

Regulation of the Legal Liability of Notary Trainees in Maintaining the Confidentiality of Official Legal Documents During the Preparation of Authentic Deeds

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DOI: <https://doi.org/10.55299/jsh.v5i2.2055>

Article history: Received July 26, 2026: Revised August 15, 2026: Accepted August 26, 2026

ABSTRACT

*This study examines the regulatory vacuum concerning the legal liability of Notary trainees for maintaining the confidentiality of official legal documents during the preparation of authentic deeds. Article 16A paragraph (2) of the Notary Office Law imposes an obligation to keep confidential deeds and information obtained during the apprenticeship, yet it does not specify the forms of liability, enforcement mechanisms, types of sanctions, or the authorities empowered to impose them. This normative legal research applies statutory, conceptual, and philosophical approaches. Primary, secondary, and tertiary legal materials were collected through document and literature studies and analyzed through legal discovery using *argumentum per analogiam* and *argumentum a contrario*. The findings demonstrate that Article 16A paragraph (2) contains a *rechtsvacuum* that creates legal uncertainty for Notary trainees, supervising Notaries, and the parties concerned. This vacuum may be addressed through three forms of liability: administrative-organizational, civil, and criminal. To ensure legal certainty, Article 16A should be supplemented with provisions governing graduated sanctions, enforcement authority, compensatory liability, the possibility of joint and several liability, and the cumulative-selective application of general criminal law provisions.*

Keywords: Notary Trainees, Legal Certainty, Document Confidentiality, Legal Liability

INTRODUCTION

Authentic deeds occupy a central position in private law transactions because they provide certainty regarding the identities of the parties, the date, the substance of the legal act, and the statements made before a public official. Their evidentiary force depends not only on compliance with the legally prescribed form and the notary's authority but also on the integrity of the entire deed-preparation process. This process involves identity documents, family data, asset information, financial circumstances, transaction details, and other information not intended for public disclosure. Therefore, confidentiality is not merely a matter of professional service ethics but a prerequisite for public trust in the notarial office. Studies on authentic deeds further confirm that the proper construction of authority and compliance with the applicable normative basis determine the legal consequences arising from a deed (Wesna, Suwitra, & Atmaja, 2023; Samosir, Harlina, & Vicky, 2024; Ivena, Saptanti, & Kusumawati, 2026).

The need to protect confidentiality extends beyond notaries. Notary trainees gain practical access to deed minutes, draft deeds, supporting documents, and information provided by the appearing parties. Such access is necessary to ensure that the apprenticeship is not merely an administrative formality but genuinely develops the competence, prudence, and integrity of future public officials. However, the broader the access granted, the greater the risk of disclosure, duplication, transfer, or use of information beyond the purpose of preparing the deed. Research on notarial apprenticeships indicates that the standards of mentoring, supervision, and protection for notary trainees remain inconsistent, while the apprenticeship relationship places trainees in a learning position dependent on the supervising notary (Yetniwati, Yahya, & Pahlefi, 2021; Zulfan, 2022; Rahmatullah & Ispriyarso, 2023).

The legislature recognized this risk through Article 16A, paragraph (2) of Law Number 2 of 2014 amending Law Number 30 of 2004 concerning the Office of Notary (hereinafter the Notary Office Law). This provision requires notary trainees to maintain the confidentiality of all matters relating to deeds prepared during the apprenticeship and all information obtained for their preparation. Substantively, this obligation is identical to the Notary's duty under Article 16 paragraph (1) letter f of the Notary Office Law. The distinction lies in the structure of legal consequences. A Notary's breach is linked to administrative sanctions and a supervisory mechanism, whereas Article 16A paragraph (2) stops at imposing the obligation without specifying liability, sanctions, examination procedures, or the competent authority.

The absence of explicit legal consequences presents a more serious problem than mere drafting omissions. Notary trainees may access documents containing professional secrets and personal data, yet they receive no predictable normative guidance regarding the consequences of breaches. Supervising Notaries also lack clearly defined authority to investigate misconduct and impose corrective measures, while injured parties are not provided with a specifically formulated avenue for redress. Hardani (2021) demonstrates that sanctions applicable to notaries cannot simply be equated with and imposed on notary trainees. This finding is significant, but it also raises a further question: If sanctions designed for notaries cannot be applied directly, what forms of liability can be constructed, and through which forums should they be enforced?

This issue is not merely abstract in nature. The involvement of notary trainees or other personnel in a notary's office in drafting documents may raise questions concerning the limits of instructions, knowledge, fault, and relationships of subordination. The case involving I Putu Adi Mahendra Putra in a series of criminal proceedings concerning documents for the Extraordinary General Meeting of Shareholders of PT Bali Rich Mandiri illustrates that a Notary trainee may be drawn into liability for documents prepared under a Notary's direction. Although the case concerned alleged forgery rather than a breach of confidentiality, the changing judicial outcomes reveal the vulnerability of notary trainees when the Notary Office Law does not specifically define the limits of their liability. In another context, research on instrumental witnesses also shows that persons involved in preparing a deed remain subject to confidentiality obligations and legal consequences corresponding to their respective roles (Wirawan & Pujiono, 2022).

Developments in personal data protection have further heightened the urgency of this issue. Documents submitted to a notary commonly contain both general and specific personal data; their disclosure may therefore constitute not only a breach of deed confidentiality but also an infringement under Law Number 27 of 2022 concerning Personal Data Protection. Recent scholarship positions notaries as parties responsible for safeguarding and ensuring accountability in the processing of client data (Jasmine, Djaja, & Sudirman, 2024). At the policy level, the implementation of the Personal Data Protection Law continues to face challenges related to the clarity of roles, compliance mechanisms, and enforcement effectiveness (Budiman, 2023). Because Notary trainees obtain access through a notary's office, confidentiality regulations must extend to internal office relationships rather than being confined to the direct relationship between the notary and the appearing parties.

Previous studies can be classified into three groups. The first concerns confidentiality obligations and the notary's right of refusal (Margiyanti, Negara, & Sjafi'i, 2022; Sari, 2022; Kusumandari, 2023). The second addresses the civil liability of notaries when the principle of confidentiality is breached (Sakinah & Setyono, 2022). The third examines the implementation and supervision of notary apprenticeships (Hardani, 2021; Yetniwati et al., 2021; Zulfan, 2022; Rahmatullah & Ispriyarso, 2023). These studies provide an important foundation, but they have not developed an integrated distinction among *rechtsvacuum*, vague norms, and normative conflicts; framed the issue as a paradox between obligation and authority; or constructed three dimensions of liability, together with their enforcement forums and proposed sanction provisions.

The novelty of this study lies in the construction that links rules of conduct and sanctioning norms within a single regulatory design. It does not stop at observing that Article 16A (2) is incomplete; rather, it examines the nature of the vacuum, identifies the appropriate method of legal discovery, distinguishes the liability of notary trainees from that of supervising notaries, and formulates an *ius constituendum* that may be incorporated into Article 16A of the Notary Office Law. Clarity regarding the source of authority and enforcement forum is essential because liability cannot be imposed by an institution lacking legal competence. Research on the authority of notaries acting as auction officials similarly emphasizes the need for clear limits on attributed powers so that resulting legal consequences can be properly accounted for (Santika, Renaya, & Mahaputra, 2023).

Accordingly, this study aims to analyze the regulation of legal liability for violations of Article 16A paragraph (2) of the Notary Office Law by Notary trainees and to formulate an ideal regulatory framework for sanctions. The analysis addresses the need for legal certainty for notary trainees, protection for parties submitting documents, and accountability for supervising notaries as the persons who grant access and exercise oversight.

RESEARCH METHOD

This study employs normative legal research and treats law as a system of norms. Its objective is the regulatory vacuum concerning liability and sanctions for notary trainees who breach the confidentiality obligation under Article 16A, paragraph (2) of the Notary Office Law. The research design of the thesis is not converted into an empirical study; court decisions and apprenticeship practices are used as legal materials to test the relevance of the normative construction, rather than as field data from which generalizations are drawn.

This study applies statutory, conceptual, and philosophical approaches. The statutory approach examines the Notary Office Law, Indonesian Civil Code, Personal Data Protection Law, National Criminal Code, Indonesian Notary Association Regulation Number 19/PERKUM/INI/2019 concerning Apprenticeship, and the Notary Code of Ethics. The conceptual approach addresses legal liability, authority, professional secrecy, sanctions, and authentic deeds. The philosophical approach evaluates legal certainty, corrective justice, the protection of vulnerable parties, and the rational relationship between rules of conduct and sanctioning norms.

Legal materials comprise primary, secondary, and tertiary sources. Primary legal materials include legislation, professional-organization regulations, codes of ethics, and judicial decisions concerning relationships of subordination or liability within Notary offices. Secondary legal materials consist of books and journal articles addressing deed confidentiality, apprenticeship, supervision, civil liability, personal data protection, and legal construction techniques. Tertiary materials were used to clarify the terminology. The materials were collected through document and literature studies and selected according to their relevance to the two research questions of this study.

The analysis was qualitative and prescriptive, involving inventory, classification, systematic interpretation, and legal construction. *Argumentum per analogiam* is employed because the obligation imposed on Notary trainees by Article 16A paragraph (2) is essentially similar to the Notary's obligation under Article 16 paragraph (1) letter f, while *argumentum a contrario* is used to establish that the absence of special provisions in the Notary Office Law does not preclude the application of general civil and criminal law. The results were subsequently assessed using the theories of legal certainty, authority, justice, and liability to formulate provisions that can be applied proportionately.

RESULTS AND DISCUSSION

Normative Structure of the Confidentiality Obligation and the Rechtsvacuum in Article 16A Paragraph (2) of the Notary Office Law

The analysis of a Notary trainee's liability must begin with Article 16 of the Notary Office Law, because that provision sets out the professional duties of Notaries and serves as the normative reference for the obligations subsequently imposed on Notary trainees. Article 16, paragraph (1) establishes a series of duties, including acting in a trustworthy, honest, careful, independent, and impartial manner; safeguarding the interests of the parties; retaining deed minutes; and maintaining the confidentiality of all matters relating to deeds and the information obtained for their preparation. The duty of confidentiality under letter f does not stand alone but forms part of a system of professional integrity that sustains public trust in authentic deeds.

Article 16 presents a relatively complete and normative structure. The rules of conduct in paragraph (1) are connected to the sanctioning norm in paragraph (11), which provides for a written warning, temporary suspension, honorable dismissal, or dishonorable dismissal of the violator. The imposition of these sanctions is situated within the notary supervisory system. Because the regulated subject has already been appointed as a public official, the most severe sanctions may affect the person's status. This structure enables notaries to anticipate the legal risks of a breach and provides a legal basis for supervisory bodies to act.

In contrast, Article 16A (2) merely imposes a duty of confidentiality without prescribing any corresponding legal consequences. It contains no provisions on the types of violations, degrees of fault, sanctions, examination procedures, evidentiary requirements, right to be heard, avenues of objection, or competent authorities. This omission separates the obligation from accountability. Although the norm directs conduct, it provides no instruments for responding to a breach. From the perspective of legal certainty, the issue is not simply whether a written obligation exists but whether its consequences and enforcement mechanisms can be known before a dispute arises.

The nature of the problem must be distinguished from vague norms and conflicting norms. A vague norm exists when a matter is regulated, but its wording or scope permits multiple interpretations. A normative conflict arises when two provisions regulate the same object through inconsistent commands and must, therefore, be resolved through rules of preference. Article 16A, paragraph (2) contains neither an ambiguous sanction nor conflicting sanctions. However, the norm governing the legal consequences is absent. Therefore, the issue is a *rechtsvacuum* requiring constitutive legal discovery rather than merely grammatical interpretation.

The Notary Code of Ethics does not fully address this issue. Notary trainees hold the status of Extraordinary Members of the Indonesian Notary Association and may therefore be organizationally bound by the Code of Ethics and subject to examination by the Honorary Council. However, the Code of Ethics constitutes an internal rule for the association. Its sanctions are based on violations of membership ethics rather than directly on breaches of statutory duties, and its scope cannot replace civil claims or criminal proceedings. Thus, the Code fills part of the space for professional guidance but does not provide a comprehensive construction of legal liability.

A comparison of Articles 16 and 16A reveals an imbalance in the legislative drafting. The legislature extended a rule of conduct to a new category of subjects without adjusting the relevant sanctioning norms and supervisory forums. This imbalance may create an accountability gap. Injured parties must seek a legal basis outside the Notary Office Law, while supervising Notaries and professional organizations lack uniform procedures. Consequently, responses to violations may vary between offices and regions, depending on the policies of individual supervisors or local organizational structures.

Deed confidentiality must be understood as a multi-layered obligation. The first layer protects the content of the deed and the parties' statements. The second protects supporting documents that enable the identification, asset mapping, or profiling of the parties. The third is to protect internal office processes, including drafts, correspondence, consultation notes, and electronic access. The literature on the notary's right of refusal emphasizes that confidentiality follows from the trust placed in the notarial office and must continue to be protected when information circulates through internal work processes (Sari, 2022; Kusumandari, 2023). Accordingly, the duty of a notary trainee cannot be reduced to a prohibition against recounting the contents of a deed after it has been signed. Table 1 presents the differences in the normative structures governing the confidentiality duties of Notaries and Notary trainees.

Table 1. Comparison of the Normative Structure of Confidentiality under the Notary Office Law.

Subject	Legal Basis of the Obligation	Substance of the Obligation	Sanctioning Norm	Enforcement Forum
Notary	Article 16 paragraph (1) letter f of the Notary Office Law	Maintain the confidentiality of deeds and information obtained for their preparation	Article 16 paragraph (11) and the sanctioning regime under the Notary Office Law	Notary Supervisory Council within its authority
Notary trainee	Article 16A paragraph (2) of the Notary Office Law	Substantively identical to the Notary's obligation	Not specifically regulated	Not expressly determined; the Code of Ethics provides only a limited organizational forum

The table shows that the substance of the obligation has been transferred almost entirely, whereas the instruments of accountability have not. Even when the sanctions applicable to notaries are used as a point of comparison, they cannot be applied automatically to notary trainees. Dismissal from office is irrelevant to a person who does not yet hold that office, and the Notary Supervisory Council has not been expressly attributed the authority to supervise Extraordinary Members. Analogy may therefore be used only with respect to the structure and principle of graduated sanctions, not to replicate the regulated subject, the forum, and the ultimate sanction *mutatis mutandis*.

The Legal Status of Notary Trainees and the Authority Paradox

Notary trainees occupy a unique legal position. They are not yet public officials and have not received the authority to prepare authentic deeds. Nor do they receive delegated authority because a notary may not freely transfer official powers to a trainee. Their relationship does not mandate them to act on behalf of the Notary in preparing deeds. A trainee's activities consist of learning and providing technical assistance under the responsibility and supervision of a supervising notary.

Although they do not possess official authority, notary trainees are subject to substantive obligations identical to those imposed on public officials. This creates an authority paradox: a significant official duty is imposed on a person who does not possess the corresponding official authority. The paradox does not imply that notary trainees are exempt from liability. Rather, it demonstrates that liability must be based on conduct, fault, and consequences, instead of being forced into sanctions designed exclusively for public officials.

The theory of authority helps distinguish between two questions that are often conflated. The first is who has the authority to prepare deeds and perform official acts. The answer is the Notary, whose authority derives from the Notary Office Law. The second is who may be held liable when confidential documents or information are disclosed. The answer may include the Notary trainee as the actor, the supervising Notary as a negligent supervisor, or both, provided that the elements of their respective liabilities are established. The absence of authority to prepare deeds does not deprive a notary trainee of legal capacity as a subject who may commit an unlawful act or a criminal offense.

An appropriate forum must follow the source of its authority. The Notary Supervisory Council has jurisdiction over notaries, whereas the professional organization has a membership relationship with notary trainees as Extraordinary Members. The construction that merges the two forums would create a defect of competence. The findings of Santika, Renaya, and Mahaputra (2023) concerning a Notary's authority as an auction official illustrate a relevant principle: authority must be interpreted according to the attribution and limits established by regulation, rather than presumed merely because the functions are closely related to it. The same principle applies when determining who can impose sanctions on a trainee.

The position of a notary trainee is also inseparable from the access granted by the supervising notary. In principle, a trainee cannot obtain deed minutes, identity documents, or statements from parties without authorization and internal work arrangements. Therefore, the Notary holds a dual role: as a mentor who develops competence and as a controller of access to confidential documents. The broader the access granted, the greater the obligation to implement need-based restrictions, access logs, physical and electronic safeguards, and clear instructions for use.

Supervision does not justify transferring all liability from the notary trainee to the supervising notary. The trainee remains directly bound by Article 16A, paragraph (2). Nevertheless, the allocation of liability must reflect the causal contribution of each party. An intentional disclosure by a trainee who has received appropriate instructions primarily engages the trainee's liability. Conversely, a disclosure resulting from unsecured shared accounts, exposed documents, or unrestricted access may indicate systemic negligence on the part of the supervising notary.

This approach also satisfies the principle of justice. The parties should not bear risks arising from internal office arrangements of which they are unaware. Likewise, it would be unjust to make the notary trainee the sole bearer of the consequences arising from access governance determined entirely by the supervisor. A proportionate construction of liability must protect the parties who submit documents while preventing the burden from being shifted to a structurally weaker party.

Scope of Confidentiality and Document Governance during the Apprenticeship

The phrases "all matters relating to a deed" and "all information obtained for the preparation of a deed" indicate a scope that is broader than the final deed itself. The obligation covers the identities of the parties,

family documents, evidence of ownership, tax information, sources of funds, correspondence, drafts, revision notes, consultation records, and information ultimately excluded from the deed. An unduly narrow interpretation would create gaps because harm often arises from supporting documents or conversations that occur before the deed is finalized.

Confidentiality applies throughout the information-management cycle, from the receipt of documents, review, drafting, execution, storage, and issuance of copies to the deletion of working copies. At each stage, a Notary trainee may access only information relevant to the assigned tasks. Access rights must be based not on curiosity or abstract learning interest but on a specific purpose approved by the supervising notary. This principle prevents client files from being used as training materials without anonymization or deidentification.

The duty of confidentiality does not imply that information can never be disclosed. Disclosure may occur only on a valid legal basis, pursuant to the authority of the requesting institution, through procedures prescribed by law, or with the consent of the entitled party, within legally permissible limits. A Notary trainee may not independently decide to provide documents to law-enforcement officials, relatives of an appearing party, colleagues outside the assigned task, or any other person. Every request must be referred to the notary responsible for the protocol, and its legal basis must be verified.

Sound governance requires evidence that instructions and safeguards are provided. A confidentiality agreement should be signed before access is granted, records of access rights, document loans, and system activity should be retained, and changes in duties should be followed by corresponding changes in access privileges. In a dispute, such documentation helps distinguish an individual disclosure from systemic office failure. Without access logs, identifying the source of a leak becomes difficult and may lead to inaccurate allegations of data breaches.

The end of the apprenticeship does not terminate the confidentiality obligation. Information remains confidential because of its nature and source, not because the apprenticeship relationship continues. Exit procedures should therefore include the return of files, deletion of copies from devices, closure of user accounts, a declaration that no data have been retained, and a written notice that the obligation remains in force. This approach is consistent with the construction of the Notary's right of refusal, which treats professional secrecy as a continuing obligation (Sari, 2022; Kusumandari, 2023).

In digital environments, safeguards must be incorporated into the system design. The use of personal email accounts, unmanaged messaging applications, shared devices, and cloud storage not administered by the office increases this risk. The supervising notary should provide official communication channels, authentication, backup, monitoring, and incident-response procedures. These obligations do not eliminate the trainee's responsibility but create an environment in which the duty of confidentiality can be fulfilled. The personal data protection regime reinforces this accountability requirement because client data must be processed in a limited, secure, and accountable manner (Budiman, 2023; Jasmine et al., 2024).

Clarifying the scope of confidentiality and governance standards is essential for determining fault. A trainee should not be held liable for access rules that were never explained but may be considered negligent when disregarding clear and reasonable procedures. Conversely, the supervising notary is not automatically liable for unforeseeable intentional misconduct but may be negligent for failing to establish minimum controls. These concrete standards bridge the abstract rule in Article 16A, paragraph (2), and the assessment of liability in a specific case.

Construction of the Legal Liability of Notary Trainees

Administrative-Organizational Liability

Administrative liability for notary trainees cannot be placed directly within the jurisdiction of the Notary Supervisory Council because the Notary Office Law does not expressly authorize it to supervise trainees. The more appropriate route is administrative-organizational liability through the supervising Notary and the Indonesian Notary Association (INA). This construction draws by analogy on the pattern of graduated sanctions in the Notary Office Law and the Code of Ethics, while adapting them to the trainee's status as an Extraordinary Member.

The primary functions of sanctions during an apprenticeship are guidance, prevention, and the protection of documents. Sanctions should therefore progress from an oral warning, a written warning, and restriction of access to temporary suspension from apprenticeship activities, and for serious violations, a proposal to revoke the Extraordinary Member status. The revocation or suspension must not be based solely

on the unilateral assessment of the supervising notary. Coordination with the Regional Board and, for membership sanctions, the Honorary Council, is necessary to ensure oversight, consistency, and documentation.

The organizational mechanism must distinguish between minor, moderate, and serious violations. An administrative error without actual disclosure, such as storing a copy in an unauthorized location but promptly correcting the error, may be addressed through guidance and access restrictions. Disclosing information to an unauthorized person, duplicating documents without permission, using data for personal purposes, or repeating misconduct after a warning requires more severe sanctions. The assessment must consider the intent, degree of negligence, scope of the data, consequences for the parties, and remedial action.

The supervising notary may still be held separately administratively liable through the notary supervisory forum where negligence in mentoring or safeguarding the protocol is established. Rahmatullah and Ispriyarso (2023) emphasized the integrity of supervision as an essential component of the apprenticeship process. The Notary's liability is not automatic vicarious liability for every error committed by a trainee; it arises when the Notary breaches a professional duty to provide adequate instructions, access restrictions, safeguards or supervision.

Administrative-organizational construction, therefore, comprises two related but distinct pathways: one concerning the Notary trainee through the apprenticeship relationship and professional organization, and the other concerning the Notary through the system of official supervision. This distinction preserves the principle of lawful authority while preventing accountability gaps.

Civil Liability

The absence of specific provisions in the Notary Office Law does not preclude the application of article 1365 of the Indonesian Civil Code. The disclosure of confidential documents or information may constitute an unlawful act where the elements of an act, unlawfulness, fault, loss, and causation are established. The direct obligation imposed by Article 16A (2) reinforces the conclusion that disclosure contravenes the actor's legal duty.

The relevant acts may include disclosing, communicating, displaying, duplicating, transferring, uploading, or allowing an unauthorized person to access documents and information. It need not take the form of public dissemination of the information. Sending files through a messaging application, storing them on a personal device without authorization, using sample deeds that retain identifying information, or discussing them with outsiders may constitute such conduct. Margiyanti et al. (2022) demonstrate that the duty of confidentiality continues to restrict the use of deed contents, even in academic settings generally protected by academic freedom.

A fault may be intentional or negligent. Intent is present when the actor knows that the information is confidential but nevertheless shares it. Negligence may arise when a trainee fails to secure a device, uses a weak password, leaves documents unattended, or sends files to the wrong recipient. The assessment of negligence must consider the standard of care communicated to the trainee and the concrete conditions of the office setting. The more sensitive the data, the higher the standard of protection required.

Loss can be material or non-material. Material loss may include lost transaction opportunities, identity misuse, recovery costs, and economic damage resulting from the disclosure of asset information and business strategies. Non-material losses may include harm to reputation, security, privacy, and trust. Sakinah and Setyono (2022) identified Articles 1365 through 1367 of the Indonesian Civil Code as the basis for civil liability arising from breaches of professional confidentiality by Notaries. For Notary trainees, these provisions apply through general civil law because the Notary Office Law does not establish a special regime.

Causation must be established by concrete evidence. Not every loss arising after the preparation of a deed is automatically attributable to a notary trainee. Evidence of access, copies, communications, timing of dissemination, and source of disclosure is required to connect the conduct to the loss. This principle prevents liability based solely on suspicion and ensures that remedies are directed toward persons who have actually contributed to the consequences.

Article 1367 of the Indonesian Civil Code creates the possibility of liability for the supervising notary when negligent supervision is proven. Although an apprenticeship is not identical to an ordinary employment relationship, it contains elements of factual subordination: the Notary assigns work, grants

access, regulates the use of documents, and supervises the performance. Semarang District Court Decision Number 773/Pid. B/2021/PN.Smg may be used analogically to examine the significance of subordination and the existence or absence of instructions within a notary's office. This decision is not a direct precedent for breaches of confidentiality but offers an analytical framework for allocating liability.

Joint and several liabilities must not be imposed automatically. It requires proof that the Notary's negligence was an adequate contributing cause for the disclosure. If a trainee intentionally departs from adequate procedures, the liability may rest primarily with the trainee. If the office lacks procedures, permits unrestricted access, or leaves sensitive documents readily available for copying, the notary's liability becomes stronger. An approach based on causal contribution is more equitable than imposing the entire loss on one party solely because of their formal status.

Civil remedies should not be limited to monetary compensations. A court or out-of-court settlement may require the cessation of dissemination, deletion of copies, return of documents, notification to data subjects, correction of information, or other measures to prevent continuing harm. Thus, civil liability performs both corrective and preventive functions.

Criminal Liability and Personal Data Protection

Criminal liability arises when the conduct satisfies the elements of an offense. The thesis originally referred to Article 322 of the former Criminal Code, concerning the disclosure of secrets that a person was obliged to keep by virtue of their office or occupation. Since 2 January 2026, the substance of this prohibition must be read within the framework of Article 443 of Law Number 1 of 2023 concerning the Criminal Code. Updating the statutory reference does not alter the thesis that apprenticeship status does not in itself exclude liability under general criminal law.

The application of the offense of disclosing secrets requires an assessment of intent, the act of disclosure, and the source of the duty of confidentiality. A Notary trainee's duty derives directly from Article 16A, paragraph (2) of the Notary Office Law, thereby providing a normative basis for the obligation to keep a secret. However, criminal law should not be used for every procedural violation. Conduct that is merely negligent and does not satisfy the form of fault required by the offense should be addressed through administrative or civil liabilities.

If a document contains personal data, Law Number 27 of 2022 may apply if the elements of the relevant conduct are fulfilled. The data protection regime requires lawful basis for processing, purpose limitation, security, and accountability. A Notary trainee who obtains data for learning purposes and to assist in preparing a deed is not entitled to use it for any other purpose. Jasmine et al. (2024) emphasized the Notary's responsibility to safeguard clients' personal data; the construction developed in this study extends that concern to all personnel who obtain access through the office system.

General criminal law and personal data protection provisions may operate alongside organizational sanctions and civil claims. Their application is cumulative and-selective: a single act may give rise to several forms of liability, but only if the elements of each regime are independently satisfied. An organizational warning does not extinguish an injured party's right to bring a claim, and a civil settlement does not automatically bar criminal proceedings. However, not every breach of the Code of Ethics should be criminalized.

The use of criminal law must continue to observe the principles of legality, fault, proportionality, and, where appropriate, *ultimum remedium*. The purpose of this construction is not to aggravate the position of notary trainees but to ensure that serious disclosures cannot be shielded by apprenticeship status and that minor violations are not treated as crimes. Distinguishing levels of seriousness is the principal reason why clear procedural rules and graduated sanctions are required.

Table 2. Construction of Forms of Liability and Enforcement Forums

Dimension	Legal Basis	Potential Subjects	Forum	Legal Consequences
Administrative-organizational	Article 16A paragraph (2), INI Regulation, and the Code of Ethics	Notary trainee; supervising Notary through a separate pathway	Supervising Notary, Regional Board/Honorary Council; Notary Supervisory Council for the Notary	Guidance, warnings, restriction/termination of the apprenticeship, and membership measures
Civil	Articles 1365 and 1367 of the Indonesian Civil Code	Notary trainee and/or supervising Notary	Civil court or alternative dispute resolution	Compensation and remedial measures; joint and several liability where negligent supervision is proven
Criminal/personal data	Article 443 of Law 1/2023 and Law 27/2022, subject to their elements	Any actor satisfying the elements of an offense	Criminal court/competent authority under the applicable legislation	Criminal penalties and/or sanctions under the personal data protection regime

Ius Constituendum for the Regulation of Sanctions under Article 16A of the Notary Office Law

Legal discovery may assist in resolving specific cases, but it cannot replace legislation as a generally applicable guide. Judicial decisions or legal opinions constructing liability by analogy are binding or persuasive only in particular contexts. Without explicit provisions, notary trainees, supervisors, professional organizations, and injured parties continue to face uncertainty. Therefore, the long-term solution must involve amending Article 16A of the Notary Office Law and strengthening the Association Regulation on apprenticeship.

The *ius constituendum* construction should follow four principles: First, the rules of conduct and sanctioning norms must form a coherent whole. The obligation and consequences of its breach should be placed in the same article to facilitate systematic interpretation. Second, sanctions must be proportionate and differentiated according to their intent, impact, repetition, and remedial efforts. Third, due process must guarantee notice, an opportunity to respond, examination of evidence, a written decision, and an avenue for objection. Fourth, authority must be clearly allocated to prevent overlap among the supervising Notary, Regional Board, Honorary Council, and Notary Supervisory Council.

The proposed administrative provision may be formulated as follows: a notary trainee who breaches the obligation referred to in paragraph (2) may be subject to an oral warning, a written warning, temporary suspension from the apprenticeship program, and/or a proposal to revoke the Extraordinary Member status. Initial measures would be imposed by the supervising notary following an examination and coordination with the Regional Board of the Indonesian Notary Association. Sanctions affecting membership status are determined by the competent organizational body in accordance with the Code of Ethics.

This formulation must be accompanied by an enforcement mechanism to be effective. The process begins with a complaint or finding, followed by the recording and preservation of evidence, a written notice to the notary trainee, and clarification in accordance with the principle of *audi et alteram partem*. A supervising notary must not adjudicate a serious violation where a conflict of interest exists or the notary's own negligence is under examination. In such circumstances, the examination should be transferred to or conducted with the involvement of the Regional Board and the Honorary Council. Every decision should state the facts, normative basis, assessment of the degree of fault, sanctions, and avenues of objection.

A graduated objection mechanism must be established. A Notary trainee may request a review by the Regional Board and, for measures affecting membership or the continuation of the apprenticeship, by the Central Board or another body designated by the organization. An objection does not always suspend the emergency measures taken to protect documents, such as temporarily disabling access. However, emergency measures must be limited, documented, and promptly reviewed through examination.

The civil provision should affirm that a breach causing loss does not extinguish the injured party's right to claim under article 1365 of the Indonesian Civil Code. It may also provide that the supervising notary may be held jointly liable where negligent supervision is proven to have caused the loss within the meaning of Article 1367. This affirmation would not create liability beyond the Civil Code but would provide a clear bridge between the Notary Office Law and general civil law.

The criminal provision should not create a new offense in the Notary Office Law, where the conduct is already covered by general criminal law and the Personal Data Protection Law. Article 16A only needs to affirm that administrative-organizational sanctions do not prejudice the application of civil and criminal provisions. This technique avoids duplication, preserves systemic consistency, and prevents differences in constituent elements that could create normative conflicts.

The three dimensions should be applied cumulatively and selectively to the same patient. Guidance may be sufficient for minor violations involving neither loss nor intent. If a disclosure causes a loss, organizational sanctions may operate alongside civil remedies. If intentional dissemination satisfies the elements of an offense, criminal proceedings may also be pursued. This model permits individualized sanctions without sacrificing legal certainty or predictability.

The construction must also be translated into operational and apprenticeship standards. Indonesian Notary Association Regulation Number 19/PERKUM/INI/2019 should address confidentiality agreements, information classification, need-based access restrictions, prohibitions on unauthorized personal devices or storage, procedures for returning and deleting data, incident reporting, and training documentation. Such strengthening is consistent with the need for apprenticeships not merely to satisfy a prescribed period but to develop competence and integrity, as emphasized by Yetniwati et al. (2021) and Zulfan (2022).

Operational standards must cover both physical and electronic documentations. Offices should regulate storage areas, borrowing logs, prohibitions on duplication, and destruction of working copies for physical documents. For electronic documents, offices should implement individual accounts, passwords, download restrictions, backups, activity logs, and termination of access when the apprenticeship ends. The principles of data minimization and access on a need-to-know basis are essential to ensure that trainees view only the information required for specific learning and work-related purposes.

A personal data protection perspective requires a rapid response to incidents. When a disclosure occurs, the office should terminate access, identify the affected data and persons, preserve evidence, assess risk, provide legally required notifications, and undertake remedial measures. Budiman (2023) highlights the initial implementation challenges of the Personal Data Protection Law; within the notarial environment, these challenges may be addressed through a clear allocation of roles between the Notary as controller of the office system and personnel who obtain access.

The proposed provisions are not intended to equate notary trainees with notaries. On the contrary, their different statuses are precisely why distinct sanctions must be designed. Dismissal from office is irrelevant to a trainee, whereas termination of apprenticeship and membership measures are more appropriate. Simultaneously, differences in status must not create a zone free from accountability. Liability attaches to conduct and its consequences, while the form of sanction follows the actor's legal position.

From the perspective of legal certainty, this construction provides predictability regarding prohibited conduct, examination, and legal consequences. From the perspective of authority, it separates professional organizations from the Notary Supervisory Council. From the perspective of justice, it provides remedies for injured parties and prevents the entire burden from being shifted to trainees. From the perspective of liability, it connects individual faults with potential failures of supervision within the office system.

Therefore, the novelty of this study lies not in establishing that confidentiality must be maintained but in designing an accountability framework that integrates three dimensions of liability, distinguishes the relevant subjects and forums, and treats examination procedures as part of the sanctioning norm. This design goes beyond approaches that merely equate sanctions for notary trainees with those applicable to

notaries or refer the entire issue to the Code of Ethics. It also avoids over-criminalization by requiring the independent fulfillment of the elements of a criminal offense.

By inserting an additional paragraph into Article 16A, readers of the statute would find the obligation and its consequences within a single sequence. This technique follows the structure of Article 16, which places rules of conduct and sanctioning norms in the same article. Systematically, this option is preferable to creating a separate provision distant from the source of the obligation because it reduces the risk of fragmented interpretation and clarifies the ratio legis of protecting confidentiality during the apprenticeship.

CONCLUSION

The regulation of legal liability for breaches of Article 16A, paragraph (2) of the Notary Office Law by Notary trainees contains a *rechtsvacuum*. The confidentiality obligation is clearly formulated, but it is not accompanied by liability, enforcement mechanisms, sanctions, or competent authorities. This vacuum differs from vague norms and normative conflicts and therefore requires construction through *argumentum per analogiam* and *argumentum a contrariis*. Under this construction, a breach may give rise to administrative-organizational liability through the supervising Notary and the Indonesian Notary Association, civil liability under Article 1365 and, potentially, Article 1367 of the Indonesian Civil Code, and criminal liability under general criminal law and the Personal Data Protection Law where their respective elements are fulfilled.

An ideal framework should be established through an additional provision in Article 16A of the Notary Office Law. The provision should set out graduated sanctions, an allocation of authority, examination procedures guaranteeing *audi et al. teram partem*, written decisions, and an objection mechanism to this effect. Civil liability and the applicability of general criminal law should be affirmed without duplicating existing laws. The three dimensions should operate cumulatively and selectively so that sanctions can be tailored to the fault, loss, and seriousness of the violation.

The practical implication is that the House of Representatives and the Ministry of Law should refine Article 16A of the Notary Office Law, while the Indonesian Notary Association should strengthen Association Regulation No. 19/PERKUM/INI/2019. Such strengthening should encompass confidentiality standards, document access governance, training, incident reporting, examination, professional guidance, and organizational sanctions. This design would protect not only the parties but also notary trainees and supervising notaries by establishing more predictable limits of liability.

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