According to the U.S. Census Bureau, nearly 13% of the U.S. population was born in another country and about 20% speak another language at home. That is more than 60 million people who may need translation services and who will likely need something notarized at some point.

This intersection of translation and notarization is one of the reasons many notaries serving immigrant communities also offer translation services or work with translators. But in the U.S., and particularly among foreign-born residents, there is a lot of confusion about the role of a notary. In many instances, immigrants who need official documents translated and notarized do not understand that the translator cannot perform the duties of a notary. Translators in this area need to be aware of these distinctions in order to serve the best interests of their clients. Laws regarding the requirements for notaries vary from state to state, but the National Notary Association, a provider of notary education nationwide, offers the following information to keep in mind about notaries and notarization.

Having a basic knowledge of the notary process will help translators avoid potential legal pitfalls.

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What U.S. Notaries Do

Notaries are public officials commissioned by state governments to act as impartial witnesses in the signing of important documents and to administer oaths. Their authority is very limited. For example, unless they are licensed attorneys, notaries in the U.S. cannot offer legal advice. This is different from many other countries, where notaries are often highly trained legal professionals with the authority to provide legal advice and draft documents.

In the U.S., any number of documents may need to be notarized, including business contracts, mortgage and real estate transactions, supporting documentation for immigration applications, and health care directives. Because of the differences between notarial systems, foreign-born residents may have documents from their home countries that require a type of notarial act that U.S. notaries cannot perform. An example of this is a “Proof of Life.” Many immigrants receive pensions or other benefits from former employers or foreign government agencies, and these organizations periodically want a third party to certify that the immigrant is still alive. However, in most U.S. states, notaries are not allowed to perform this sort of certification. There are often workarounds for challenges like this (such as notarizing a sworn statement from another person), and notaries can always contact NAA’s Hotline for advice.

Beware of Advertising in a Foreign Language

Confusion over the role of notaries in the U.S. versus their colleagues abroad has led to widespread immigration service fraud. Many unethical individuals exploit the situation by...
taking advantage of unsuspecting immigrants by claiming that they can offer assistance with immigration matters. In Hispanic communities, for example, it is common for scammers to use the Spanish term Notario Público in their ads. In Hispanic countries, Notarios Públicos are highly trained legal professionals akin to attorneys, so there is a greater chance people will look for this designation when they seek legal advice or need a legal document notarized.

Over the years, many states have taken action to restrict foreign-language advertising for notarial services. Some states forbid the use of the term Notario Público, others prohibit notaries from advertising in a foreign language, while still others require notaries to use prominent disclaimers stating that they are not lawyers and may not offer legal services.

Government regulators have started to recognize that such scams are extending beyond Hispanic communities to target immigrants worldwide. In 2012, New York enacted a law imposing severe penalties on notaries who advertise in any foreign language without posting a disclaimer. The disclaimer must state that the notary is not an attorney and may not give legal advice about immigration or other legal matters. The disclaimer must be posted in English and in the foreign language used for the notary’s advertisement.

In 2010, the federal government launched an ongoing multi-agency campaign to crack down on immigration services fraud. Anyone who experiences or witnesses suspected fraud can report it to the Federal Trade Commission, and NNA’s Notary Resources web page includes a link to the agency’s online complaint system. So, be sure to check with your state’s secretary of state to make sure you are following the laws, or contact NNA’s Hotline to find more state-specific information.

Certifying a Translation

Notaries are occasionally asked to certify the authenticity and accuracy of a translation. However, no state allows notaries to certify a translation. They can notarize the signature on a translator’s declaration or affidavit stating that the translation is accurate. Moreover, translators who are also notaries cannot authenticate their own translation. Instead, they must take the translated document to another notary.

Can’t Communicate? Can’t Sign

Another difficulty with notaries and immigrant communities is the communication barrier. The job of a notary is to verify the identity of the signer of a document. To do this, they must be able to communicate directly with the signer. The notary will not be able to notarize the document if he or she does not speak the same language as the signer. Even if there is an interpreter present, the notary still cannot be completely sure that accurate communication is taking place. Arizona is the only state that permits notaries to rely on interpreters.
Do Your Research

With debate strong over new immigration reform, growth in the translation and interpreting professions is to be expected, and even more immigrants will be requiring the services of translators and interpreters. With legal changes and growth, it is important to remain vigilant to avoid being held liable for doing something incorrectly. Language professionals should always consult their state's secretary of state or a professional organization like NNA if they are uncertain about a notarization.

Notes


Translators who are also notaries cannot authenticate their own translations.

Getting started as a translator or interpreter can be a rocky road. Newcomers are in need of advice and encouragement from working professionals with on-the-job experience. In response to this need, a group of dedicated ATA volunteers has created The Savvy Newcomer blog to discuss questions about starting out in the profession. The blog is for all newcomers to the profession, whether a student getting ready to enter the industry or an individual trying to break into a new career.

We welcome you to come join us in making The Savvy Newcomer a lively community where veteran translators and interpreters can offer their best “do this, not that” advice. This is a tremendous opportunity for experienced professionals to give back to the industry and for newcomers to learn how to become successful.

Check us out at www.atasavvynewcomer.org and sign up to receive an e-mail notice when a new post goes up.