

# Notary Basics: Understanding Apostilles and Authentication Certificates



*Updated 6-26-17.* Notaries often encounter documents that will be sent to another country. While you notarize these documents the same as any other, you may be asked if you can provide something called an "apostille" for the document.

An apostille is a certificate — often attached to the document by an appropriate government official after it is notarized. While you are not responsible for obtaining an *apostille*, signers often ask about them, so it's helpful to understand what they are and how they work.

## ***Apostille or Authentication Certificates?***

Apostilles and authentication certificates validate the seal and signature of a Notary on a document so that it can be accepted in a foreign country. Both verify that you held a Notary commission at the time you notarized the document.

Apostilles are used when public documents are being transferred between countries that are party to the [Hague Apostille Convention](#) of 1961. This international treaty streamlined the cumbersome, traditional procedure for authenticating documents.

An apostille is issued by your Secretary of State's office or Notary commissioning agency. The single *apostille* is the only certification needed. Once prepared and verified, the *apostille* is attached to and sent along with the notarized documents. Notaries cannot issue *apostilles* themselves. This all happens *after* the notarization, and requires no action on your part.

Authentication certificates are used for destination nations that are not part of the Hague Convention. Instead of a single *apostille*, the document needs several authentication certificates, including those from your commissioning agency, the U.S. Department of State, the consul of the destination country and potentially another government official in the destination country.

The requirements and processing time for authentication certificates will vary from country to country.

## **Getting a Notarization Authenticated**

According to the [U.S. Department of State](#), documents that may require authentication for use abroad include: affidavits, agreements, articles of incorporation, company bylaws, deeds of assignment, diplomas, home study, income verification, powers of attorney, single status, transcripts, trademarks, warrants, extraditions, certificates of good standing, and other general business documents. Also, parents wanting to adopt a child living in another country must have their [adoption dossiers properly authenticated](#).

*But your client is responsible for requesting the authentication — not you.*

Requests for an *apostille* or authentication certificate are generally submitted in writing to your state's [Notary commissioning authority](#) (usually the Secretary of State's office) and should contain:

- An explanation of why the *apostille* or authentication is needed.
- The original document, including the Notary's completed notarial certificate.
- The final destination of the document.
- A postage-paid return envelope addressed to either the document custodian or the document's final destination.
- The required fee (varies by state).
- The commissioning office determines whether the document requires an *apostille* or authentication certificate, based on the document's final destination.

### **What's The Notary's Role?**

*Your only responsibility* is to notarize the document itself. Because the document is destined for another country, the notarization must be performed perfectly to ensure that there aren't any problems on the receiving end. For example, some judges presiding over adoption cases in other countries may reject documents not properly notarized.

Keep in mind that with any notarized documents passing through a Notary regulator's office, the paperwork will be closely scrutinized. Any notarial errors may result in an enforcement action against you.

### **Can Notaries Provide *Apostille* 'Services'?**

Some enterprising Notaries who live near their Secretary of State's office offer "apostille services" as a way to [generate additional income](#). They essentially provide a courier service to deliver and return the paperwork to customers. These are not considered "notarial" acts, so the Notary may establish any relevant service fees with the client.

## Notarizing Documents from Other Countries



*Updated 3-6-17.* Documents being sent outside the U.S. or coming from another country can be tricky to notarize. Notarial acts in foreign countries can be very different from those performed in the United States. Here are answers to several general questions surrounding [international notarizations](#) that often come up.

### Is The Notarial Act Permitted?

Notaries in most countries perform very different duties compared to their counterparts in the United States. Foreign Notaries are charged with duties similar to attorneys, as they advise and prepare documents for clients. However, in the U.S., Notaries have more limited authority, and [may not advise or prepare documents](#) for clients.

The confusion occurs when people from other countries ask U.S. Notaries to perform official acts that are not permitted under state law. One common example is when a Notary is asked to certify that a foreign citizen residing in the U.S. is still alive in order to collect an overseas pension. Most states [do not authorize Notaries](#) to certify these “proof of life” certificates. This often confuses signers who have been directed by foreign government agencies to take their life certificate to a U.S. Notary.

If you are asked to perform an unfamiliar notarial act on an international document, find out first if your state permits it. You can contact your state [Notary regulating agency](#).

### What If The Document Is In A Foreign Language?

International transactions often involve documents drafted in a language you can't read. Is this a deal breaker?

As a general rule in most states, you may [notarize a document written in a foreign language](#) as long as the notarial certificate is in English or a language you can read. You'll need to check your state's laws and guidelines for specific guidance. That said, it's safer and generally more advisable to refer the signer to a Notary who can read the foreign language.

It's also a recommended practice to have a signer sign the document using characters or an alphabet you can read and understand, since the signed name could be different than what you are told.

### Do Notaries Issue ‘Apostilles’?

If you've ever been asked to notarize a document sent to another country, your signer also may have asked you about getting an [apostille](#) to authenticate this document.

*An apostille is a certificate* authenticating the signature and seal of the officer performing the notarial act on a document being sent between countries that have signed the [Hague Convention](#).

Basically, an apostille confirms to the document's recipient that the individual who notarized the document had a valid commission at the time the document was notarized. Without an *apostille* attached, a document sent between countries must go through a much lengthier authentication process by several different agencies in order to be accepted.

Many people mistakenly believe that *apostilles* are issued directly by Notaries. Only an authorized authority under The Hague Convention — typically the Secretary of State's office or other Notary-regulating agency — is authorized to issue apostilles. If a signer asks for an *apostille*, they will have to submit the document to the appropriate authority, which will typically process and attach an apostille to the notarized document for a fee.

### **Are There Any Other Alternatives?**

If it turns out you can't notarize an international document, the signer may have other options. Embassy and consular staff are authorized to notarize documents being sent to their home countries. If a foreign country requests a notarial act for a signer's document that a U.S. Notary isn't authorized to perform, the signer can contact that country's local consulate or embassy for assistance.

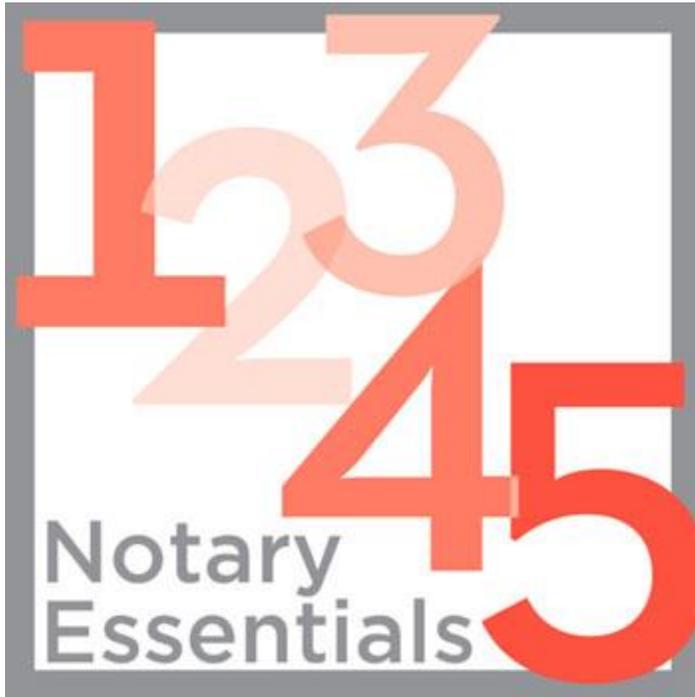
## Notarize Foreign Language Documents

Notaries increasingly are asked to notarize documents written in foreign languages they cannot read. Generally, state laws do not expressly prohibit the Notary from notarizing a document that is not in the English language. However, depending on the circumstances, it may be inadvisable to notarize such foreign-language documents. The danger, of course, is that the document is being misrepresented to the Notary.

For any non-English document, the best option is to refer the signer to a Notary who reads and writes the language of the document. If that is not possible, the Notary should only proceed if the notarial certificate itself is in English or other language the Notary reads and writes. The letters and characters in the document's signature and in any ID document presented must also be understood by the Notary.

It is important that the signer and the Notary be able to communicate in the same language, without the reliance on a third party who, intentionally or unintentionally, may interpret the conversation incorrectly.

## Are International IDs Acceptable For Notarizations?



*Updated 11-2-16.* Your signer is from Jordan, Kenya, Iceland or Mexico. He produces the only ID document he has — an old passport. It's a little worse for wear and you're unclear whether it's even valid. The obvious question comes to mind: "Can I accept this?"

With 43 million people from other countries living in the United States, there's a good chance that you've encountered this circumstance. No matter how thorough you are about other details, any notarization is only as good as the quality of the signer's identification. It can be challenging for a Notary to keep up with the hundreds of different types of IDs issued by state and federal government agencies. Figuring out which [foreign identification documents you](#) can accept can be downright daunting.

The professional standard of practice would be to [accept foreign IDs](#) if issued by a government agency and include the bearer's recent photograph, signature and physical description. But foreign IDs don't always come with all those elements.

### Foreign Passports

Foreign passports are the most commonly-acceptable form of foreign identification for notarization, but state laws vary on the requirements.

One common requirement is that the passport must be stamped by USCIS. Among the states with laws allowing Notaries to accept a properly-stamped passport are Florida, Mississippi, Nebraska, New Mexico, Tennessee and Wyoming. California also has this restriction. However, as of January 1, 2017, California Notaries may accept a foreign passport [without a USCIS stamp](#).

Other states that allow foreign passports do not specify that they must be stamped. These include Iowa, Massachusetts, North Dakota, Oregon, Montana, South Carolina, Utah and West Virginia. With the exception of South Carolina and Utah, these states allow [expired passports](#) so long as the date of expiration is not more than three years before of the notarization.

Some states have more stringent requirements for foreign passports. California, Florida and Tennessee, for example, require all foreign passports to include a serial or ID number as well as a photo, physical description and signature of the holder — even if stamped by USCIS. Massachusetts requires passports to contain a signature and photograph. Oregon requires a foreign passport to be from a nation federally recognized by the United States.

In Arizona, a foreign passport may be used to identify signers for documents conveying or financing real property, and in Texas, for a deed or other document relating to a residential real estate transaction. However, neither of these states allow a foreign passport to be used for any other type of document.

### **Other Types of International Identification**

State laws allow Notaries to accept very few other foreign IDs.

California allows driver's licenses issued by Mexico and Canada that contain a serial number, photograph, physical description and signature. Florida also allows these driver's licenses if the license has a serial number. In both of these states, the license does not have to be current as long as it was issued within the past five years.

In Arizona, when dealing with real estate conveyances and financing, you may accept any other valid, unexpired ID that is acceptable to the U.S. Department of Homeland Security to establish an individual's legal presence in the United States and that is accompanied with supporting documents as required by DHS. Notaries in the state may check the *Arizona Notary Public Reference Manual* for more information. One type of ID that causes confusion is a consular ID issued by the consulate of a foreign country. [Matricula consular cards](#) issued by Mexican consulates are among the most common of these. They look very official and reliable — especially the newer versions — but only Notaries in Illinois and Nevada are specifically allowed to accept them. *Matricula cards* have been controversial because of concerns that they are [vulnerable to fraud](#).

### **Where Guidance about IDs Is Not Provided**

Many states do not mention foreign passports or foreign IDs by name in their laws, but present a list of general requirements for any IDs Notaries may accept.

If you are a Notary in one of these states, check your state's [Notary handbook](#) or commissioning agency's website for guidance. For example, Georgia's *Notary Handbook* states that Notaries may accept a foreign passport duly stamped by the USCIS.

If a signer has no identification at all, depending on the state you can still rely on one or more [credible identifying witnesses](#) regardless of citizenship or immigration status. In addition, for Notaries in Delaware and Virginia, a signer may present an alien registration card (U.S. Permanent Resident or "green" card) with a photograph.

### **Foreign IDs That Notaries Should Not Accept**

Of course, there's a whole world of foreign IDs that you should not accept, such as foreign national government ID cards and driver's licenses (exceptions for California and Florida Notaries are noted above).

Don't forget that foreign IDs also are often printed in a foreign language. Unless you understand the language on your client's passport or the passport contains an English translation within it, you shouldn't accept it. After all, you wouldn't be able to verify the particulars of your client's identity. Of course, under no circumstances should you rely on a third party to translate information for you.

As the world becomes more sophisticated in dealing with identifications, more and more different types of foreign IDs are likely to be presented as satisfactory evidence. The key, as always, is not to let the bells and whistles confuse you. Just stick to the basics of satisfactory evidence.

