

Questions

Criterion for characterising diplomas as public documents: Do the competent authorities of your State issue Apostilles for diplomas and any other education documents (see comments in footnote 2)? If so, do the competent authorities make a distinction between diplomas issued by 'private' institutions and diplomas issued by 'public' institutions? If any, what are the other criteria under the law of your State to determine whether or not a diploma is a public document falling within the scope of the Apostille Convention? Please describe any relevant State practice in this respect. Yes, we would apostille or authenticate the notary.

If the document is a diploma then the signer can complete a certified copy of their diploma the date and sign in the presence of a notary public and the notary acknowledgement statement would be completed, signed and seal affixed.

If the document is a transcript the school can have a computer print out and have the permanent record of the student signed by the Principal, Superintendent. or the school registrar depending on how the school is organized. (signature must be an original) in the presence of a South Dakota notary. The notary will complete the Jurat or notary statement. The Registrar must make an imprint of the school's or registrar's seal, must also appear on the school transcript.

1. Procedure leading to an Apostille in relation to diplomas - Nature of the public document to which the Apostille relates: Has your State adopted special rules / procedures / policies for the issuing of Apostilles in relation to diplomas (see the comments above on the relevant practices in the United Kingdom and the Netherlands)? In particular, are diplomas apostillised directly or does the relevant procedure require a prior certification of the diploma (by a Notary, Solicitor, Agency, or any other competent authority or person) and the Apostille is then being issued for this certificate? Please describe the full procedure to get an Apostille in relation to a diploma (whether directly or for a prior certificate). If any, which authorities are competent to certify the diploma prior to the issuance of an Apostille?

Yes, we would apostille or authenticate the notary acknowledgement. The owner of the diploma (the signer) can complete a certified copy of their diploma the date and sign in the presence of a notary public and the notary acknowledgement statement would be completed, signed and seal affixed.

2. Competent authority to issue Apostilles: Some States (such as Estonia, Kazakhstan, Slovakia, Ukraine) have designated one or more specific competent authority to issue Apostilles in relation to diplomas only. For these States, what were the reasons for the designation of a distinct body to deal with these documents? What is your experience with respect to the practical operation of this body? If your State has not (yet) designated a specific competent authority for the issuing of Apostilles in relation to diplomas, does it intend to do so? Please explain.

No, The South Dakota Secretary of State's office has the only authority to issue notary public commissions and therefore the Secretary of State is the only office to apostille or authenticates a notary public acknowledgement.

3. Original or certified copy? The 2003 Special Commission concluded that an Apostille may also be issued on a certified copy of a public document; however, States may decline to issue an Apostille for a certified copy of a document on the grounds of public policy (see Conclusion and Recommendation No 11 of the 2003 SC meeting). Does your State consider that diplomas fall within the public policy exception and that, therefore, Apostilles may not be issued in relation to certified copies of diplomas (whether directly or indirectly)?

No, the Secretary of State's office does not feel that diplomas fall within the public policy exception. The individual for whom the document is issued to must make the statement that it is a true copy of a diploma in the presence of a notary public. Transcripts can be issued to by the educational institution, and signed by the competent authority in the presence of a notary public. The Secretary of State's office would authenticate or apostille.

4. On-line diplomas: Do the competent authorities in your State issue Apostilles in relation to on-line diplomas? If so, what are the means and procedures to ensure that an on-line diploma has indeed been issued by an institution of your State? No

5. Raising the public awareness? To the general public, it may not always be clear what the Apostille certifies. People tend to overlook the fact that an Apostille only authenticates "the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears" (see Arts. 2 and 3 of the Convention). If, for example, the Apostille relates to a notarial certificate, it may not always be clear to the general public that it is the notary's signature that is certified by the Apostille, not the signature(s) on the underlying diploma to which the notarial certificate relates. Do you think it is necessary or, if not, at least desirable, to emphasise for diplomas in particular that an Apostille does not relate to the content of the underlying public document (e.g., by adding a special Note or caveat to the Apostille certificate, see comments in footnote 5 in fine)? Apostilles are part of an important process, and should be reviewed in its entirety by the receiving country.

6. Do you have any other comments or suggestions relating to the issuance of Apostilles in relation to diplomas? Communication will play an important part in the Apostilles within the membering states if there are to be any changes or additions.

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