



State of New Hampshire Judicial Branch

e-Court Policy #7 (Electronic Signature Policy)

Issue: (State the issue and whether it is specific to certain level of court or case type)

How must attorneys, litigants, judges, and court staff sign electronic documents so that those documents will be accepted in the New Hampshire e-Court Project as signed original documents?

Discussion: (Provide the factual setting or context for the issue)

As part of the NH e-Court Project, a committee on Signatures, Notaries, Certifications and Redactions (SNCR) was established. The NH e-Court system needs the capability to allow authorized parties to sign court documents electronically. The committee agreed that an electronic signature shall be considered the functional equivalent to a handwritten signature produced on paper if it meets certain requirements. Requirements need to be set for signatures both by a judge and clerk, for court-issued documents and for signatures on documents filed by person's registered with the NH e-Court system.

Authorities: (references to statutes, rules, codes or administrative orders pertinent to the issue)

RSA 294-E Uniform Electronic Transactions Act

Alternative Solutions: (list all identified alternative solutions for the issue)

RSA 294-E:2, VIII provides that an electronic signature may be represented by “an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.”

Position/Recommendation: (does the NH e-Court Advisory Committee have a recommendation on this issue)

SNCR made the following recommendations for electronic signatures:

A. Original Document Deemed Signed: The electronic submission of a document by a NHJB registered filer shall be considered a signed original if:

1. Document is electronically signed by the registered filer in either one of the following ways:
 - (a) The typed symbol /s/followed by the typed name of the registered filer submitting the document;
Example: /s/John Smith,
or
 - (b) A graphic representation of the filer's actual signature.
2. Electronic signature is accompanied by the following information:
 - Name (in addition to name typed as part of electronic signature in option (a))
 - Law Firm (for attorneys only)
 - NH Bar Association Registration Number (for attorneys only)
 - Address
 - Telephone Number
 - E-mail Address
3. When multiple signatures are required on a document, each person named as a signer of document shall either:
 - (a) Sign in one of the ways a filer signs document described above; or
 - (b) Authorize the filer to sign document on his or her behalf. The filer shall represent having obtained approval to sign for another signer named in document as follows:
Typed symbol /s/followed by the typed name of the other signer;
Followed by, "Signed by [filer's name] with permission of [other signer's name.]"

Example: /s/ Bob Jones

Signed by John Smith with permission of Bob Jones

- (c) The electronic signature of each named signer shall be accompanied by the same information required to accompany the filer's electronic signature described above. When signing with permission for another named signer, the filer's information shall accompany only the filer's own signature.

B. Significance of electronic signature:

- 1. An electronic signature, meeting the requirements described above, shall be considered the functional equivalent to a handwritten signature produced on paper.

C. Court issued electronic documents:

- 1. Judge's Signature - A document requiring a judge's signature shall be deemed signed if it bears one of the following:
 - (a) The typed symbol /s/ followed by the typed name of the judge; or
 - (b) A graphic representation of judge's signature.
- 2. Clerk's Signature – A document requiring a clerk's signature shall be deemed signed if the source of the electronically issued document is authenticated by metadata and the document bears one of the following:
 - (a) The typed symbol /s/ followed by the typed name of the clerk;
 - (b) A graphic representation of clerk's signature; or

D. Signature Challenge: Any party to a case may challenge the authenticity of the signature on an electronically filed document by filing an objection within a reasonable time after discovery that the document is not authentic.

Decision: The NH e-Court Advisory Committee and the New Hampshire Judicial Branch Administrative Council both recommended that the New Hampshire Supreme Court adopt the SNCR recommendation. The Supreme Court adopted the recommendation.