

7 FAM 840 AUTHENTICATIONS

(TL:CON-6; 6-30-84)

a. An authentication is a governmental rather than a notarial act by which a chain of authorities certify to the genuineness of the signature and seal or the position of a foreign official who has previously executed, issued, or certified a document so that document executed or issued in one jurisdiction will be recognized in another jurisdiction. For example, legal instruments and copies of public records (such as certificates of birth, death, or marriage) may require authentication. For documents originating in foreign jurisdictions, the consular certification is the end of the authentication chain for documents intended for use in the United States.

b. Notaries public in the United States do not perform authentications. Rather, this function is performed by clerks of court, State secretaries of state, the Executive Office of the U.S. courts, and the Authentications Office of the Department of State. Authentications may be performed by any U.S. consul or vice-consul.

7 FAM 841 AUTHORITY TO PERFORM

The authority in Federal law for performing authentications is found in:

(1) 28 U.S.C., Appendix, Federal Rules of Civil Procedure, Rule 44(a)(2) (see section 7 FAM 802 Appendix A 802b); and

(2) 28 U.S.C., Appendix, Federal Rules of Evidence, Rule 902(3), which is similar to the language of the Rules of Civil Procedure (see section 7 FAM 0841.1). For State authority, see the Law Digests volume of the Martindale-Hubbell Law Directory.

7 FAM 842 GENERAL PROCEDURES

The consular officer should keep an original card file record of the seals and signatures of notaries public, foreign ministry officials, and any other officials whose seals and signatures the consular officer is frequently called upon to authenticate. In the absence of special information from the attorney or other person requesting the document, the officer should use the general authentications certificate (see 7 FAM 842 Exhibit 842). For executing the certification and fastening pages, see section 7 FAM 816 - 7 FAM 816.4 . For record-keeping, see section 7 FAM 816.5 .

7 FAM 843 LIMITATIONS

7 FAM 843.1 Unknown Seals and Signatures

A consular officer should not authenticate a seal or signature not known to the officer.

7 FAM 843.2 Refusal of Responsibility for Content

a. Authentication conveys no judgment on the part of the authenticating officer of the validity or truth of the content of an authenticated document, but the consular officer, whenever circumstances warrant, may include in the body of the certification a statement to the effect that "For the content of the foregoing (or, annexed document) I assume no responsibility."

b. If an instrument submitted to the consular officer for authentication has been executed before a foreign notary, the consular officer should consider the pertinence of the guidelines on notarial refusal (see section 7 FAM 820). Consular officers may refuse to authenticate a document if there are reasonable grounds for believing that the document will be used for a purpose patently unlawful, improper, or inimical to the best interests of the United States.

c. For example, if the document were to be used to circumvent the International Emergency Economic Powers Act (IEEPA), the decision as to whether such a document should be authenticated should be referred to the Department (CA/OCS/CCS). Such a policy was used in 1980 when notariats and authentications on behalf of Iranian nationals were refused when the documents in question were to be used in financial transactions. Refusal to authenticate a document should not, however, be limited to such special circumstances. When in doubt, the consular officer should consult the Department (see section 7 FAM 822).

7 FAM 843.3 Foreign Officials Outside Consular District

A consular officer should not authenticate seals and signatures of foreign officials outside the officer's assigned consular district.

7 FAM 843.4 U.S. Officials

Consular officers are not permitted to authenticate seals and signatures of notaries public or other officials in the United States. However, diplomatic and consular officers at a U.S. diplomatic mission may certify the seal of the Department of State (but not the signature of the Secretary of State) if this is requested or required in particular cases by the national authorities of a foreign country. For the text of the authentication certificate to be used for such cases, see 7 FAM 843 Exhibit 843.4 .

7 FAM 843.5 Photostatic Copies

Consular officers should not authenticate facsimiles of signatures and seals or photographic reproductions of documents. The officers may, however, authenticate original signatures and seals that appear on photographic copies.

7 FAM 843.6 Matters Outside the Consular Officer's Knowledge

In a certificate of authentication, a consular officer should not make statements that are not within the officer's power or knowledge. For example, consular officers are not expected to be familiar with the provisions of foreign law, except in a general sense, and are cautioned not to certify that a document has been executed or certified in accordance with foreign law or to certify that a document is valid in a foreign country.

7 FAM 843.7 U.S. Officials in Foreign Countries

The primary purpose of an authentication by a U.S. consular officer is to certify the official character and position of foreign officials who perform an official act with regard to a document that is to be used in the United States. Consular officers should not, therefore, authenticate the seals and signatures of U.S. officials who may be residing in their consular districts. Consular officers may, of course, take specific acknowledgments from such U.S. officials, similar to the corporate acknowledgment (see 7 FAM 843 Exhibit 843.7).

7 FAM 843.8 U.S. Consular Officers in Other Countries

a. An officer stationed in one country shall not authenticate the signature or seal of an officer stationed in another country. When it is necessary to authenticate the seal and signature of a consular officer, such authentication will be done in the Authentications Office of the Department of State. An official of a foreign government who requests the authentication of the seal and signature of a consular officer stationed in another country should be informed that the document will have to be sent to the Department of State for this purpose.

b. Any document bearing the seal and signature of a consular officer and coming from a person in the United States with the request that it be further authenticated should be sent for action to the appropriate geographic division of the Office of Citizens Consular Services (CA/OCS/CCS).

7 FAM 843.9 Nonrecognition of Host Country

Limitations to be observed in authenticating documents during an interruption of diplomatic relations with the host country are prescribed in 11 FAM 113.7 .

7 FAM 844 ACADEMIC CREDENTIALS

Consular officers should not authenticate or provide certified true copies of academic credentials, transcripts, or degrees. The Department of Education has determined that such documents are not required in the United States. Persons who desire such a certification should be referred to their own foreign ministry for a certification which can be authenticated by the embassy of their country in the United States (see 7 FAM 844 Exhibit 844 for a joint release by the U.S. Departments of State and Education).

7 FAM 845 SPECIFIC AUTHENTICATION - FEDERAL REQUESTS

7 FAM 845.1 Foreign Custodian's Certificates

The Federal Rules of Evidence and Federal Rules of Civil Procedure (28 U.S.C., Appendix) require that certificates executed by a foreign custodian of records contain the following elements:

- a. The custodian's full name and title;
- b. A statement that the custodian is empowered by the laws of (name of country) to execute such a certificate;
- c. The authority under which the custodian is so empowered; and
- d. A statement that the certificate is issued in the custodian's official capacity.

Consular officers should request the legal custodian of the records to prepare a certificate containing those elements. Consular officers should inform the custodians that the elements requested are required by the Federal Rules of Civil Procedure, Federal Rules of Evidence (28 U.S.C. Appendix), or Federal Rules of Criminal Procedure (18 U.S.C. Appendix), depending on the nature of the case (see section 7 FAM 841).

7 FAM 845.2 Alternative Foreign Custodian's Certificates

If the elements prescribed in section 7 FAM 845.1 are at variance with the certificate customarily used by the custodian of records and the custodian desires to execute that customary certificate, ask the custodian to prepare two certificates, one for the custodian and one for the consular officer. As an alternative, ask the custodian to prepare the customary certificate, incorporating in it the elements prescribed in section 7 FAM 845.1 .

7 FAM 845.3 Absence of Records

If there no official records, the foreign custodian should be requested to prepare a certificate which reflects that a diligent search has been made. This certificate is required by Rule 803(10) of the Federal Rules of Evidence, 28 U.S.C., and Rule 44(b), Federal Rules of Civil Procedures, 28 U.S.C. The certificate should contain the language shown in 7 FAM 845 Exhibit 845.3 .

7 FAM 845.4 Consular Officer Certificate

The consular officer must execute the authentication certificate required by Rule 902(3), Federal Rules of Evidence, 28 U.S.C., Appendix, and by Rule 44 (a)(2), Federal Rules of Civil Procedure, 28 U.S.C., Appendix (see section 7 FAM 841 and 7 FAM 845 Exhibit 845.4).

7 FAM 846 REQUIREMENTS FOR STATE REQUESTS

The general authentications certificate should be used in state cases unless the requesting person provides other language or requests that the "Federal" authentications certificate be used.

7 FAM 847 THE HAGUE LEGALIZATION CONVENTION

7 FAM 847.1 Waiver of Legalization

The Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents is the law of the United States and is binding on State as well as Federal jurisdictions.

The Convention entered into force for the United States on October 15, 1981. The purpose of the Convention is to abolish the requirement of diplomatic and consular legalization for public documents originating in one country that are intended for use in another. The phrase "public documents" includes documents executed before a foreign notary.

7 FAM 847.2 Apostille

The Convention calls for the use of a single signature by a designated certifying official in lieu of the chain certificate and abolishes the need for diplomatic or consular authentication. Under the Convention, the standard certification is called an apostille. For a sample, see 7 FAM 847 Exhibit 847.2 .

7 FAM 847.3 Countries Party to Convention

The Convention is in force in Austria, Bahamas, Belgium, Botswana, Cyprus, Fiji, France, Federal Republic of Germany, Hungary, Israel, Italy, Japan, Lesotho, Liechtenstein, Luxembourg, Malawi, Malta, Mauritius, the Netherlands, Portugal, Seychelles, Spain, Surinam, Swaziland, Switzerland, Tonga, the United Kingdom, the United States, and Yugoslavia. For a more recent list of countries, refer to the Department's publication, Treaties in Force.

7 FAM 847.4 Responsibilities of Consular Officer

a. In a country that is party to the Convention, the person who requests the authentication of documents for use in the United States should be referred to the authority of the host country competent to execute the Convention apostille.

b. Consular officers may not place an authentication certificate over a Convention apostille. This is prohibited by Article 9 of the Convention.

7 FAM 847.5 Officers Not To Volunteer Advice

a. A consular officer should not offer advice as to whether a document requires certification by apostille to entitle it to recognition in the United States, that is, whether it is a "foreign public document" as defined by the Convention. Rather, the requesting party should be advised to take up the matter with the host country authority competent to execute the apostille.

b. Posts in countries that are party to the convention should keep in contact with the host country authority or authorities competent to issue certifications by apostille. In the event of any change in the name or address of that authority, posts should report those changes to the Department by October 15 annually, along with any other pertinent information.

7 FAM 848 FOREIGN EXTRADITION PAPERS

Foreign extradition papers are authenticated by chiefs of mission. For procedures, see Chapter 7 FAM 1600 .

7 FAM 849 UNASSIGNED

7 FAM 842 Exhibit 842

(TL:CON-6; 6-30-84)

Sample of a General Authentication Certificate

GENERAL AUTHENTICATION CERTIFICATE

VENUE.

Indonesia)
(Country))
)
Island of Java)
(State, province, etc.))
)
Surabaya) ss.
(City))
)
Consulate of the United)
States of America)
(Name of consular post))

I certify that the official named below, whose
true signature and official seal are, respectively, subscribed and
affixed to the annexed document, was, on this day, empowered to
act in the official capacity designated in the annexed document,
to which faith and credit are due.

Mahomet Savanpur
(Typed Name of Official)

/s/ ☼ □ ○ Ⓞ ✕ ■ ☞ ☞ ☞ ● ☞ ☞ ☞ □ ■ ■ ■ ● ●
(Signature of Consular Officer)

Robin P. McConnell
(Typed Name of Consular Officer)

Vice Consul of the United States of America
(Title of Consular Officer)

April 1, 1983
(Date)

(SEAL)

7 FAM 843 Exhibit 843.4

(TL:CON-6; 6-30-84)

Sample of a Certificate Authenticating the Seal of the Department of State

CERTIFICATE AUTHENTICATING THE SEAL
OF THE DEPARTMENT OF STATE

VENUE.

Republic of France)
(Country))

Department of Strasbourg)
(State, province, etc.))

Strasbourg)
(City))

ss:

Consulate General of the)
United States of America)
(Name of consular post))

I certify that the annexed document is under the seal of
the Department of State of the United States of America.

/s/ [Signature]
(Signature of Consular Officer)

Michelle Schneider
(Typed Name of Consular Officer)

Consul of the United States of America
(Title of Consular Officer)

June 6, 1981
(Date)

(SEAL)

Joint Release by the Department of State and the Department of Education on Termination of Certificate of Academic Credentials

(Page 1 of 2)

Joint Release by the Department of State and the Department of Education on Termination of Certification of Academic Credentials

Professional Update

U.S. terminates two academic certification services

Following is the complete text of a joint statement issued by the Department of State and the Department of Education announcing the termination of their academic certification services.

College and university officials who handle foreign admissions should begin to update their application materials to reflect the changed situation if their present materials ask for certification of applicants' documents in a U.S. consulate or embassy.

Foreign student advisers and study abroad advisers should advise students going overseas that, despite any report they might receive from a foreign government, agency, or educational institution for certification by a U.S. official, the Department of Education will not so certify.

The U.S. Government for some years has certified academic documents, such as diplomas and transcripts, for two categories of individuals:

Service A: For foreign nationals coming to the U.S. (certification performed by U.S. embassies and consulates abroad), and

Service B: For foreign nationals and U.S. citizens going abroad (certification by Washington headquarters of U.S. Departments of Education and State).

Due to resources and policy constraints, both of these services will be permanently terminated effective January 1, 1983.

Background

Service A. For individuals coming to the U.S. Many U.S. colleges and universities have required that foreign nationals who are applying for admission submit their foreign academic credentials to a U.S. embassy or consulate abroad for "certification." Such certification merely confirms that a person presenting these credentials appeared before an embassy or consular staff member. The certification does not in any way attest to the actual validity of such documents, nor to the quality of the educational institution or the subject individual's preparation. In fact, there is no absolute certainty that the person presenting the document is the same individual whose name appears thereon. In addition, a workload survey was ini-

tiated by the State Department at posts in 20 countries with the largest numbers of foreign students in the U.S. according to INS records. That survey revealed that the processing of academic credentials constitutes a large percentage of all authentications performed by consular officers.

Because of the inability of the embassy or consulate to insure that the documents are authentic and represent work completed by the individual presenting them, this function has been determined to be an unnecessary workload on the consular or embassy staff. Further, there is no statutory requirement compelling it.

Service B. For individuals going abroad. For some 22 nations, the U.S. Departments of Education and State each certify as to the authenticity of academic credentials earned in U.S. institutions. These certifications are prepared for foreign nationals and for U.S. citizens going abroad for study or work. The procedure is intended to attest only to the accredited status of the institution attended and to the apparent genuineness of the document being certified.

While both Services A and B obviously have some value to the students, institutions, and governments using them, their overall net significance is considered questionable by both the Federal agencies and many academic institutions. Neither service provides a positive guarantee that the documents certified are valid documents, thus subjecting the certification to misinterpretation. In both services, considerable frustration to the client may arise due to various delays, misunderstandings, defects, and inherent complexities in the service. Further, Federal budget constraints require that U.S. officials perform only those services and functions which are of higher priority and are absolutely necessary.

Suggested Alternative Procedures

It is significant that in both services there is not a universal requirement for the certification service. For Service B, for example, only 22 of nearly 160 foreign nations, or 14 percent, use the service.

Because both Services A and B are being terminated, we suggest that present users of these services consider availing themselves of the procedures now used by the majority of non-participants in the present systems.

Alternative for Service A: Foreign nationals planning to enter the U.S.

to study should be instructed, upon inquiring about admission to U.S. colleges/universities, as follows concerning the submission of academic credentials:

"Academic records (called transcripts in the U.S.) and/or diplomas attesting to your secondary and university education must be mailed directly by the institution(s) you have attended to the Admissions Office of the college/university in the United States. These documents must bear an official signature in ink of the appropriate official of your institution(s), such as the registrar or recorder of records, and bear your institution's seal. If your college or university will not mail original official academic documents to the United States, exact copies that have been certified as such by the appropriate institutional official of each institution which you have attended should be sent. To be considered, all documents should be accompanied by official English translations if they appear in another language."

Alternative for Service B. The following type of guidance may be provided to foreign nationals and U.S. citizens going abroad for study or employment:

"The Departments of Education and State, as of January 1, 1983, no longer certify U.S. college/university transcripts, diplomas, or other academic credentials for foreign students returning to their home countries or for U.S. citizens planning to study abroad. This college/university will provide an official transcript directly to an academic institution in another country, an employer, or an agency, only upon your request to the Registrar's Office. The official transcript will be signed by the college/university registrar (or equivalent official) in ink and will be imprinted with the institution's seal (if used). If your home country (or the country in which you plan to study) desires that your transcript be mailed via that country's embassy or consulate in Washington, D.C. for verification, please inform your registrar in this country. Your diploma will be handed to you during graduation ceremonies or mailed to you by your institution after graduation. This is a one-time issue and is not normally replaced. If your home country (or the country in which you plan to study) desires a certified copy of your diploma, you should have a

(Continued on page 64)

Joint Release by the Department of State and the Department of Education on
Termination of Certification of Academic Credentials — Continued

(Continued from page 63)

photocopy made and have a notary public attest to it and imprint his/her seal. If your institution mails the diploma and your country desires that the copy of the diploma be mailed via your country's embassy or consulate, please make arrangements with the registrar to have this done."

The Department of Education will notify the American Association of Collegiate Registrars and Admissions Officers (AACRAO) and the National Association for Foreign Student Affairs (NAFSA) which countries desire that credentials be forwarded via their embassies or consulates located in Washington, D.C. AACRAO will notify the U.S. institutions and NAFSA will notify their constituents. For current information on institutional accreditation in the U.S., embassies and consulates may refer to *Accredited Institutions of Postsecondary Education*, published annually by the American Council on Education, 1 Dupont Circle, Washington, DC 20036.

The U.S. Department of Education will be pleased to arrange for technical assistance to embassy and consular staff personnel concerning any details of these suggested procedures. Inquiries should be directed to Dr. Leslie W. Ross, Department of Education, (202) 245-9873. Further information from the State Department may be obtained by calling Ms. Monica A. Gaw, (202) 632-3712.

Simpson-Mazzoli update

The House version of the Simpson-Mazzoli bill, formerly known as H.R. 6514, has been reintroduced to eliminate a technical difficulty, and is now numbered H.R. 7357. An amendment to expand waivers to the two-year home country residency requirement to include all fields of study was passed by the House Committee on Education and Labor but was not included in H.R. 7357.

It is anticipated that the Simpson-Mazzoli bill will come up on the House floor before the end of the lame duck session. However, as we went to press no date for floor action had been set.

If there is no resolution in this legislative session, the bill is expected to be introduced to the Congress in the next session which begins in January 1983.

Charges dropped in illegal recruitment trial

The Justice Department has dropped conspiracy and fraud charges against four New England college officials accused of scheming illegally to bring students

to the U.S. The four were charged along with Peter Galonis, who was alleged to be the recruiter, of signing hundreds of blank immigration forms which Galonis was then accused of taking overseas and selling, largely to Iranian students, in 1976. The students were then able to obtain visas from the U.S. Embassy.

Galonis entered a plea bargain in November and is scheduled to be sentenced in mid-December. Several NAFSAs in the New England area had been subpoenaed to testify as expert witnesses regarding proper procedures for institutions issuing I-20s.

New B-2 visa instructions

The Department of State and the Immigration and Naturalization Service have issued new operations instructions regarding the B-2 (prospective student) visa.

Students who claim to have been admitted to an institution but who have not received a letter of acceptance or a Form I-20 may be issued an F-1 visa directly rather than using the B-2 prospective student visa if the new procedure is followed.

If the applicant is otherwise eligible for an F-1, he or she can call the U.S. institution and request that they confirm to the Visa Office at the State Department (202-632-1972) the issuance of an I-20. When this confirmation is received, an interested party cable will be sent by the Visa Office to the consular office to provide the I-20 data. An F-1 visa can then be issued. The student should present the interested party cable at the port of entry, in lieu of an I-20. When admitting the prospective student, the inspecting officer will write "prospective student" on the Form I-94.

The instructions also apply to students who must be present in the United States for an audition, interview, or locally administered test before gaining acceptance to an institution.

M student regulations

According to the Immigration and Naturalization Service, although the M designation is being used on Forms I-94 issued to students who "enter the United States temporarily and solely for the purpose of pursuing a full course of study at an established vocational or other recognized nonacademic institution, other than in a language training program," the regulations affecting the M classification have not been finalized. Therefore, M students are subject to the same privileges and restrictions currently affecting F visa holders.

In-Service Training Seminar for study abroad advisers

NAFSA's Section on U.S. Students Abroad, in cooperation with the NAFSA Field Service Program, will sponsor an intensive In-Service Training Seminar at the University of Massachusetts-Amherst, March 23-25, 1983. The seminar will draw upon the resources of other members of the Five Colleges (Amherst, Hampshire, Mount Holyoke, and Smith), as well as those of the University of Massachusetts, in discussions ranging from the basics of study abroad (program development, budgeting, staffing) to the support needs of overseas study (credit transfer, orientation, evaluation, financial aid, publicity). A combination of broad group discussions and small, special interest consultations will enable participants to learn from the staff of the international programs office, the seminar resource persons, and each other.

The seminar is being planned by Maryelise and Sterling Lamet, and Betsy Brewer of the international programs office at the University of Massachusetts. They will be joined by special host, NAFSA president, Barbara Burn, who is director of international programs at the University of Massachusetts, and Gail Cohen, SECUSSA chair and manager of the communications division at the Institute of International Education. Preference in selection will be given to those who are primarily concerned with advising U.S. students on study, work, or travel abroad, with some responsibilities in international student advising or exchange administration. The seminar, which is made possible through a grant to NAFSA from the U.S. Information Agency, will accept ten participants. Applicants should have had at least six months, but not more than two years, of experience in the study abroad field. Seminar costs of each selected applicant will be partially subsidized by the Field Service Program. Applications should be submitted to NAFSA no later than *January 31, 1983*.

Applications and further information on the seminar can be obtained by contacting Kaaren Christopherson, Program Specialist, Field Service Program, NAFSA, 1860 19th St., N.W., Washington, DC 20009. (202) 232-1312.

7 FAM 845 Exhibit 845.4

(TL:CON-6; 6-30-84)

Sample of a Specific Authentication Certificate

SPECIFIC AUTHENTICATION CERTIFICATE

VENUE.

THAILAND)
(Country))
)
Province of Chiang Mai)
(State, province, etc.))
)
Chiang Mai) ss:
(City))
)
Consulate of the United)
States of America)
(Name of consular post))

I certify that the annexed document is executed by the genuine signature and seal of the following named official who, in an official capacity, is empowered by the laws of the country of venue to execute that document.

I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Yodying D. Viramethi
(Typed Name of Official who
executed the annexed document)


(Signature of Consular Officer)

Patricia Armstrong-Jones
(Typed Name of Consular Officer)

Vice Consul of the United States of America
(Title of Consular Officer)

May 17, 1983
(date)

(SEAL)

7 FAM 847 Exhibit 847.2

(TL:CON-6; 6-30-84)

Sample of an Apostille

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: United States of America
This public document
2. has been
signed by ...John H. Smith.....
3. acting in
the capacity ofNotary Public, State of Nebraska
4. bears the seal/stamp of ...John H. Smith, Notary.....
Public, State of Nebraska

CERTIFIED

5. at Lincoln Nebraska 6. the 6th of April 1982
7. by Secretary of State, State of Nebraska
8. No. H0143.....
9. Seal/Stamp
10. Signature

/s/ ● ● m ■ ☺ ☞ ✎ m m □ ○ ☺ ■ ■
Allen J. Beermann