

JUSTICE OF THE PEACE TOOLKIT



Nellie M. Gorbea
Secretary of State

DISCLAIMER:

Any statement made by the RI Department of State regarding Justices of the Peace or Justice of the Peace acts are not intended as legal advice. If you have any specific legal questions regarding your conduct as a RI Justice of the Peace, we urge you to seek professional legal advice.



What is a Justice of the Peace?

An official of integrity commissioned to a four-year term by the Governor to serve the public by taking acknowledgments, administering oaths and affirmations, issuing subpoenas to witnesses and taking depositions.

Each act requires the Justice of the Peace to attest that certain formalities have been observed.

Types of Authorized Acts

- › Acknowledgements
- › Oaths & Affirmations
- › Deposition of Witnesses
- › Issuance of Subpoenas





Justice of the Peace Requirements & Application Process

REQUIREMENTS

- › Be at least 18 years of age;
- › Be a resident of or have a place of employment or practice in this state;
- › Be able to read and write English;
- › Demonstrate sufficient knowledge of the powers and duties pertaining to the Office.

How to Apply

- › Meet all requirements per RI General Law;
- › Review RIGL § 42-30 et seq.;
- › Complete and submit the Justice of the Peace application with the corresponding fee.

ATTORNEYS & CPAS

In addition to meeting the first three requirements, attorneys or CPAs may apply if they meet either of the following requirements in lieu of meeting the residency requirement.

- › Be an attorney, in good standing, applying as a member of the RI Bar Association; or
- › Be a certified public accountant, in good standing, applying as a certified RI licensee.





Jurisdiction

Rhode Island Justices of the Peace may perform acts anywhere within the boundaries of the State of Rhode Island.

Rhode Island Justices of the Peace may not perform acts outside of Rhode Island.

Justice of the Peace practices in the State of RI are governed by RIGL § 42-30 et seq.





Accepted forms of identification

- › **Driver's License or identification card** issued by the Rhode Island Division of Motor Vehicles, another state or territory of the United States, Canada or Mexico
- › **Passport** issued by the U.S. Department of State or by any foreign government
- › **Identification card** issued by any branch of the U.S. armed forces

› **All identification must be either current or expired not more than three years**

› **Copies of identification are not acceptable forms of ID**





Updating your commission

You must report updates or changes to your Justice of the Peace commission.

Submit the completed Justice of the Peace Information Update form to the Notary Division.

There is no fee for filing an update.

Changes in Information include:

- **Name**
- **Residential Address**
- **Employment Information**
- **Telephone Number(s)**
- **Email address**

NOTIFY US AS SOON AS POSSIBLE IF

- 1. You resign your commission; or**
- 2. A Justice of the Peace dies during their commission.**





Types of Authorized Acts

ACKNOWLEDGEMENT

When a signer, whose identity has been verified, declares that they have knowingly and voluntarily signed a document for the purpose stated in that document.

COMMON TYPES OF ACKNOWLEDGEMENTS

- › Advance Medical Directives
- › Power of Attorney
- › Deeds/Mortgages
- › Waiver/Release of Claims

The emphasis, when a Justice of the Peace performs an acknowledgment, is on the free act and deed of the signer and the verification of their identity.





Acknowledgement

Signer must personally appear on the date and in the place indicated on the certificate.



STEP 1

Review the document to determine the document type and the act to be performed.



STEP 2

Identify the signer through personal knowledge or an accepted form of identification.



STEP 3

Verify that the signature on the document is the signer's, either by watching them sign the document, or if it has already been signed, by comparing the signature to the one on the signer's ID.



STEP 4

Have the signer verbally acknowledge that their signature was made competently and voluntarily.



STEP 5

Complete the certificate. Sign the certificate, print your name, write your title "Justice of the Peace," list your commission expiration date and commission ID number.





SAMPLE ACKNOWLEDGMENT CERTIFICATE

State of Rhode Island

County of Providence

On this ____ day of _____, 20__, before me, the undersigned Justice of the Peace personally appeared _____ (name of document signer) and proved to me through satisfactory evidence of identification, to be the person whose name is signed on this document, and who acknowledged that he/she signed the document voluntarily for its stated purpose.

Justice of the Peace signature

Justice of the Peace printed name

Justice of the Peace ID#: _____

My commision expires: _____





OATH OR AFFIRMATION

When a signer, whose identity has been verified, verbally promises to tell the truth by taking a solemn spoken pledge to God or a Supreme Being (oath) or made on the signer's personal honor with no reference to a higher power (affirmation).

COMMON TYPES OF OATHS OR AFFIRMATIONS

- *RI Justice of the Peace Application*
 - *Affidavit*
 - *Depositions*

As a Justice of the Peace you are not confirming that the statements are true – only that the person taking the oath is swearing or affirming that they are. You have no responsibility for the honesty of the individual.





Oath or Affirmation

Signer must personally appear in your presence.



STEP 1

Identify the person through personal knowledge or an accepted form of identification.



STEP 2

Administer the oath or affirmation by having the person raise their right hand and administer the oath or affirmation aloud.



STEP 3

Complete the journal entry.





Less Common Acts

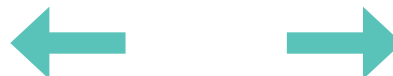
ONLY JUSTICES OF THE PEACE WHO HAVE THE APPROPRIATE PROFESSIONAL TRAINING SHOULD PROCEED WITH THE ACTS LISTED BELOW

DEPOSITION OF WITNESSES

A deposition is a signed transcript of an oral statement made by an individual (the “deponent”) for use in a legal matter. Rhode Island Justices of the Peace are empowered to take depositions of witnesses to be used in the trial of any civil suit, action, petition, or proceeding in which they are not an interested party, counsel, or the attorney of either party per RIGL §9-18-18.

ISSUANCE OF SUBPOENAS

A subpoena is an order for its recipient to appear before a court. Rhode Island Justices of the Peace are empowered to issue subpoenas to witnesses in any case, civil or criminal, before any court, and in any matter before any body or person authorized by law to summon witnesses per RIGL §9 17-3. Per RIGL §8-8.2-4, Justices of the Peace are also empowered to issue subpoenas returnable before the traffic tribunal.





Documents without certificates

If your signer can tell you what act is needed, you may affix or attach an appropriate loose certificate to the document and complete it.

If your signer can't tell you what act they need, you should explain the various acts and have them determine the act they would like you to perform. If they cannot determine the act, you may refuse the request.





Do not perform an Act if...

- › The signer is not in your presence.
- › You cannot identify the signer through an accepted form of identification or if they are not personally known to you.
- › There is reason to believe that the signer does not understand the consequences of the transaction or document being notarized.
- › The signer is not acting of their own free will.
- › You are a party to or are named in the document except for the sole purpose of receiving notices relating to the document.
- › If you are named as an executor, trustee or in any fiduciary capacity unless you are an attorney licensed in RI or an employee of said attorney.





Other important considerations...

- › A Justice of the Peace should not refuse to perform an act solely based on the principal's race, advanced age, gender, sexual orientation, religion, national origin, health or disability.
- › A Justice of the Peace should not provide or send a signed certificate to another person with the understanding that it will be completed or attached to a document outside of the Justice of the Peace's presence.

› A Justice of the Peace should not influence a person either to enter into or avoid a transaction involving an act by the Justice of the Peace, except that the Justice of the Peace may provide advice relating to that transaction if the Justice of the Peace is duly qualified, trained or experienced in a particular industry or professional field.

- › A Justice of the Peace should not execute a certificate containing information known or believed by the Justice of the Peace to be false.
- › A Justice of the Peace should not affix an official signature on a certificate that is incomplete.

