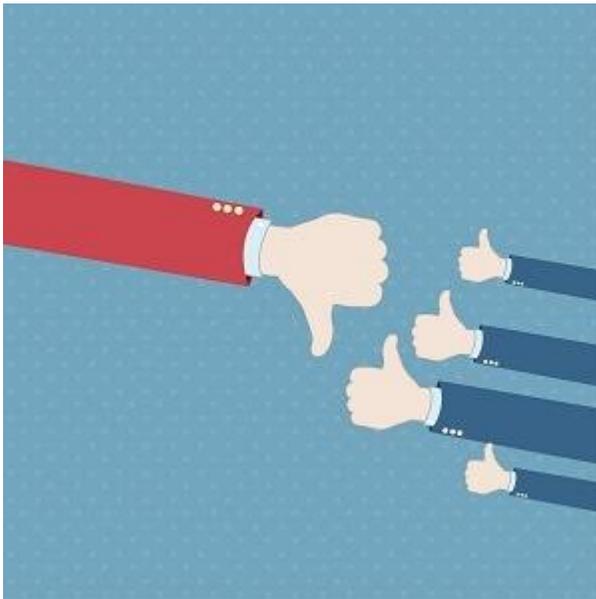


When To Say 'No' ... And When Refusing a Notarization Is Not Allowed



When to Refuse a Notarization

Many states have specific statutes or regulations which explain when exactly a Notary is permitted or required to refuse service.

You can generally refer to your state's Notary website or "The Delaware Notary Handbook".

Below are some of the main reasons you might be required to refuse a notarization. Keep in mind that they do not all apply in every state.

1. Signer Disqualifications

This occurs when the signer does not meet certain qualifications for the notarization. These may include:

- The signer is not physically present
- The signer cannot be [properly identified](#)
- The signer does not speak the same language as the Notary
- The signer is unwilling to swear or affirm the contents of the document for notarizations that require an oath or affirmation
- You have reason to believe [the signer appears to be confused, disoriented](#), or lacks the mental capacity to sign documents
- You have reason to believe that the [signer is being coerced](#) to sign, rather than signing of his or her own free will

2. Document Disqualifications

This occurs when the document doesn't meet certain requirements. Situations may include:

- The [document contains blank spaces](#) or missing pages
- The document does not contain a notarial certificate, and the signer cannot or will not instruct the Notary which type of notarial certificate is required

- The signer wants you to [certify a copy of a vital record](#), such as a birth certificate, which you are not permitted to do

3. Notary Disqualifications

There are times when the notarization presents a [conflict of interest](#) that impairs the Notary's impartiality. These may include:

- You are a signer of the document
- You are named as a party to the underlying transaction or have a financial or beneficial interest in the transaction
- The signer is your spouse, parent or child

4. Other Disqualifying Situations

Here are several other potential situations when you should refuse the request:

- You know or suspect the transaction is false, illegal or deceptive
- The act being requested is not an authorized notarial act
- The signer is unable or unwilling to pay the required fee
- The request is made outside of your regular office hours
- The request violates your workplace guidelines

When You Shouldn't Say 'No'

Generally, if a requested notarial act is lawful, the Notary should not refuse to perform it. Scenarios that may be difficult for a Notary to refuse are the following:

1. Refusals Based On Personal Bias or Beliefs

- **Signer Bias:** As a public official, you should not refuse a notarization based on personal feelings you may have about the signer's nationality, religion, race, age, lifestyle, gender, or disabilities.
- **Controversial Documents:** You should not refuse to notarize documents that contain content related to controversial issues, such as same-sex unions, assisted suicide, use of medical marijuana, or abortion you disagree with. Article 1-A-3 of [The Notary Public Code of Professional Responsibility](#) states that a Notary should not refuse to perform a lawful and proper notarial act "because of disagreement with the statements or purpose of a lawful document." Even if the contents of a document violate your personal beliefs, this is not reason enough to refuse a notarization. Remember: notarizing a document does not mean you are personally endorsing or agreeing with its contents. You are simply acting as an impartial, third party witness and verifying the identity of the signer.

2. Legal Requirements vs. Best Practices

It's important to remember the difference between a [legal requirement](#) and [best practice](#). For example, when it comes to taking signer's thumbprints, you must not refuse a notarization based solely on the signer's refusal to leave a thumbprint — [unless](#) you are commissioned in a state that requires collecting journal thumbprints for certain transactions (namely, California and Illinois). The same would apply to signers who are opposed to signing a journal in a state where a journal signature is not required.

Tips for Refusing a Notarization

Refusing a notarization may result in a confrontation with an upset signer, who may feel inconvenienced, or, in the worst case scenario, accuse you of unlawful discrimination. Remain calm and follow these best practices:

- **Be Tactful:** Speak to clients in a calm, respectful manner. Always maintain your professionalism, and avoid getting drawn into a debate with the signer regarding the refusal.
- **Explain Yourself:** Offer a clear explanation of how the improper action being requested violates the law, and that doing so may not only get the signer in trouble, but it can also cost you your Notary commission and payment of hefty penalty fees.
- **Document the Refusal:** Document the refusal in your notarial journal, detailing the exact reason for the refusal, in case it should be questioned down the line.