

Pennsylvania Notaries and Completion of I-9 Forms

Form I-9 (<http://www.uscis.gov/files/form/i-9.pdf>) (Employment Eligibility Verification) is a form required by the Department of Homeland Security, U.S. Citizenship and Immigration Services. It must be completed by all employers for every new employee hired after November 6, 1986, in order to comply with federal law requiring that employers hire only individuals who may legally work in the United States.

While the *employer* is ultimately responsible for the inspection of identity documents for new hires and the completion the I-9 form, information found on the U.S. Citizenship and Immigration Services website (Handbook for Employers ([Form M-274](#)) - Instructions for Completing Form I-9) informs employers that they may designate and/or contract with someone to fill out the employer portion of the form as an “authorized representative” of the employer..

The Department has been asked whether a notary public may complete Section 2 of the federal I-9 Employment Eligibility Verification forms. Because notaries routinely examine documentation of identification as part of their notary public duties, many are uniquely qualified to act as an authorized agent for the company in the completion of the I-9 form.

However, the completion of section 2 of the I-9 is NOT a notarial act and must not be completed under a notarial seal. The scope of authority for a notary public under section 16(a) of the Pennsylvania Notary Public Law is the “power to administer oaths and affirmations, certify copies and take depositions, affidavits, verifications, upon oath or affirmation and acknowledgments according to law, in all matters belonging or incident to the exercise of their notarial office.” Section 12.1(b) of the Notary Public Law authorizes the notary to certify “a copy of a document or other item,” but in doing so, the notary must “determine that the proffered copy is a full, true and accurate transcription or reproduction of that which was copied.”

The I-9 form does not request or require any notarial act. It requires an unsworn certification from the employer or the agent of the employer:

CERTIFICATION: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge, the employee is authorized to work in the United States. The employee’s first day of employment (*month/day/year*): _____

A Pennsylvania notary public may be an “authorized representative” specifically for the purpose of completing the I-9 form. This status may be because the notary works for the employer or pursuant to a contractual relationship with the employer authorizing the individual to act in the capacity of “authorized representative” specifically for the purpose of completing the I-9 form. However, it should be clear that while a notary may sign on behalf of an employer, the notary does not do so in the capacity of a notary

public under the Notary Public Law but rather as an agent of the employer. Thus, the notary may convey that he or she is an agent for the employer in the “Title of Employer or Authorized Representative” box in section 2 of the I-9. However, no notary title or seal should be used to complete the I-9 as an authorized representative of the employer.

No other documentation of the statements made on the I-9 is required. However, it has been reported to the Department of State that some employers are requesting that the notary (acting as authorized representative on section 2 of the I-9) notarize a separate “Notary Acknowledgment Form” referencing the unsworn certification made in the I-9, using notarial language and the notary seal. This is essentially leading the notary to notarize his/her own signature as well as the employee’s signature, because the notary’s signature is in section 2 of the I-9 and the notary executed the certification on behalf of the employer. Under the Pennsylvania Notary Public Law, a notary may not notarize his or her own signature or statement. Therefore, any additional certifications or acknowledgments of the statements made in the I-9 as an authorized representative should not be undertaken.

Remember, the notary is not acting in a notarial capacity for section 2 of the I-9, but as an authorized representative of the employer. As stated above, the notary should not use his or her title (Notary Public) or rubber stamp seal or embosser to complete the I-9 as an authorized representative of the employer.

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