

Acknowledgment Essentials

(Source: *1 Am Jur 2d Acknowledgments*)

Definition: An acknowledgment is a declaration by a person that he or she has executed an instrument for the purposed stated in the instrument. An acknowledgment has three basic functions: to authenticate the instrument; to permit the instrument be introduced into evidence without proof of execution; and to entitle the instrument to be publicly recorded.

Procedure: Acknowledgment consists of two aspects: an oral declaration of the party executing the instrument and a written certificate, prepared by a notary public (or other authorized public official), attesting to the oral declaration. The declaration is a public or formal statement of the signing party, made before the notary, indicating that the execution of the instrument was the signer's voluntary act.

Required Elements: No particular words are necessary as long as they amount to an admission that the person making the acknowledgment has voluntarily and freely executed the instrument.

- Statement of proper time and place of taking acknowledgment: The acknowledgment must be taken after the time of the execution of the instrument and during the time the instrument is effective. The acknowledgment must be taken in a jurisdiction in which the notary can legally act. The fact that the act was performed within the territorial limits of the notary's authority must appear in the acknowledgment.
- Personal appearance: An acknowledgment is properly taken only when the person executing the acknowledgment personally appears before the notary, and when the notary personally knows, or has proven to him or her, that the person appearing is the same individual who is described in, and who executed the instrument.
- Statement of execution: The person acknowledging must in some manner make an admission to the notary of the fact that he or she has executed the instrument.
- Certificate: In a certificate of acknowledgment, the notary certifies that the person making the acknowledgment actually appeared and that such person was either personally known by the notary to be the signer of the instrument (or was proved to the official to be the signer by the oath or affirmation of a credible witness known personally to the official).
- Attachment of certificate to instrument: The certificate of acknowledgment must be attached to the corresponding instrument to clearly indicate the instrument referred to in the acknowledgment.
- Form of certificate: The proper form of the certificate of acknowledgment depends on the requirements of the applicable state law, which may set out a prescribed form. However, strict compliance with such statutory form is usually not required, in the absence of a mandatory provision of the statute. (In these cases, *substantial* compliance rather than *literal* compliance is all that is necessary for a valid acknowledgment.)

Data Points

	Acknowledgment
1	Venue
	County
	State
2	Date
3	Seal
4	Signature of officer certifying acknowledgment
5	Statement of identity, character, title and authority of officer taking acknowledgment
	Political subdivision
	Commission expiration date
6	Identification of Instrument
7	Identification and description of person making acknowledgment
	Name
	Capacity
	Residence
8	Statement of officer's knowledge of identity of person making acknowledgment
	Personally known
	Satisfactorily proven
9	Appearance before officer
10	Statement of acknowledgment
	Fact of execution
	Knowledge of contents
	Voluntary character