



Notice of Permanent Adoption

Office of the Secretary of State Notary Program Rules 8 CCR 1505-11

January 14, 2022

I. Adopted Rule Amendments

As authorized by Colorado Revised Uniform Law on Notarial Acts (RULONA)¹ and the State Administrative Procedure Act², the Colorado Secretary of State gives notice that the following amendments to the Notary Program Rules³ are adopted on a permanent basis.

The following rules were considered at the January 6, 2022 rulemaking hearing in accordance with the State Administrative Procedure Act⁴.

Please note the following formatting key:

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

Current 8 CCR 1505-11 is amended as follows:

Amendments to Rule 3 concerning vendors and course providers:

[Current Rule 3.6.5 and 3.6.5(a) are amended. New Rule 3.6.5(b). Current Rule 3.6.5(b) is renumbered as New Rule 3.6.5(c).]

- 3.6.5 Right to ~~appeal termination of~~ RESPOND TO AND CURE NONCOMPLIANCE AND RIGHT TO HEARING BEFORE TERMINATING, SUSPENDING, OR IMPOSING CONDITIONS ON accreditation or approval. ~~If the Secretary of State proposes to terminate an approved vendor's accreditation status or approval of a course provider, the vendor or course provider has the right to request a hearing as provided in the State Administrative Procedure Act, (Article 4 of Title 24, C.R.S.)~~

¹ Article 21 of Title 24, Part 5, C.R.S. (2021).

² Section 24-4-103(3)(a), C.R.S. (2021).

³ 8 CCR 1505-11.

⁴ Section 24-4-103(3)(a), C.R.S. (2021).

- (a) ~~If the approved vendor or the course provider does not request a hearing, termination will be effective 30 days after the mailing date of the termination notice.~~ EXCEPT IN CASES OF DELIBERATE AND WILLFUL VIOLATION OR OF SUBSTANTIAL DANGER TO THE PUBLIC HEALTH AND SAFETY, THE SECRETARY OF STATE WILL PROVIDE A VENDOR OR COURSE PROVIDER WITH WRITTEN NOTICE, AN OPPORTUNITY TO RESPOND IN WRITING, AND A REASONABLE OPPORTUNITY TO COMPLY WITH ALL LAWFUL REQUIREMENTS THAT MAY WARRANT AGENCY PROCEEDINGS TO TERMINATE, SUSPEND, OR IMPOSE CONDITIONS ON AN EXISTING ACCREDITATION OF A VENDOR OR APPROVAL OF A COURSE PROVIDER BEFORE INSTITUTING SUCH PROCEEDINGS IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURE ACT (ARTICLE 4 OF TITLE 24, C.R.S.).
- (B) EXCEPT IN CASES OF DELIBERATE AND WILLFUL VIOLATION OR THAT THE PUBLIC HEALTH, SAFETY, OR WELFARE IMPERATIVELY REQUIRE EMERGENCY ACTION, THE SECRETARY OF STATE WILL NOT TERMINATE, SUSPEND, OR IMPOSE CONDITIONS ON AN EXISTING ACCREDITATION OF A VENDOR OR APPROVAL OF A COURSE PROVIDER UNTIL AFTER HOLDING A HEARING IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURE ACT (ARTICLE 4 OF TITLE 24, C.R.S.).
- (b)(c) Termination does not bar the Secretary of State from beginning or continuing an investigation concerning the vendor or course provider.

Amendments to Rule 5 concerning remote notarization system and storage providers:

[New Rule 5.3.5. Current Rules 5.3.5, 5.3.6, and 5.3.7 are renumbered as Rules 5.3.6, 5.3.7, and 5.3.8.]

5.3.5 DEFICIENT PROVIDER APPLICATION. IF THE SECRETARY OF STATE DENIES APPROVAL OF AN APPLICANT, THE SECRETARY OF STATE WILL NOTIFY THE APPLICANT OF ANY APPLICATION DEFICIENCIES. A REJECTED APPLICANT MAY REQUEST A HEARING IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURE ACT (ARTICLE 4 OF TITLE 24, C.R.S.)

~~5.3.5~~ 5.3.6 Notifications

- (a) If a remote notarization system provider or storage provider becomes aware of a possible security breach involving its data, the provider must give notice to both the Secretary of State and each Colorado remote notary public using its services no later than 30 days after the date of determination that a security breach occurred. The provider must comply with any other notification requirements of Colorado's data privacy laws.
- (b) No later than 30 days before making any changes to the remote notarization system or storage system used by Colorado remote notaries that would impact any previously provided answer in its application about its system that would affect the provider's eligibility for approval, a provider must both request approval from the Secretary of State and notify each Colorado remote notary public using its services. Changes to the system or storage must conform to statutory and rule requirements.
- (c) For non-system or storage-related changes to the provider's information on file with the Secretary of State, the provider must notify and update information provided to the Secretary of State no later than 30 days after changes to the provider's previously supplied information. This requirement includes changes to the disclosures required by Rule 5.3.2(b)(2).

~~5.3.5~~ 5.3.7 Complaints. A person may file a complaint with the Secretary of State against an approved provider. The complaint must allege a specific violation of Colorado's Revised Uniform Law on Notarial Acts or these rules. The person must submit the signed and dated complaint on the Secretary of State's standard form.

- ~~5.3-75.3.8~~ 5.3.8 Grounds for termination of approval. The Secretary of State may terminate approval of a provider for any of the following reasons:
- (a) Violation of any provision of Colorado's Revised Uniform Law on Notarial Acts or these rules;
 - (b) Making representations that the Secretary of State endorses, recommends, or mandates use of any of the provider's products, goods, or services;
 - (c) If the provider sustains a data breach; and
 - (d) Failure to timely respond to the Secretary of State's request for information or otherwise cooperate with an investigation, including providing requested information.

[Current Rule 5.3.8 is renumbered as Rule 5.3.9. Current Rule 5.3.9(a) is amended. New Rule 5.3.9(b). Current Rule 5.3.9(b) is renumbered as Rule 5.3.9(c).]

- ~~5.3-85.3.9~~ 5.3.9 ~~Right to appeal denial or termination of~~ RESPOND TO AND CURE NONCOMPLIANCE AND RIGHT TO HEARING BEFORE TERMINATING, SUSPENDING, OR IMPOSING CONDITIONS ON approval. ~~If the Secretary of State denies or proposes to terminate an approved provider's status, the provider has the right to request a hearing as provided in the State Administrative Procedure Act, (Article 4 of Title 24, C.R.S.)~~
- (a) ~~If the provider does not request a hearing, termination of approval will be effective 30 days after the mailing date of the termination notice.~~ EXCEPT IN CASES OF DELIBERATE AND WILLFUL VIOLATION OR OF SUBSTANTIAL DANGER TO THE PUBLIC HEALTH AND SAFETY, THE SECRETARY OF STATE WILL PROVIDE A REMOTE NOTARIZATION SYSTEM OR STORAGE PROVIDER WITH WRITTEN NOTICE, AN OPPORTUNITY TO RESPOND IN WRITING, AND A REASONABLE OPPORTUNITY TO COMPLY WITH ALL LAWFUL REQUIREMENTS THAT MAY WARRANT AGENCY PROCEEDINGS TO TERMINATE, SUSPEND, OR IMPOSE CONDITIONS ON AN EXISTING APPROVAL BEFORE INSTITUTING SUCH PROCEEDINGS IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURE ACT (ARTICLE 4 OF TITLE 24, C.R.S.).
 - (b) EXCEPT IN CASES OF DELIBERATE AND WILLFUL VIOLATION OR THAT THE PUBLIC HEALTH, SAFETY, OR WELFARE IMPERATIVELY REQUIRE EMERGENCY ACTION, THE SECRETARY OF STATE WILL NOT TERMINATE, SUSPEND, OR IMPOSE CONDITIONS ON AN EXISTING APPROVAL OF A REMOTE NOTARIZATION SYSTEM OR STORAGE PROVIDER UNTIL AFTER HOLDING A HEARING IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURE ACT (ARTICLE 4 OF TITLE 24, C.R.S.).
 - (b)(c) Termination does not bar the Secretary of State from beginning or continuing an investigation concerning the provider.

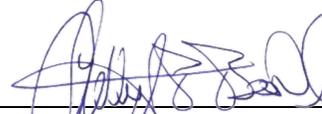
II. Basis, Purpose, and Specific Statutory Authority

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Effective Date of Adopted Rules

The rules will become permanently effective twenty days after publication in the Colorado Register.⁵

Dated this 14th day of January, 2022,

A handwritten signature in blue ink, appearing to read "Chris Beall", written over a horizontal line.

Christopher P. Beall
Deputy Secretary of State

For

Jena Griswold
Colorado Secretary of State

⁵ Section 24-4-103(5), C.R.S. (2021).



Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State Notary Program Rules 8 CCR 1505-11

January 14, 2022

I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State Notary Program Rules. The Secretary adopted amendments to ensure the uniform and proper administration, implementation, and enforcement of the Colorado Revised Uniform Law on Notarial Acts (RULONA)¹ and to answer questions arising under the Act.

Specific changes include:

- Amendments to Rule 3.6.5 and 3.6.5(a) clarify that, unless an exception applies, the Secretary of State will provide a vendor or course provider with written notice, an opportunity to respond in writing, and a reasonable opportunity to comply with all lawful requirements that may warrant agency proceedings to terminate, suspend, or impose conditions on an existing accreditation of a vendor or approval of a provider before instituting such proceedings in accordance with the State Administrative Procedure Act (Article 4 of Title 24, C.R.S.).
- Amendments to Rule 3.6.5 and New Rule 3.6.5(b) clarify that, unless an exception applies, the Secretary of State will not terminate, suspend, or impose conditions on an existing accreditation of a vendor or approval of a course provider until after holding a hearing in accordance with the State Administrative Procedure Act (Article 4 of Title 24, C.R.S.).
- Current Rule 3.6.5(b) is renumbered as Rule 3.6.5(c).
- New Rule 5.3.5 clarifies that if the Secretary of State denies approval of the application of a provider (defined in Rule 5.1.2 as a remote notarization system provider or a remote notarization storage provider), the rejected applicant has the right to request a hearing in accordance with the State Administrative Procedure Act (Article 4 of Title 24, C.R.S.).
- Current Rules 5.3.5 and 5.3.6 are renumbered as Rules 5.3.6 and 5.3.7.

¹ Article 21, Title 24 of the Colorado Revised Statutes.

- Current Rule 5.3.7 is renumbered as Rule 5.3.8 and a typographical error is corrected in subsection (a).
- Current Rule 5.3.8 is renumbered as Rule 5.3.9. Rule 5.3.9(a) is amended to clarify that, unless an exception applies, the Secretary of State will provide a remote notarization system or storage provider with written notice, an opportunity to respond in writing, and a reasonable opportunity to comply with all lawful requirements that may warrant agency proceedings to terminate, suspend, or impose condition on an existing approval before instituting such proceedings in accordance with the State Administrative Procedure Act (Article 4 of Title 24, C.R.S.).
- New Rule 5.3.9(b) clarifies that, unless an exception applies, the Secretary of State will not terminate, suspend, or impose conditions on an existing approval of a remote notarization system or storage provider until after holding a hearing in accordance with the State Administrative Procedure Act (Article 4 of Title 24, C.R.S.).
- Current Rule 5.3.9(b) is renumbered as Rule 5.3.9(c).

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

Written comments received during the formal rulemaking are available online at: https://www.coloradosos.gov/pubs/rule_making/hearings/2022/NotaryRulesHearing20220106.html. All comments are incorporated into the official rulemaking record.

II. Rulemaking Authority

The statutory authority is as follows:

- Section 24-21-527(1), C.R.S., (2021), which authorizes the Secretary of State to “adopt rules to implement this part 5 [the Revised Uniform Law on Notarial Acts] in accordance with article 4 of this title 24 [the State Administrative Procedure Act].”
- Section 24-21-527(1)(h), C.R.S., (2021), which authorizes the Secretary of State to “[p]rescribe requirements for the approval and use of remote notarization systems and storage systems.”