

## **10 Common Elements of “Oaths of Office”**

**1. What is an Oath of Office?** An oath (from the Anglo-Saxon) is either a promise or a statement of fact calling upon something or someone that the oath maker considers sacred, usually God, as a witness to the binding nature of the promise or the truth of the statement of fact. To swear is to take an oath.

In law, oaths are made by a witness to a court of law before giving testimony and usually by a newly-appointed government officer to the people of a state before taking office. In both of those cases, though, an affirmation can be usually substituted. A written statement, if the author swears the statement is the truth, the whole truth, and nothing but the truth, is called an affidavit. The oath given to support an affidavit is frequently administered by a notary public who will memorialize the giving of the oath by affixing his or her seal to the document. Breaking an oath (or affirmation) is perjury.

### **2. What it Means to be Sworn in?**

A. Every person who, while taking and subscribing to the oath or affirmation states as true any material matter which he or she knows to be false, is guilty of perjury, and is punishable by imprisonment in the state prison for two, three, or four years.

B. Every person having taken and subscribed to the oath or affirmation re, while in the employ of, or service with, the state or county, city, city and county, state agency, public district, or disaster council or emergency organization advocates or becomes a member of any party or organization, political or otherwise, that advocates the overthrow of the government of the United States by force or violence or other unlawful means, is guilty of a felony, and is punishable by imprisonment in the state prison.

### **3. What’s in an Oath of Office?**

#### **General Rules:**

An oath, affirmation, or declaration by a Public Officer is an action or a proceeding, administered by obtaining an affirmative response to one of the following questions:

- (1) “Do you solemnly state that the evidence you shall give in this issue (or matter) shall be the truth, the whole truth, and nothing but the truth, so help you God?”
- (2) “Do you solemnly state, under penalty of perjury, that the evidence that you shall give in this issue (or matter) shall be the truth, the whole truth, and nothing but the truth?”

[In the alternative, a court may administer an oath, affirmation, or declaration in an action or a proceeding in a manner that is calculated to awaken the person’s conscience and impress the person’s mind with the duty to tell the truth.]

“Public officer and employee” includes every officer and employee of the state, every county, city, city and county, district and authority, including any department, division, bureau, board, commission, agency, or instrumentality of any of the foregoing.

#### **4. What are the Requirements to take an Oath of Office?**

##### **General Rules:**

- A. Every person who, while taking and subscribing to the oath or affirmation, states as true any material matter which he or she knows to be false, is guilty of perjury, and is punishable by imprisonment in the state prison for two, three, or four years.
- B. Every person having taken and subscribed to the oath or affirmation required to hold office, advocates or becomes a member of any party or organization, political or otherwise, that advocates the overthrow of the government of the United States by force or violence or other unlawful means, is guilty of a felony, and is punishable by imprisonment in the state prison.

#### **5. When are Oaths Administered?**

##### **General Requirements:**

The oath or affirmation may be taken before any officer authorized to administer oaths. The oath or affirmation of any Public Officer may be taken before any person authorized in writing by his appointing power. No fee shall be charged by any person before whom the oath or affirmation is taken and subscribed.

#### **6. Who is Authorized to Administer Oaths?**

Unless otherwise provided, an oath of office may be taken before any officer authorized to administer oaths.

The oath or affirmation of any Public officer may be taken before his appointing power or before any person authorized in writing by his appointing power. No fee shall be charged by any person before whom the oath or affirmation is taken and subscribed. An "Oath of Office" is taken by Public Officers of a county include, among others:

- (a) a district attorney;
- (b) a sheriff;
- (c) a county clerk;
- (d) a controller;
- (e) an auditor, who shall be an ex officio controller;
- (f) a treasurer;
- (g) a recorder;
- (h) a license collector;
- (i) a tax collector, who shall be ex officio license collector;
- (j) an assessor;
- (k) a superintendent of schools;
- (l) a public administrator;
- (m) a coroner;
- (n) a surveyor;
- (o) members of the board of supervisors;
- (p) a county veterinarian;
- (q) a fish and game warden;
- (r) a county librarian;
- (s) a county health officer;
- (t) an administrative officer;

- (u) a director of finance;
- (v) a road commissioner;
- (w) a public guardian;
- (x) such other officers as are provided by law.

Every county officer and the officer's deputies may administer and certify oaths.

### **7. Which Oaths of Office Need to be Filed?**

Every court, every judge, or clerk of any court, every justice, and every notary public, and every officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has the power to administer oaths or affirmations.

### **8. Where to File Oaths of Office?**

Unless otherwise provided, every oath of office certified by the officer before whom it was taken shall be filed within the time required as follows:

- (1) The oath of all officers whose authority is not limited to any particular county, in the Office of the Secretary of State, etc.
- (2) The oath of all officers elected or appointed for any county, of all officers whose duties are local, or whose residence in any particular county is prescribed by law, in the office of the county clerk of their respective counties.
- (3) Each judge of a superior court, the county clerk, the executive officer or court administrator of the superior court, and the recorder shall file a copy of his or her official oath, signed with his or her own proper signature, in the office of the Secretary of State as soon as he or she has taken and subscribed his or her oath.

### **9. Revocation of an Oath of Office and Retention Period**

A revocation of the appointment of a deputy shall be made and filed in the same manner as the appointment.

### **10. Retention Period of an Oath of Office**

For a public employee, the oath or affirmation may be destroyed without duplication five years after the termination of the employee's employment.