



State of North Carolina
Department of the Secretary of State

ELAINE F. MARSHALL
SECRETARY OF STATE

OZIE H. STALLWORTH
Electronic Notarization and
Notary Enforcement Director

Requirement for Notaries Acting as Court Reporters To Identify Deponents Before Administering Oaths or Affirmations

Court reporters working in North Carolina obtain notary commissions to enable them to administer oaths and affirmations to deponents while taking depositions related to legal matters throughout the state. As public officers, these notaries perform these notarial acts under the authority of the Notary Act which requires their full and strict compliance to its provisions (G.S. §10B-3(13)).

Notaries are required to positively identify anyone for whom they perform a notarial act (G.S. § 10B-20 (c)(2)). North Carolina General Statute §10B-3(2)(b),(14)(b) specifically requires the notary to positively identify those taking oaths or affirmations. Failure to positively identify the oath taker would be an act of official misconduct (G.S. § 10B-3(15)), for which the notary's commission could be suspended or revoked (G.S. § 10B-60(a)) and could lead to a charge and conviction of a Class 1 misdemeanor (G.S. § 10B-60(c)).

Court reporters must positively identify deponents through *personal knowledge* (G.S. § 10B-3(17)) or *satisfactory evidence* (G.S. § 10B-3(22)).

- *Personal knowledge* requires that the notary be familiar enough with the oath taker to eliminate every reasonable doubt about their identity.
- *Satisfactory evidence* requires a current state, federal or recognized tribal agency issued identification card with a photograph and a physical description or signature (i.e. driver license, state ID, passport); or the sworn word of one impartial credible witness personally known by both the notary and the oath taker (G.S. § 10B-3(5)(22)).

There are **no** exceptions or provisions in statute that would allow notaries to violate the laws they are sworn to uphold. In fact, G.S. § 10B-60(j) states that any person who knowingly solicits, coerces, or in any material way influences a notary to commit official misconduct is guilty as an aider and abettor and is subject to the same level of punishment as the notary.

Simply stated, notaries employed as court reporters are prohibited from administering an oath or affirmation to an individual who they have not positively identified in accordance with the Notary Act.

Statutory Notes

(Italics indicates emphasis added)

§ 10B-3(2) Affirmation. - A notarial act which is legally equivalent to an oath and in which a notary certifies that at a single time and place all of the following occurred:

- a. An individual appeared in person before the notary.
- b. The individual was personally known to the notary or identified by the notary through satisfactory evidence.*
- c. The individual made a vow of truthfulness on penalty of perjury, based on personal honor and without invoking a deity or using any form of the word "swear".

§ 10B-3(13) Notary public and notary. - A person commissioned to perform notarial acts under this Chapter. *A notary is a public officer of the State of North Carolina and shall act in full and strict compliance with this act.*

§ 10B-3(14) Oath. - A notarial act which is legally equivalent to an affirmation and in which a notary certifies that at a single time and place all of the following occurred:

- a. An individual appeared in person before the notary.
- b. The individual was personally known to the notary or identified by the notary through satisfactory evidence.*
- c. The individual made a vow of truthfulness on penalty of perjury while invoking a deity or using any form of the word "swear".

§ 10B-3(15) Official misconduct. - Either of the following:

- a. A notary's performance of a prohibited act or failure to perform a mandated act set forth in this Chapter or any other law in connection with notarization.*
- b. A notary's performance of a notarial act in a manner found by the Secretary to be negligent or against the public interest.

§ 10B-3 (17) Personal knowledge or personally know. - Familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.

§ 10B-3 (22) Satisfactory evidence. - Identification of an individual based on either of the following:

- a. At least one current document issued by a federal, state, or federal or state-recognized tribal government agency bearing the photographic image of the individual's face and either the signature or a physical description of the individual.

§ 10B-20(c) A notary shall not perform a notarial act if any of the following apply:

- (2) The principal or subscribing witness is not personally known to the notary or identified by the notary through satisfactory evidence.*

(2a) A notary shall not perform a notarial act if any of the following apply: The credible witness is not personally known to the notary.

§ 10B-60(a) The Secretary may issue a warning to a notary or restrict, suspend, or revoke a notarial commission for a violation of this Chapter and on any ground for which an application for a commission may be denied under this Chapter. Any period of restriction, suspension, or revocation shall not extend the expiration date of a commission.

§ 10B-60(c) A notary shall be guilty of a Class 1 misdemeanor if the notary does any of the following:

(3) Takes an acknowledgment or administers an oath or affirmation without personal knowledge or satisfactory evidence of the identity of the principal.

§ 10B-60(j) Any person who knowingly solicits, coerces, or in any material way influences a notary to commit official misconduct, is guilty as an aider and abettor and is subject to the same level of punishment as the notary.