authorized education and testing provider must offer multiple curriculum tests so that there is not one uniform test in circulation.
- (G) An authorized education and testing provider must seek approval from the secretary of state prior to providing education and testing services to applicants. The

secretary of state may request documentation to ensure the authorized provider has met the standards. An authorized provider must notify the secretary of state of material modifications to its educational program and testing at least ten days prior to such modifications, and implement such modifications only upon receiving the approval of the secretary of state.

(H) An authorized education and testing provider must update its continuing education curriculum and testing when there are legislative updates to this state's notary law or changes to the administrative rules.

(I) Updated education and testing materials must be submitted electronically to the secretary of state for review. The updates must be identified and submitted to the secretary of state by the established deadline.

(J) Authorized education and testing providers are expected to be subject matter experts on this state's notary law and the administrative rules. It is the education and testing provider's responsibility to track and understand legislative and rule changes, and update continuing education and testing materials accordingly.

~~(H)~~ (K) An authorized provider must electronically share data related to an applicant's education completion and testing results with the secretary of state, upon request of the secretary of state.

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Promulgated Under: 119.03

Statutory Authority: 147.021.

Rule Amplifies: 147.01, 147.021, 147.63.

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111:6-1-05 Requirements for online notarial acts.

(A) An online notary public must be physically located within the boundaries of Ohio at the time the notarial act takes place; however, the signer may be located anywhere

within the territory of the United States or outside the United States only if the conditions set forth in division (C)(2) of section 147.64 of the Revised Code are met.

(B) Online notarizations must occur with the use of an online notarization system, which has two-way live audio and video conference technology, and that meets the following requirements:

(1) The online notary public must be able to verify the identity of the remotely located individual at the time the signature is taken by one of the following methods:

(a) The online notary public's personal knowledge of the individual;

(b) Each of the following:

(i) Remote presentation of an unexpired government-issued identification credential that contains the photograph and signature of the individual to the online notary public by means of communication technology;

(ii) Credential analysis of the identification credential in accordance with paragraph (B)(4) of this rule; and

(iii) Identity proofing of the individual in accordance with paragraph (B) (5) of this rule.

(c) Oath or affirmation of a single credible witness who personally knows the individual and either is personally known to the online notary public or who is identified by the online notary public under paragraph (B)(1)(b) of this rule.

(2) A credible witness under paragraph (B)(1)(c) of this rule may appear before the online notary public by means of communication technology that complies with Chapter 147. of the Revised Code and this chapter.

(3) Credential analysis and identity proofing must be performed by a reputable third person who has provided reasonable evidence to the online notary public of the person's ability to satisfy the requirements of Chapter 147. of the Revised Code and this rule.

(4) Credential analysis must utilize public or private data sources to confirm the validity of an identification credential and must, at a minimum:

(a) Use automated software processes to aid the online notary public in verifying the identity of a remotely located individual;

(b) Ensure that the identification credential passes an authenticity test, consistent with sound commercial practices that:

(i) Use appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features;

(ii) Use appropriate technologies to confirm that the identification credential is not fraudulent or inappropriately modified;

(iii) Use information held or published by the issuing source or an authoritative source, as available, to confirm the validity of identification credential details; and

(iv) Provide output of the authenticity test to the online notary public;

(c) Enable the online notary public to visually compare for consistency:

(i) The information and photograph on the presented credential, and

(ii) The remotely located individual as viewed by the online notary public in real time through communication technology;

(d) Require a government-issued identification credential that:

(i) Is an unexpired government-issued identification credential that contains the photograph and signature of the individual; and

(ii) May be imaged, photographed, and video recorded under applicable state and federal law; and

(iii) Can be subjected to credential analysis.

(e) Include an image capture procedure that confirms that:

(i) The remotely located individual is in possession of the credential at the time of the notarial act;

(ii) Credential images submitted for credential analysis have not been manipulated; and

(iii) Credential images match the credential in the possession of the remotely located individual; and

(f) Require the captured image of the identification credential to:

(i) Be of sufficient image resolution to perform credential analysis in accordance with the requirements of this paragraph;

(ii) Be of sufficient image resolution to enable visual inspection of the credential by the notary public; and

(iii) Include all images necessary to perform visual inspection and credential analysis in accordance with the requirements of this paragraph, including the identity page of any passport and the front and back images of any identification card.

(5) Identity proofing shall be performed by means of ~~a dynamic~~ knowledge-based authentication or through another process approved by the secretary of state. that meets the following requirements The dynamic knowledge based authentication must, at a minimum, meet the following requirements:

(a) Each remotely located individual must answer at ~~a quiz consisting of~~ a minimum ~~of~~ five questions related to the remotely located individual's personal history or identity, formulated from public or private data sources;

(b) Each question must have a minimum of five possible answer choices;

(c) At least eighty per cent of the questions must be answered correctly;

(d) All questions must be answered within two minutes;

(e) If the remotely located individual fails the first attempt, the individual may retake the quiz two times within forty-eight hours;

(f) During a retake of the quiz, a minimum of forty per cent of the prior questions must be replaced;

(g) If the remotely located individual fails the second attempt, the individual is not permitted to retry with the same notary or the same third person providing the identity proofing service within twenty-four hours of the second failed attempt; and

(h) The online notary public must not be able to see or record the questions or answers.

(6) The online notarization system used must meet the following criteria:

(a) The persons communicating must simultaneously see and speak to one another.

(b) The signal transmission must be live, real time audio-visual feeds.

(c) The signal transmission must be secure from interception or access by anyone other than the persons communicating.

(d) The technology must provide sufficient audio clarity and video resolution to enable the notary to communicate with the signer and utilize the permissible signer identification methods.

(e) The system must provide confirmation that the electronic document presented is the same as the electronic document notarized.

(f) Allow for the affixation of the notarial certificate, signature and seal.

(g) Allow for viewing the notarial certificate, signature and seal.

(h) Provide a method for determining if the electronic document has been altered after the electronic notarial seal has been affixed and the electronic notarial act has been completed.

(i) Provide a method of generating a paper copy of the document including the notarial certificate, signature and seal and any other document associated with the execution of the notarial act.

(C) If the signer or online notary public must exit the audio-video communication session, the audio-video communication link is broken, or the resolution or quality of the transmission becomes such that the electronic notary public believes the process has been compromised and cannot be completed, the identity authentication process and any incomplete online notarial acts must be started from the beginning.

(D) The online notary public shall refuse to perform an online notarization if:

(1) The online notary public is unable to verify the identity of the principal;

(2) The online notary public is unable to verify the security of the two way audio visual transmission;

(3) The signature of the principal cannot be attached to the electronic document; or

(4) The online notarization system or technology cannot render the notarial act tamper-evident.

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Statutory Authority: 147.62.

Rule Amplifies: 147.62, 147.64, 147.65.

Prior Effective Dates: 09/22/2019

111:6-1-06 Complaints.

Any person may submit a complaint ~~in writing to the secretary of state and~~ allege-alleging that a notary public has violated one or more of the provisions of Chapter 147. of the Revised Code. The complaint shall be submitted to the secretary of state on a form prescribed by the secretary of state. The form shall be made available on the secretary of state's website or by contacting the business services division of the secretary of state's office. The complaint must include:

- (A) The name of the notary public;
- (B) The notary public's commission number, if known;
- (C) An explanation of the reason for the complaint and, if known, the citation of each statutory provision which the notary public is alleged to have violated;
- (D) A copy of each document related to the matter; and
- (E) The name, phone number, address, email address and signature of the person submitting the complaint.

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Promulgated Under: 119.03

Statutory Authority: 147.032.

Rule Amplifies: 147.032.

Prior Effective Dates: 09/22/2019

TO BE RESCINDED

111:6-1-07 **Investigations and discipline.**

~~(A) Upon receiving a signed complaint, or if the secretary of state has a reasonable basis to believe that a violation of Chapter 147. of the Revised Code has occurred, then the secretary of state shall designate an authorized agent to investigate the violation.~~

~~(B) After an investigation, the authorized agent shall forward the agent's findings to the secretary of state, the person who filed the complaint and the notary public named in the complaint (the "respondent"). If, upon reviewing the agent's findings, the secretary of state determines a violation of Chapter 147. of the Revised Code may have, or may occur, and wants to take action with respect to such possible violation, it shall send a written notice of such determination to the person who filed the complaint and the respondent. The respondent shall have fourteen days to request a hearing from the secretary of state. The request must be sent to the secretary of state with a copy to the director of business services of the secretary of state. The secretary of state shall schedule the hearing within fifteen days after receiving the request for a hearing and shall promptly notify the respondent of such date. Once a hearing is scheduled, the secretary of state shall appoint a hearing officer. The hearing officer must be admitted to the practice of law in Ohio and be knowledgeable of Ohio notary laws. The hearing date may be continued by the hearing officer, at the request of the secretary of state or the request of the respondent. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code.~~

~~(C) Prior to the hearing, the respondent shall have the opportunity to answer the complaint by filing a written answer with the secretary of state. Any subpoenas for the hearing shall be requested from the hearing officer for issuance by the secretary of state. The hearing officer may receive evidence from the secretary of state and the respondent. The respondent may be represented by counsel; however, counsel is not required. A stenographic transcript of the oral testimony at the hearing shall be made.~~

~~(D) Following the hearing, the hearing officer shall issue a report and recommendation to the secretary of state within fourteen days after completion of the hearing. A copy of this written report shall, at the time it is submitted to the secretary of state, be forwarded by electronic means and certified mail to the respondent or his or~~

her counsel. If a violation of Chapter 147. of the Revised Code is found, the hearing officer may recommend the following:

~~(1) No action be taken;~~

~~(2) Revoke the notary public's commission;~~

~~(3) Suspend the notary public's commission for a specified period of time or until fulfillment of a condition, such as retraining, or both; or~~

~~(4) Issue a letter of admonition to the notary public that shall be placed in the notary public's record.~~

~~(E) The respondent may file with the secretary of state written objections to the hearing officer's report within ten days of the date of the respondent's receipt of the report. The secretary of state shall render a decision within twenty days after the receipt of the hearing officer's recommendation. The secretary of state shall send such decision to the respondent or his or her counsel by certified mail.~~

~~(F) If a hearing is not timely requested by the respondent, the secretary of state may take the following action:~~

~~(1) Revoke the notary public's commission;~~

~~(2) Suspend the notary public's commission for a specified period of time or until fulfillment of a condition, such as retraining, or both; or~~

~~(3) Issue a letter of admonition to the notary public that shall be placed in the notary public's record.~~

~~(G) The respondent may appeal an adverse decision of the secretary of state under section 119.12 of the Revised Code.~~

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Statutory Authority: 147.032.

Rule Amplifies: 147.032.

Prior Effective Dates: 09/22/2019

The complaint must include:

(A) The name of the notary public;

(B) The notary public's commission number, if known;

(C) An explanation of the reason for the complaint and, if known, the citation of each statutory provision which the notary public is alleged to have violated;

(D) A copy of each document related to the matter; and

(E) The name, phone number, address, email address and signature of the person submitting the complaint.

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TO BE RESCINDED

111:6-1-07 Investigations and discipline.

(A) Upon receiving a signed complaint, or if the secretary of state has a reasonable basis to believe that a violation of Chapter 147. of the Revised Code has occurred, then the secretary of state shall designate an authorized agent to investigate the violation.

(B) After an investigation, the authorized agent shall forward the agent's findings to the secretary of state, the person who filed the complaint and the notary public named in the complaint (the "respondent"). If, upon reviewing the agent's findings, the secretary of state determines a violation

of Chapter 147. of the Revised Code may have, or may occur, and wants to take action with respect to such possible violation, it shall send a written notice of such determination to the person who filed the complaint and the respondent. The respondent shall have fourteen days to request a hearing from the secretary of state. The request must be sent to the secretary of state with a copy to the director of business services of the secretary of state. The secretary of state shall schedule the hearing within fifteen days after receiving the request for a hearing and shall promptly notify the respondent of such date. Once a hearing is scheduled, the secretary of state shall appoint a hearing officer. The hearing officer must be admitted to the practice of law in Ohio and be knowledgeable of Ohio notary laws. The hearing date may be continued by the hearing officer, at the request of the secretary of state or the request of the respondent. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code.

(C) Prior to the hearing, the respondent shall have the opportunity to answer the complaint by filing a written answer with the secretary of state. Any subpoenas for the hearing shall be requested from the hearing officer for issuance by the secretary of state. The hearing officer may receive evidence from the secretary of state and the respondent. The respondent may be represented by counsel; however, counsel is not required. A stenographic transcript of the oral testimony at the hearing shall be made.

(D) Following the hearing, the hearing officer shall issue a report and recommendation to the secretary of state within fourteen days after completion of the hearing. A copy of this written report shall, at the time it is submitted to the secretary of state, be forwarded by electronic means and certified mail to the respondent or his or her counsel. If a violation of Chapter 147. of the Revised Code is found, the hearing officer may recommend the following:

- (1) No action be taken;
- (2) Revoke the notary public's commission;
- (3) Suspend the notary public's commission for a specified period of time or until fulfillment of a condition, such as retraining, or both; or
- (4) Issue a letter of admonition to the notary public that shall be placed in the notary public's record.

(E) The respondent may file with the secretary of state written objections to the hearing officer's report within ten days of the date of the respondent's receipt of the report. The secretary of state shall render a decision within twenty days after the receipt of the hearing officer's recommendation. The secretary of state shall send such decision to the respondent or his or her counsel by certified mail.

(F) If a hearing is not timely requested by the respondent, the secretary of state may take the following action:

- (1) Revoke the notary public's commission;
- (2) Suspend the notary public's commission for a specified period of time or until fulfillment of a condition, such as retraining, or both; or

(3) Issue a letter of admonition to the notary public that shall be placed in the notary public's record.

(G) The respondent may appeal an adverse decision of the secretary of state under section 119.12 of the Revised Code.

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