

Legal Services

Notarial Services

**Headquarters
Department of the Army
Washington, DC
10 April 1997**

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SUMMARY of CHANGE

AR 27-55

Notarial Services

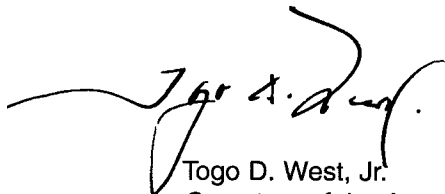
This revision--

- o Implements recent legislative changes to 10 USC 1044a(b), which eliminate duty status limitations to Reserve Component notarial authority (paras 1-1, 1-4e(8), 1-5, 2-2a, 2-3b(3), 3-4a(12), and 3-7b).
- o Establishes training guidelines for notaries (paras 1-4d and g, and 1-7).
- o Allows Staff Judge Advocates (SJA) to authorize legal specialists in the grades of E-3 and E-4 to serve as notaries under limited conditions (para 1-6).
- o Allows for military notaries in the United States as well as overseas (para 2-2).
- o Allows legal administrators and legal noncommissioned officers (NCO) in the grade of E-6 and above to serve as notaries, without being under the immediate supervision of an attorney (paras 2-2 and 2-3).
- o Prohibits non-attorney notaries from providing legal advice (such as in conjunction with their notarization services) (para 3-4a(10)).
- o Prohibits notaries from notarizing a general power of attorney until the client is advised about its effect (para 3-4a(11)).
- o Clarifies the phrase "under the immediate supervision of an attorney" to include Soldier Readiness Processing (Glossary).

Effective 9 May 1997

Legal Services

Notarial Services



Togo D. West, Jr.
Secretary of the Army

History. The previous version of this publication was published on 21 January 1994. This printing publishes a revision of that publication. Because the publication has been significantly revised, the changed portions have not been highlighted.

Summary. This regulation on policies and procedures for United States Army military and civilian personnel performing notarial

services as part of their official duties has been revised. This revision updates the policies and implements recent legislative changes to 10 USC 1044a.

Applicability. This regulation applies to the Active Army, the Army National Guard, and the United States Army Reserve. This regulation applies during periods of peace and war as well as partial and full mobilization.

Proponent and exception authority. The Judge Advocate General is the proponent of this regulation. 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. Following a review of guidance in AR 11-2, it is determined that this regulation does not contain management control provisions.

Supplementation. Supplementation of this regulation and establishment of command or

local forms are prohibited without approval from the Chief, Legal Assistance Policy Division, Office of The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200.

Suggested Improvements. Users of this regulation 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, 2200 Army Pentagon, Washington, DC 20310-2200.

Distribution. Distribution of this publication is made in accordance with initial distribution number (IDN) 093239, intended for command levels B, C, D, and E for Active Army, Army National Guard, and United States Army Reserve.

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*This publication supersedes AR 27-55, 21 January 1994.

RESERVED

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, and acknowledgments; and to provide other notarial services as part of their official duties. This regulation applies to all Department of Army (DA) civilian employees; to members of the United States Army while serving on active duty; and to all members of the Reserve Components (RC), including the United States Army Reserve (USAR) and Army National Guard (ARNG), whether or not in a duty status.

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 terms used in this regulation are explained in the Glossary.

1-4. Responsibilities

a. The Judge Advocate General (TJAG) will be responsible for 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 Judge Advocate General's School, Army will develop a course of instruction to train noncommissioned officers (NCO) with a 71D military occupational specialty code (MOSC) on this regulation and applicable law.

d. The NCO Academy of the United States Army Soldier Support Institute, Fort Jackson, South Carolina will instruct all NCOs with a 71D 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, military personnel and 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 military personnel and 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.

(8) In addition to the above, RC SJAs must authorize RC enlisted notaries to perform notarial services in a non-duty status, before such services are performed. The supervising RC SJA is responsible for regulating the RC notaries they authorize to perform such services.

f. SJAs will assist commanders in carrying out their responsibilities under this regulation. SJAs have the same responsibilities and authority as commanders under this regulation with regard to personnel under their supervision.

g. Supervisors will ensure that notaries are trained in accordance with paragraph 1-7.

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.) Public Law 104-201 §573, September 23, 1996, 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 (ARNG).

1-6. Exceptions

a. SJAs may authorize soldiers in the grades of E-3 and E-4 with a 71D MOSC to perform as military notaries or to obtain civil notarial commissions. To authorize these soldiers as notaries, the SJA must certify each named individual and forward that certification to the Legal Assistance Policy Division, Office of The Judge Advocate General, 2200 Army Pentagon, Washington DC 20310-2200. For certification as notary, the soldier must meet all of the following conditions.

(1) For civil notaries, the soldier meets the requirements of paragraph 2-3c.

(2) The soldier possesses appropriate judgment and maturity.

(3) The soldier is serving under the immediate supervision of a judge advocate or DA civilian attorney.

(4) The soldier has been trained in accordance with paragraph 1-7.

b. Requests for all other exceptions to the provisions of this regulation will be submitted through command channels to Legal Assistance Policy Division, Office of The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200.

1-7. 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.

(2) Supervisors must provide instruction on local applicable law for all notaries.

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 3-4.

(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 Legal Assistance Report.

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 3-2.) 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 3-3a.)

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 to be used by any of the individuals listed in subparagraph b.

(1) All judge advocates and warrant officers who possess a MOSC of 550A.

(2) NCOs (including corporals) or legal specialists (authorized by their supervising SJA under paragraph 1-6a) who—

(a) Possess a primary MOSC of 71D and

(b) Serve under the immediate supervision of a judge advocate or 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 71D 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 non-duty status. See paragraph 1-4e(8) and 3-4a(12).)

(4) All DA civilian attorneys.

(5) 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.

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 180 days, will not obtain or retain commissions as civil notaries, nor accept or retain the same by election, commission, or appointment (10 USC 973b). 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 the following individuals to obtain civil notarial commissions and to use these commissions in performance of their official duties:

(1) NCOs (including corporals) or legal specialists (authorized by their supervising SJA under paragraph 1-6a) who possess a 71D MOSC and work under the immediate supervision of a judge advocate or a DA civilian attorney.

(2) DA civilian employees with a grade of GS-4 or higher.

(3) NCOs in the grade of E-6 or higher who possess a primary MOSC of 71D 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 non-duty status. See paragraph 1-4e(8) and 3-4a (12).

c. Before authorizing NCOs or 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 NCOs and 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. Military personnel and civilian employees commissioned as 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 military personnel and 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.

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.

(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.

Chapter 3 Notarial Authority and Duties

3-1. General

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 it will not be followed when state notarial authority is exercised.

d. Those authorized to provide notarial services under this regulation or other authority will seek guidance from the SJA on any questions they have regarding their notarial authority, responsibilities, or duties.

3-2. 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 on active duty or performing inactive duty training 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) All summary courts-martial.

(3) Individuals empowered to authorize searches pursuant to Military Rule of Evidence 315(d), Manual for Courts-Martial, 1984, 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, whether or not on active duty, 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.

3-3. 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 come 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 public 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 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 stock brokers, bank officials, or other financial institutions that regularly deal with the financial instrument requiring the signature guarantee.

3-4. 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, except as noted elsewhere in this regulation. (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.

Note. The attorney may advise the client in person, via telephone, in a videotaped briefing, or by a written handout signed by the attorney.

(12) Perform notarial services as an RC enlisted notary in a non-duty 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 which 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.

(5) Is prohibited under this regulation.

d. Military personnel and 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.

3-5. 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.

(3) Identified by picture identification documents, such as military identification card or driver's license.

3-6. 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. Commanders and SJAs may direct the use of appropriate techniques that allow confirmation of specific notarial services performed. For example, they may require notaries under their command or supervision to keep notarial logs. A notarial log may 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.

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

3-7. 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 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. In addition, they may be subject to personal liability, including damages, for losses suffered by others arising from their failure to perform notarial services, in accordance with this regulation and applicable laws. Members of the ARNG 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 **(County 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), (Armed Forces service number/SSN), 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)

(Grade, branch of service)

(Command or organization)

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

Notes:

¹If 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.

²Insert 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 3-3a), 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.)

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 has been affixed outside the notary's presence, the notarial wording included on the document must be followed. For example—

(1) In cases where the phrase or jurat "sworn to and subscribed before me" is used, the document must again be signed in the notary's presence.

(2) Where such language does not appear, the signer need only verify, affirm, or acknowledge the signature on the acknowledgment or affidavit. The notary will then compare the signature affixed with a signature made in the notary's presence and on the signer's identification.

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, branch of service, and Social Security number (SSN) 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, 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 figure 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, and car titles). 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 4-5a, military notaries may certify 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 Immigration and Naturalization Service (INS) allows licensed attorneys to certify documents for purposes of Petitions for Naturalization and Citizenship. Moreover, the Department of Veterans Affairs (VA) allows designated judge advocates to certify documents for VA administration.

c. Certifications of copies of public records or publicly recorded documents from an official source certified under paragraph 4-5b will state the purpose for which certified (for example, "Certified Copy for DFAS," "Certified Copy for VA").

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 or consular officials (for example, Department of State, Lieutenant Governor) from the state of emanation. Most legalization requirements were abolished 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. However, some formalities remain even for signatory countries of which commanders, SJAs, and notaries should be aware.

b. Civil notaries will comply with applicable laws regarding the authentication of public and notarized documents emanating from or going to a foreign country. However, fees for an apostille, a certificate of authority, or any other authenticating procedure may not be paid with appropriated funds.

c. Notarial acts performed by military notaries (paras 2-1*a* and 2-2) are exempt from the requirement of legalization and the formalities required under the Hague Convention pursuant to Article 3 of that convention (for example, apostille, certificate of authority). Notarial acts performed by military notaries, properly executed, will be self-authenticating, and no further formality is required to establish legal efficacy.

[Signature]

WITNESS the following signature (and seal) this (6th) day of (July), 1993.

**(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)
SSN, grade, and branch of service)**

**(Signature of witness)
(Name of witness (printed)
SSN, grade, and branch of service)**

**(Signature of witness)
(Name of witness (printed)
SSN, grade, and 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), Armed Forces Service Number/SSN, (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 States²), 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, and same is executed by me in that capacity.

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

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

Notes:

¹If signature before witnesses is required for the document, insert the identifying information for each witness here.

²If 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."

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

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

Appendix A

References

Section I

Required Publications

AR 27-1

Army Legal Services (Cited in the Glossary.)

AR 27-3

The Army Legal Assistance Program (Cited in para 2-2*b*(2), and the Glossary.)

AR 27-10

Military Justice (Cited in paras 3-2*b*(3), 3-2*c*(1), and 4-4*b*.)

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 140-1

Mission, Organization, and Training

AR 140-185

Training and Retirement Point Credits and Unit Level Strength Accounting Records

NGR 680-2

Automated Retirement Points Accounting System

Section III

Prescribed Forms

This section contains no entries.

Section IV

Referenced Forms

This section contains no entries.

Glossary

Section I Abbreviations

AR

Army regulation

ARNG

Army National Guard

ATA

additional training assemblies

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

MOSC

military occupational specialty code

MUTA

multiple unit training assemblies

NCO

noncommissioned officer

NGR

National Guard and Reserve

para

paragraph

RC

Reserve Component

RST

regularly scheduled training

SJA

Staff Judge Advocate

SSN

Social Security number

TJAG

The Judge Advocate General

UCMJ

Uniform Code of Military Justice

USAR

United States Army Reserve

USC

United States Code

UTA

unit training assemblies

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.

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.

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.

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).

Inactive duty training (IDT)

Training, legal assistance work, or activities by USAR and ARNG soldiers performed in a Federal status while not on active duty. Types of inactive duty are as follows:

- a. Unit training includes unit training assemblies (UTA) and multiple unit training assemblies (MUTA).
- b. Regularly scheduled training (RST) other than UTA/MUTA.
- c. Make-up assemblies for missed UTA/MUTA due to AT.
- d. Equivalent training (ET) in lieu of scheduled UTA/MUTA or RST.
- e. Additional training assemblies (ATA).
- f. Two-hour unit training assemblies.
- g. Training of individual soldiers in non-pay status. (See AR 140-1, chap 3.)

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.

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)

For the purposes of this regulation, RC refers to members of both the USAR and the ARNG regardless of duty status unless otherwise noted.

Retirement points

Points awarded to USAR and ARNG soldiers for their participation in training and activities. These points are accumulated for the purpose of qualifying for retirement. (See AR 140-185 and NGR 680-2.)

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 AC 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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