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HR Electronic Records
Electronic Signatures in The Republic of the Philippines: What it means for HR

What is an electronic signature?

Generally speaking, an electronic signature (or e-signature) is a technical process logically associated with a document which two (or more) individuals or organizations (the signatories) agree to rely on in order to express their intent to sign such document. Three components are therefore necessary: a document, a signatory, and an e-signature tool. While the tool most commonly used for handwritten signatures is a simple pen, electronic signature tools are typically more complex.
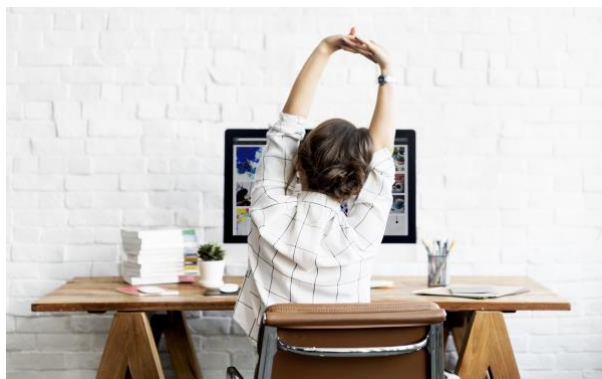
From a regulatory standpoint, an electronic signature is a broad category that encompasses many types (or levels) of electronic signatures.

Depending on the country it is used in, there are differences in purpose, legal acceptance, technical implementation and cultural acceptance of electronic signatures. In particular, e-signature requirements tend to vary significantly between most "civil law" countries (including the European Union and many countries in South America and Asia), and most "common law" countries (such as the United States, Canada and Australia). Civil law countries typically support a "tiered" approach including higher levels of signature often called digital or qualified electronic signatures (typically required for specific types of contracts), as opposed to common law jurisdictions which are typically more technology-neutral.

In addition, some industries (such as healthcare or banking) and documents (such as marriage or adoption contracts) may require a higher level of e-signature.

- the existence or due execution of the original;
- the loss and destruction of the original or the reason for its non-production in court; and,
- the absence of bad faith to which the unavailability of the original can be attributed.

What are the laws and regulations in the Philippines?

Electronic signatures are permitted in the Philippines per the Electronic Commerce Act of 2000. Under the Electronic Commerce Act, an electronic signature is considered a "distinctive mark, characteristic and/or sound in electronic form, representing the identity of a person and attached to or logically associated with the electronic data message or electronic document or any methodology or procedures employed or adopted by a person and executed or adopted by such person with the intention of authenticating or approving an electronic data message or electronic document."

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Is an electronic signature valid in the Philippines?

Yes. Electronic and physical signatures have the same legal value in the Philippines. Any disputes as to the validity of signatures (electronic or physical) will come down to a question of proof. Under the Rules on Electronic Evidence, an authenticated electronic signature is admissible in evidence as the functional equivalent of a handwritten signature (Section 1, Rule 6 of the Rules on Electronic Evidence). Electronic signatures may be authenticated by:

- evidence that a method or process was utilized to establish a digital signature and verify the same;
- other means provided by law; or
- other means satisfactory to the judge as establishing the genuineness of the electronic signature (Section 2, Rule 6 of the Rules on Electronic Evidence).

Authenticated electronic signatures:

- are presumed to be signed by the person who is listed as signing the document (i.e. it's signed by the same person whose name is written in the electronic signature);
- are assumed to be signed by an individual who intended to authenticate or approve the electronic document (i.e. the document shows that the individual gave their consent to the information in the record); and,
- use methods or processes that verify the electronic signature operated properly (i.e. no fault or error).

Note that documents requiring notarization cannot currently be signed electronically as the Philippine Supreme Court has not yet set rules on electronic notarization.

HR Best Practices

Electronic signatures are generally permitted in the Philippines. When using electronic signatures for employment records, ensure that appropriate safeguards are in place and procedures include measures to authenticate the identity of the individual who signs the record.

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