



# DEPARTMENT OF DEVELOPMENTAL SERVICES

## COMMUNITY SERVICES DIVISION PROGRAM ADVISORY

CSD 16-01

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### ELECTRONIC SIGNATURES

#### PURPOSE

The purpose of this program advisory is to provide information regarding the use of electronic signatures by regional centers, service providers/vendors, and individuals who receive services from regional centers.

#### INTRODUCTION

A signature is any method used by a person to indicate agreement, acknowledge receipt, attest to the completion of an act, and/or authenticate a record entry. Whether handwritten or electronic, a signature must be attributable to the person signing, and the record must have adequate integrity for it to be reliable.

California law gives an electronic signature the same legal significance as an original signature.

#### BACKGROUND

Prior to the allowance of electronic signatures, handwritten signatures were used on any required record, record entry, or document. The purpose of an electronic signature is identical to that of a handwritten signature or any other form of signature currently deemed acceptable by the Department of Developmental Services (Department), or industry standards.

The Department authorizes the use of electronic signature methods for all transactions between regional centers and service providers/vendors. Regional centers and service providers/vendors are expected to administer, manage, and assure that all parties under their purview understand and agree to the use and methods of collecting, agreement, receipt, attestation, and completion of any such documents.

Regional centers must inform service providers/vendors of these requirements.

#### STATUTE AND REGULATION

The statutes authorizing and explaining the use of electronic signatures in California can be found in the California Civil Code, Sections 1633.1 to 1633.17. Collectively, these sections are referred to as the Uniform Electronic Transactions Act, or UETA. The UETA was enacted in 1999 and applies only to electronic signatures created and used as of January 1, 2000.

California Civil Code, Sections 1633.9 (a) and (b) provide:

“(a) An electronic record or electronic signature is attributable to a person, if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under subdivision (a) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties’ agreement, if any, and otherwise as provided by law.”

California Government Code Section 16.5 addresses using an electronic signature in written communications with a public entity.

Government Code Section 16.5 provides, in part:

“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. The use of a 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 California Secretary of State.”

California Code of Regulations, Title 17, Section 50607 provides, in part:

“When a regional center enters into a contract with a service provider, the contract shall include, but not be limited to, the following general provisions: (b) a contract provision requiring a signature by authorized representatives of all contracting parties.”

## **IMPLEMENTATION**

An electronic signature is considered valid if the signatory understands that an electronic signature is being used, consents to the use of an electronic signature, intends for the signature to have the same legitimacy as a handwritten signature, and complies with the requirements in the UETA and Government Code section 16.5.

An electronic signature is acceptable if the signature is contemporaneous (i.e., current). However, using a stored signature stamp or electronic signature file to authorize services or authenticate a document is not permissible, as it does not meet the standards defined here.

An electronic signature process should maintain a certain level of security. The following information will serve as guidelines for ensuring verification and authentication of electronic signatures:

- Through access control and an audit trail, the system should provide reasonable assurance that the signature, and signee, are authorized to attest.
- The system should contain restrictions and procedures to prevent an individual’s use of an electronic signature after the individual leaves or terminates employment. This should be done immediately upon notification of the change in employment status.
- Procedures must enable all parties to correct documents that were signed electronically. Methods should include history of changes, if needed.
- A corresponding policy and management structure should support the computer hardware that delivers the information.

## **FOR MORE INFORMATION**

Contact the Regional Center Branch at (916) 651-6309 if you have any questions.