

CLIENT ALERT

September 7, 2022

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September 7, 2022

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USCIS MAKES COVID-19 SIGNATURE POLICY PERMANENT

by Alexandra Crandall

Introduction

At the beginning of the COVID-19 pandemic, USCIS announced several “flexibilities” to facilitate immigration filings in the face of significant logistical challenges. One of those flexibilities was a much-needed suspension of the “wet ink” signature requirement for certain immigration forms.

After sustained success and positive feedback on what was supposed to be a temporary rule, USCIS announced on July 25, 2022 that the “reproduced signature flexibility” would become permanent, effective immediately.

While this change is, of course, welcome, USCIS has still implemented requirements for signatures that should be carefully considered when seeking immigration benefits.

Who is permitted to sign for an application, petition, request, or other filed documents?

The person seeking the immigration benefit must sign their own request before filing it with USCIS, except in limited circumstances. In providing a signature, the person affirms that they have authority to sign the document, have knowledge of the facts being represented in the document, and testify to the truth of those facts.

For business or government entities, the request must be signed by an authorized signatory. A person is “authorized” so long as the legal entity has given that person permission to sign on the entity’s behalf. Signatories may include the following:

- An executive officer with authority to act on behalf of a corporation
- A managing partner or managing member of an LLC or LLP
- A sole proprietor (Note: a sole proprietor is the only person authorized to sign on behalf of the sole proprietorship)
- An authorized partner of a partnership
- An attorney employed in an employer-employee relationship by a corporation as its legal representative
- A person employed within the entity’s human resources department
- Any employee who has the authority to legally bind the entity to the attestations made and the terms of the specific request
- If USCIS questions the authority of a signatory to bind a legal entity, it may issue a Request for Evidence (“RFE”).

The following are some of the exceptions to the rule that the person seeking the immigration benefit must provide a signature:

- **Minors.** A parent or legal guardian may sign filings benefitting children under age 14. Children 14 or older should sign their own petition, application, or request. If a parent signs, evidence of the parent-child relationship should be included with the form (birth certificate, adoption decree, etc.)
- **Persons who are mentally incompetent.** Filings benefitting those who have been found mentally incompetent may be signed by a legal guardian appointed by a proper court or public authority. Documentary proof of the guardianship should be provided with the filing (official letters of guardianship or order issued by a court or agency authorized to do so).
- **Power of Attorney.** USCIS only accepts a Power of Attorney (“POA”) that is “durable” and in the place of an incapacitated adult. No court documents are necessary for proof, but the POA should submit a copy of the durable POA document and evidence showing that all conditions have been met that give the signatory the authority to sign on behalf of the incapacitated adult.

What makes a signature valid?

Although USCIS no longer requires original “wet ink” signatures, electronic signatures are not permitted. If the original signature page is not provided to USCIS, then the signature page must be a reproduction of the handwritten “wet ink” signature unless otherwise specified. USCIS will reject a signature created by a typewriter, computer word processor, stamp, or other similar methods.

Although the signature page needs to be a reproduction of the original signature, the signature itself need not be legible. It can even be a handwritten “X” or a similar mark in ink (including a fingerprint). Abbreviated signatures are also acceptable, assuming that the signatory typically signs their name in that manner.

USCIS submissions filed electronically can present an exception to this rule, and typed signatures may be permitted. Signatories should follow form instructions to ensure that any electronically-submitted forms are properly signed.

What happens if USCIS rejects a signature that has been submitted?

USCIS does not allow applicants, petitioners, or requestors to cure what it deems an “improper signature” and will return the entire package if the signature is not sufficient. Even if USCIS initially accepts a request for adjudication but later determines that the submission has a deficient signature, USCIS will issue a denial decision.

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Once the package is rejected, the only option is to re-submit the package with a valid signature. If USCIS issues a denial decision based on its finding of a deficient signature, the applicant, petitioner, or requestor still has all motion and appeal options and rights that would otherwise be available, depending on the form at issue.

ABOUT THE AUTHORS



Alexandra Crandall is an attorney at Dickinson Wright in Phoenix. She practices business immigration, assisting employers with the preparation of immigrant and non-immigrant petitions to maintain their foreign national workforce. Prior to joining the firm, Ms. Crandall served as a Judicial Law Clerk to the Honorable Jennifer B. Campbell at the Arizona Court of Appeals. She can be reached at 602.285.5074 or acrandall@dickinsonwright.com. Her bio can be accessed [here](#).