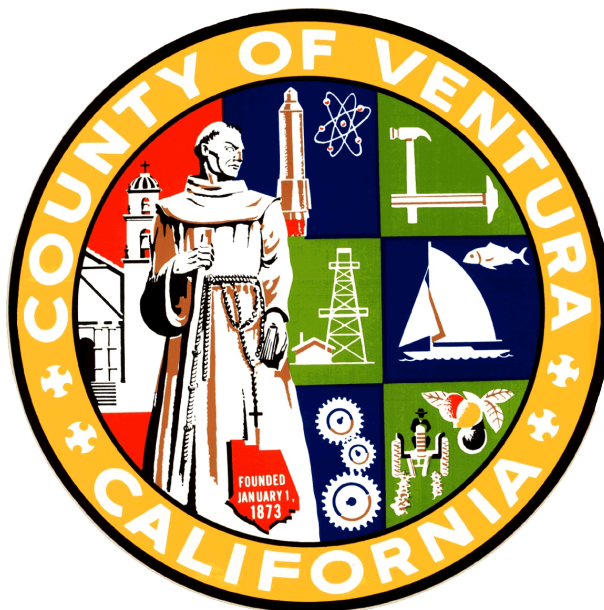


COUNTY OF VENTURA

E-SIGNATURE POLICY



March 18, 2020

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A. PURPOSE

The Countywide e-Signature Policy shall be used by Ventura County Agencies and Departments to increase productivity by using electronic and digital signature technology to collect and preserve signatures on documents quickly, securely, and efficiently. This Policy furthers the County's Strategic Plan, Focus Area 1, Strategic Goal 3 goals¹ by reducing the consumption and storage of paper documents and the maintenance and supply of printers.

This Policy further establishes when e-Signature technology may replace a hand-written signature, with the goal of encouraging the use of paperless, electronic documents whenever appropriate and allowed by the law.

While the use of e-Signatures is suggested and encouraged, this Policy does not require any Agency/Department to use e-Signatures, nor can the County mandate that any third party signing a document use e-Signatures.

B. DEFINITIONS

e-Signature

Refers to both digital and electronic signatures.

Metadata

A set of data that describes and gives information about other data which can make tracking and working with specific data easier.

Digital Signature

(short definition) A type of electronic signature that encrypts documents with digital codes that are difficult to duplicate. Typically, programs similar to DocuSign or Adobe Sign are used for routing the document for signature to capture the metadata.

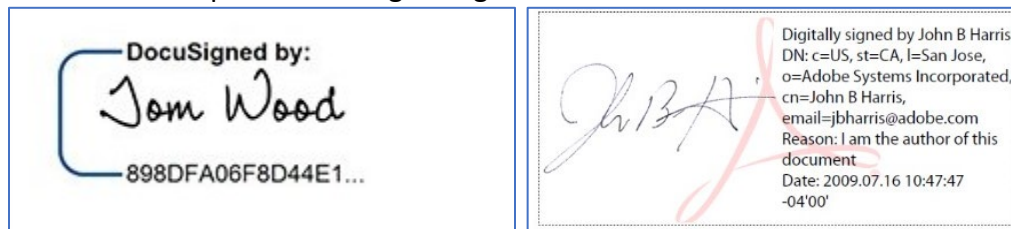
(long definition²) An electronic identifier, created by a computer, intended by the party using it to have the same force and effect as the use of a manual signature. Per California Government Code Section 16.5 the following are required:

1. It is unique to the person using it.
2. It is capable of verification.
3. It is under the sole control of the person using it.
4. It is linked to data in such a manner that if the data is changed, the digital signature is invalidated.
5. It conforms to regulations adopted by the Secretary of State.

¹ <https://www.ventura.org/government/county-strategy-performance-budget/>

² Long definitions were taken from the California Secretary of State Website:
<https://www.sos.ca.gov/administration/regulations/current-regulations/technology/digital-signatures/frequently-asked-questions/>

- The use or acceptance of a digital signature shall be at the option of the parties.
- There are two types of technologies that qualify: public key cryptography (PKC) and signature dynamics.
 - **PKC** - third-party verification of the signature with a certificate. This is currently the most commonly used technology.
 - **Signature Dynamics** - measuring the way a person writes his or her signature by hand on a flat surface and binding measurements to a message through the use of cryptographic techniques.
- These are examples of PKC Digital Signatures:



Electronic Signature

(short definition) An electronic symbol of a signature. The signature can be an inserted image file, drawn, or copy/pasted from most programs including Adobe DC and Microsoft Office Products.

(long definition³) An electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

- The Uniform Electronic Transaction ACT (UETA) authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency.
- This is an example of an electronic signature:

A handwritten signature in blue ink that reads 'Jane Doe'.

Wet Signature

A signature signed with pen and ink on paper.

³ Long definitions were taken from the California Secretary of State Website:
<https://www.sos.ca.gov/administration/regulations/current-regulations/technology/digital-signatures/frequently-asked-questions/>

Facsimile (FAX) or Scanned Signature

A signature that is copied or scanned from a document bearing an authorized original signature.

Under California law, a document bearing a facsimile signature is equivalent to the original copy in most situations unless an original signature is required by law.

While California law allows for the use of fax or scanned signatures in many cases, the Secretary of State's regulations which govern County operations do not authorize the use of fax or scanned signatures as a method to create a legally enforceable agreement. Therefore, the use of fax or scanned signature is not allowed when creating an agreement with a third party in those instances where an authorized original signature is required.

C. BACKGROUND & LAWS

e-Signature is the broad umbrella category under which all electronic and digital signatures fall.

The legality and use of e-Signatures are governed by Federal and State law. (See 15 United States Code, section 7001, et seq. [U.S. Federal Electronic Signatures in Global and National Commerce Act]; California Government Code, section 16.5; California Civil Code, section 1633.1, et seq.)

15 United States Code, section 7001

<https://uscode.house.gov/view.xhtml?path=/prelim@title15/chapter96&edition=prelim>

(a) In general

Notwithstanding any statute, regulation, or other rule of law (other than this subchapter and subchapter II), with respect to any transaction in or affecting interstate or foreign commerce—

(1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and

(2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.

(b) Preservation of rights and obligations

(c) Consumer disclosures

(d) Retention of contracts and records

(e) Accuracy and ability to retain contracts and other records

(f) Proximity

(g) Notarization and acknowledgment

(h) Electronic agents

(i) Insurance

(j) Insurance agents and brokers

California Government Code Section 16.5

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=16.5.

(a) In any written communication with a public entity, as defined in Section 811.2, in which a signature is required or used, any party to the communication may affix a signature by use of a digital signature that complies with the requirements of this section. If a public entity elects to use a digital signature, that digital signature shall have the same force and effect as the use of a manual signature if and only if it embodies all of the following attributes:

(1) It is unique to the person using it.

(2) It is capable of verification.

(3) It is under the sole control of the person using it.

(4) It is linked to data in such a manner that if the data are changed, the digital signature is invalidated.

(5) It conforms to regulations adopted by the Secretary of State. Initial regulations shall be adopted no later than January 1, 1997. In developing these regulations, the secretary shall seek the advice of public and private entities, including, but not limited to, the Department of Information Technology, the California Environmental Protection Agency, and the Department of General Services. Before the secretary adopts the regulations, he or she shall hold at least one public hearing to receive comments.

(b) The use or acceptance of a digital signature shall be at the option of the parties. Nothing in this section shall require a public entity to use or permit the use of a digital signature.

(c) Digital signatures employed pursuant to Section 71066 of the Public Resources Code are exempted from this section.

(d) "Digital signature" means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (h) of Section 1633.2 of the Civil Code.

(e) Nothing in this section shall limit the right of a public entity or government agency to use and accept an "electronic signature" as defined in subdivision (h) of Section 1633.2 of the Civil Code.

(f) Regulations adopted by the Secretary of State to implement this section apply only to a public entity's use of a "digital signature" and not to use of any other type of "electronic

signature” authorized in the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code).

California Civil Code, Uniform Electronic Transactions Act: Division 3, Part 2, Title 2.5, Sections 1633.1-1633.17.

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=2.5.&part=2.&chapter=&article=

Excerpts:

1633.2. In this title the following terms have the following definitions: ...

(e) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(g) “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means.

(h) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record. For purposes of this title, a “digital signature” as defined in subdivision (d) of Section 16.5 of the Government Code is a type of electronic signature.

1633.3.

(a) Except as otherwise provided in subdivisions (b) and (c), this title applies to electronic records and electronic signatures relating to a transaction.

(b) This title does not apply to transactions subject to the following laws: ...

1633.7.

(a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(c) If a law requires a record to be in writing, an electronic record satisfies the law.

(d) If a law requires a signature, an electronic signature satisfies the law.

California Secretary of State Title 2; Division 7; Chapter 10; Sections 22000-22005.

<https://www.sos.ca.gov/administration/regulations/current-regulations/technology/digital-signatures/>

22000 Definitions.

22001 Digital Signatures Must Be Created By An Acceptable Technology.

22002 Criteria For Determining If A Digital Signature Technology Is Acceptable.

22003 List of Acceptable Technologies.

22004 Provisions For Adding New Technologies to the List of Acceptable Technologies.

22005 Issues to Be Addressed By Public Entities When Using Digital Signatures.

D. INTENTIONS

Security and Legal Compliance

The use of e-forms and digital signatures provide a secure method of signing and transferring documents electronically. A document cannot be altered after the signer has completed the digital signature. Additionally, a history of any changes made to the document prior to the signature is kept within the document and cannot be changed or deleted. When digital signatures are used, hash values are attached to the document to verify the authenticity of a document during any transfer for added security.

Integration into Business Processes

The e-Signature process may fit into pre-existing business practices, provide automated processes, retrieve documents, use standard Application Program Interface (API), generate reminders and expiration settings, and allow multiple people to view a document and track its progress.

Simplified Workflow

e-Signatures eliminate resource-intensive processes that require agencies, the public, and staff to manually sign documents. Features of the digital signatures include automation of simple forms, ability to track and review changes, vary the recipient roles, and tag signatures.

Cost Benefits and Sustainability

There are potential cost savings from not having to print, file, scan, and store paper copies. The County may also save on certified postage, printing, ink, envelopes, and paper. Staff time can be significantly reduced by not having to personally deliver and pick up documents and follow up with non-responsive signers.

E. POLICY APPLICATION

This Policy applies to any document requiring a signature of any person where the signature is intended to show authorship, approval, authorization, or certification, as allowed by law. It is the Policy of the County to encourage the use of e-Signatures in internal and external activities, documents, and transactions where it is operationally feasible to do so, where existing technology permits, and where it is otherwise appropriate based on the Agency/Department's preferences. In such situations, affixing an e-signature to the document in a manner consistent with this Policy shall satisfy the County's requirements for signing a document. As used in this Policy, the term "signature" includes using initials on a document instead of a signature.

F. AGENCY/DEPARTMENT DISCRETION

Each Agency/Department has discretion to decide whether to permit the use of e-Signatures and shall work with County Counsel to determine where applicable laws permit an electronic or digital signature to be used. In addition, each Agency/Department that opts to use e-Signatures must adopt/amend their business practices to support the requirements of this Policy.

G. LEGAL AUTHORITY TO SIGN

This Policy applies to all signatures used in processing various County Documents and assumes the County signer has been given the authority to sign as determined by Agency/Department business process and the Board of Supervisors.

H. WHEN TO USE E-SIGNATURES

Here is some general guidance on when e-Signatures can and cannot be used:

1. A wet signature is required any time a party declines to provide a digital signature, because the use of a digital signature requires the agreement of the parties (Govt Code § 16.5, subdivision (b) and Civil Code § 1633.5, subdivision (b)).

2. Civil Code § 1633.7 provides that, generally, electronic records and electronic signatures are legal and enforceable, when the law only requires a “signature”:

“(a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(c) If a law requires a record to be in writing, an electronic record satisfies the law.

(d) If a law requires a signature, an electronic signature satisfies the law.”

However, the Uniform Electronic Transactions Act (UETA, Civil Code § 1633.1 et seq.) does not apply to certain transactions subject to specific laws (See Civil Code § 1633.3, subdivision (b) for a list of the excluded transactions), such as the law governing the creation and execution of wills, codicils or testamentary trusts, along with a list of other statutes. Therefore, presumably, specific requirements, such as wet signatures may be required for these transactions.

Document & Signature Types

This Policy is intended to broadly permit the use of e-Signatures. Examples of common types of documents are listed in the following table, with notes on each type of document. The examples are provided for illustration purposes only. Agencies/Departments should work with County Counsel to determine where applicable laws permit an e-Signature to be used.

Document Type Examples	e-Signature Acceptable	Electronic or Digital	Notes
Memo, Forms, and General Correspondence	Yes	Electronic or Digital	Agency/Dept. Standards
Contracts	Yes	Digital	
Certificates, Permits	Yes, if allowed by law	Depends on law	Work with County Counsel
Documents Requiring Notarization	No		

Electronic signatures can generally be used for signatures that do not require any further verification or encryption, typically internal informal documents.

Digital signatures should be used for signatures that require an additional layer of verification and encryption, typically external and formal documents.

Cost Implications

Using digital signatures for all documents that require signature fully ensures authenticity and security. However, the cost per license and storage diminish the return making digital signatures not cost effective for all documents. Each Agency/Department shall evaluate this within their own environment and business processes.

I. DOCUMENTS INVOLVING OTHER PARTIES

In the case of contracts or transactions which must be signed by outside parties, each party to the agreement must agree in advance to the use of an e-Signature; they must be permitted to decide either way. Such consent may be withdrawn by the other party at any time such that future documents must be signed in hardcopy format.

When a document is digitally signed by all parties, the County will provide a copy of the completed/executed document to the other parties in an electronic format that is capable of being retained and printed by all other parties.

J. SETUP AND USE

Setup

Each Agency/Department shall set up a work flow for routing documents that require digital signatures. This flow chart can be used to identify how many product licenses are needed. At a minimum, the Agency's/Department's procedures shall include maintaining a list of documents, applications, and business processes utilizing e-Signatures technologies and include procedures for monitoring the use of Digital Signatures.

To set up employees authorized to send out documents for digital signature, a request shall be originated with the Agency's/Department's IT staff.

Use

All County users of e-Signature technology shall conform to the rules set forth in the [County of Ventura Employee Technology Use Policy](http://vcportal.ventura.org/VCWEB/policies/docs/Employee_Technology_Use.pdf)⁴.

No person shall share their passcode for authentication for digitally signed documents.

⁴ http://vcportal.ventura.org/VCWEB/policies/docs/Employee_Technology_Use.pdf

When sending digitally signed documents to other parties (internal or external), users shall send the original PDF document. Note that a printed or scanned copy will not suffice for a digital signature because it would not contain the metadata which provides the validation of the signature.

However, if only an electronic signature is required, a printed or scanned copy of a digitally signed document may suffice, if the Agency/Department chooses to accept it. Accompanying this with a printout of the digital signature metadata may provide existing support and information.

The Agency/Department that executes the final digitally signed document shall confirm that the document signatures have not been broken.

K. STORAGE AND ARCHIVING

If a document exists only electronically, steps shall be taken by each Agency/Department to ensure that an unalterable version of the final document is stored. If the document is a digitally signed document, ensure that the metadata and history are saved with the final document. It is up to each Agency/Department to decide how to store these final electronic documents, so long as it does so in a manner consistent with the applicable County retention policies and any applicable laws. Each Agency/Department shall have a storage and archiving plan in concurrence with the initiation of the e-Signature deployment.

L. PROVIDERS

Each Agency/Department using digital signatures shall verify that the selected provider is on the [Approved List of Digital Signature Certification Authorities](https://www.sos.ca.gov/administration/regulations/current-regulations/technology/digital-signatures/approved-certification-authorities/)⁵ certified by the California Secretary of State for use by public entities.

M. CONCLUSION

The use of e-Signatures is intended to make the County of Ventura business practices more efficient. The process eliminates the need to print, file and store paper copies of documents that can now be authenticated digitally and stored electronically. This Policy is intended to be broadly interpreted to allow for the use of e-Signatures whenever legally applicable to County Business needs.

⁵ <https://www.sos.ca.gov/administration/regulations/current-regulations/technology/digital-signatures/approved-certification-authorities/>