

# Preliminary Draft of Proposed Rules

## Colorado Department of State Notary Program Rules 8 CCR 1505-11

May 15, 2023

### Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Colorado Department of State and submitted to the Department of Regulatory Agencies.<sup>1</sup>

This is a preliminary draft of the proposed rules that may be revised before the **June 20, 2023**, rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State’s website no later than **June 15, 2023**.<sup>2</sup>

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
<del>Strikethrough</del>	Deletions
<i>[Italic blue font text]</i>	Annotations

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1 *Current 8 CCR 1505-11 is amended as follows:*

2 *Amendments to Rule 2.3, removing language that prohibits the use of a verbal-language interpreter during*  
3 *a notarial act and language that is duplicative to statute:*

4 2.3 Communication

5 2.3.1 A notary public must be able to communicate ~~directly~~ with, be understood by, and  
6 understand the individual for whom the notary public is performing a notarial act.

7 ~~2.3.2 With the exception of use of an interpreter for deaf, hard of hearing, or deafblind individuals,~~  
8 ~~a notary public may not use an interpreter, a translator, or related services to communicate~~  
9 ~~with the individual for whom the notary public is performing a notarial act. This prohibition~~  
10 ~~applies to all methods of notarization, including electronic and remote notarization,~~  
11 ~~authorized by the Revised Uniform Law on Notarial Acts (Title 24, Article 24, Part 5,~~  
12 ~~C.R.S.).~~

13 ~~2.3.3.2~~ 2.3.2 In accordance with section 6-1-707(1)(e)(I), C.R.S., an interpreter for deaf, hard of  
14 hearing, or deafblind individuals must hold either:

15 (a) A valid certification issued by the Registry of Interpreters for the Deaf, Inc. or a  
16 successor entity; or

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<sup>1</sup> Sections 24-4-103(2.5) and (3)(a), C.R.S. (2022). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

<sup>2</sup> Section 24-4-103(4)(a), C.R.S. (2022). “[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing.”

1 (b) A valid certification for sign language interpretation approved by the Colorado  
2 Commission for the Deaf, Hard of Hearing, and DeafBlind.

3 2.3.4 ~~The interpreter must not have a disqualifying interest. For the purposes of this Rule 2.3.4,~~  
4 ~~an interpreter has a disqualifying interest in a record if:~~

5 ~~(a) The interpreter or the interpreter's spouse, partner in a civil union, ancestor,~~  
6 ~~descendent, or sibling is a party to or is named in the record that is to be notarized;~~  
7 ~~or~~

8 ~~(b) The interpreter or the interpreter's spouse or partner in a civil union may receive~~  
9 ~~directly, and as a proximate result of the notarization, any advantage, right, title,~~  
10 ~~interest, cash, or property exceeding in value the sum of any fee for interpreter~~  
11 ~~services.~~

12 *Amendments to Rule 5.2.7, regarding the fee a remote notary may charge for their electronic signature:*

13 5.2.7 In accordance with section 24-21-529(2), C.R.S., a remote notary may charge a fee, not  
14 to exceed ~~ten~~ TWENTY-FIVE dollars, for the notary's electronic signature.

15 *Amendments to Rule 5.3.1(a)(2), updating the URL to the Secretary of State's office Notary Public*  
16 *webpage:*

17 5.3.1 Provider Protocols

18 (a) The Colorado Secretary of State's Provider Protocols (December 1, 2020) are  
19 hereby incorporated by reference.

20 (1) Material incorporated by reference in the Notary Rules does not include  
21 later amendments or editions of the incorporated material.

22 (2) Copies of the material incorporated by reference may be obtained by  
23 contacting the Colorado Department of State, 1700 Broadway, Suite 550,  
24 Denver, CO 80290, (303) 894-2200. Copies are also available online at  
25 ~~<https://www.sos.state.co.us/pubs/notary/home.html>~~  
26 <HTTPS://WWW.COLORADOSOS.GOV/PUBS/NOTARY/HOME.HTML>.

27 *Amendments to Rule 5.3.3, including New Rule 5.3.3(a)(6), establishing that a remote notarization*  
28 *system provider must annually renew with the Secretary of State's office to maintain continuing eligibility:*

29 5.3.3 Criteria and standards for approval of remote notarization system providers.

30 (a) In order to be approved and maintain continuing eligibility, a remote notarization  
31 system provider must:

32 (1) Provide a remote notarization system that complies with the technical  
33 specifications of these rules and the standards, including data security  
34 and integrity requirements, set forth in the Secretary of State's Provider  
35 Protocols under Rule 5.3.1;

36 (2) Verify the authorization of a Colorado notary public to perform remote  
37 notarial acts before each remote notarization;

38 (3) Suspend the use of its remote notarization system for any remote notary  
39 public if the notary's underlying commission or the Secretary of State's

1 approval of the notary public to perform remote notarizations has been  
2 denied, suspended, or revoked by the Secretary or when the notary has  
3 resigned;~~and~~

4 (4) Ensure that access to a remote notary public's electronic signature and  
5 seal is limited solely to the remote notary public and protected by the use  
6 of a password authentication, token authentication, biometric  
7 authentication, or other form of authentication that is described in the  
8 remote notarization system provider's application;

9 (5) Verify that a Colorado remote notary public has Active status with the  
10 Secretary of State's office at the time of each remote notarization; AND

11 (6) ANNUALLY RENEW ITS REGISTRATION WITH THE SECRETARY OF STATE'S  
12 OFFICE AND PAY THE REQUIRED FEE.

13 *[No changes to subsections (b)-(e).]*

14 *Amendments to Rule 5.3.3(f), concerning a grammatical change:*

15 (f) Data Storage and security.

16 A remote notarization system provider must provide a storage system that  
17 complies with the technical specifications of these rules and the standards,  
18 including data security and integrity protocols, set forth in the ~~secretary of state's~~  
19 SECRETARY OF STATE'S Provider Protocols under Rule 5.3.1.