

7 FAM 850 TAKING AN AFFIDAVIT

(CT:CON-407; 06-29-2012)
(Office of Origin: CA/OCS/L)

7 FAM 851 SUMMARY

(CT:CON-110; 09-13-2005)

- a. The purpose of the notarial act of taking an affidavit is to have an individual make a statement under penalty of perjury by personally swearing to or affirming the statement.
- b. **Personal Appearance Required:** The notarizing officer must require that the signer personally appear, verbally swear the oath or affirm the truth (or provide other indication of assent if the person is unable to speak), and sign before the notarizing officer. An oath cannot be taken on behalf of someone else, including a corporation. Oaths cannot be given over the telephone. The oath-taker must be in the physical presence of the notarizing officer.
- c. **Penalty of Perjury:** By taking an oath or affirmation with respect to an affidavit or other statement to be used in an official proceeding, a person may be subject to criminal penalties for perjury, should he or she fail to be truthful. Oaths and affirmations should therefore be conducted in an official setting, with the U.S. flag on display. The solemnity of the taking of the oath or making of the affirmation should be indicated. If possible, the affiant should stand and raise his or her right hand. The notarizing officer should also stand if possible.

7 FAM 852 ADMINISTRATION OF THE OATH OR AFFIRMATION

(CT:CON-110; 09-13-2005)

- a. The notarizing officer who administers the oath/affirmation asks the person taking the oath/affirmation to stand (if possible), raise his or her right hand (if possible) while the officer repeats the following words:

Notarizing Officer:

(Oath) Do you solemnly swear that the statements set forth in this paper which you have here signed before me are true, so help you God?

or

(Affirmation) Do you solemnly, sincerely, and truly affirm and declare under penalty of perjury that....

- b. The person taking the oath/affirmation should reply in the affirmative.

Affiant/Person Taking Oath or Making Affirmation

"I do."

7 FAM 853 AFFIDAVITS

(CT:CON-110; 09-13-2005)

- a. Affidavits are usually drawn by attorneys or are set out in established forms.
- b. Whenever possible, affidavits should be typed and be signed in permanent ink.
- c. The form and substantive requirements of an affidavit depend principally on the purpose for which it is made and the laws of the jurisdiction where it is to be used.
- d. **The affiant should always sign the affidavit in the presence of the notarizing officer.** This differs from an acknowledgment in which a person's signature on a document may subsequently be acknowledged before a notarizing officer. See 7 FAM 840.

7 FAM 854 FORM OF NOTARIAL CERTIFICATE

(CT:CON-110; 09-13-2005)

- a. A **jurat** is the written statement attesting to the administration of an oath or affirmation.

The usual form of a jurat is:

Subscribed and sworn before me this day.

- b. The jurat must reflect the venue and must be signed and sealed by the notarizing officer in accordance with general procedures for signing and sealing notarial certificates (see 7 FAM 830).
- c. If the affiant is blind or unable to hear, speak, read, or write (see 7 FAM 839), the jurat should be, in substance, as follows:
- Subscribed and sworn to before me this day that the affiant understood the instrument which was signed in my presence.
- Or,
- Subscribed and sworn to before me this day that the affiant understood the instrument on which the affiant made an identifying mark in my presence.
- d. You may find it useful to expend post administrative funds to obtain a rubber stamp that prints the wording of the jurat, especially for use on documents that cannot be inserted conveniently in a typewriter or where the space for the jurat is too small to permit typing.

7 FAM 855 SAMPLE NOTARIAL CERTIFICATE

(CT:CON-110; 09-13-2005)

Venue

Name of country (Canada);

Name of province (Province of Ontario);

Name of city (City of Ottawa); and

Name of Foreign Service post (Embassy of the United States of America).

Jurat

Subscribed and sworn before me on (date) by (Name of Affiant)

Affiant Signature Block

Signature of Affiant

Typed or Printed Name of Affiant

date

Notarizing Officer Signature Block

Signature of Notarizing Officer

Typed Name of Notarizing Officer

Title of Notarizing Officer

(SEAL)

7 FAM 856 UNSWORN DECLARATION UNDER PENALTY OF PERJURY

(CT:CON-110; 09-13-2005)

When affidavits are to be used in U.S. federal court proceedings, notarizing officers should encourage use of u declarations under penalty of perjury” provided for by federal statute, 28 U.S.C. 1746 in lieu of administering an oath or affirmation. Such a statement should include the following language:

“I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on (date)

(Signature)

(Name)”

7 FAM 857 THROUGH 859 UNASSIGNED