

ELECTRONIC ARCHIVING OF PAPER ORIGINALS

Legal Framework for Electronic Archiving

Although some countries require certain types of documents to be kept and archived in their original paper form, for most categories of documents, including HR-related records, there is no such requirement, and it is generally acceptable to use



electronic versions of paper records (i.e., scanned copies of paper originals) during most government agencies' inspections and audits or in court proceedings.

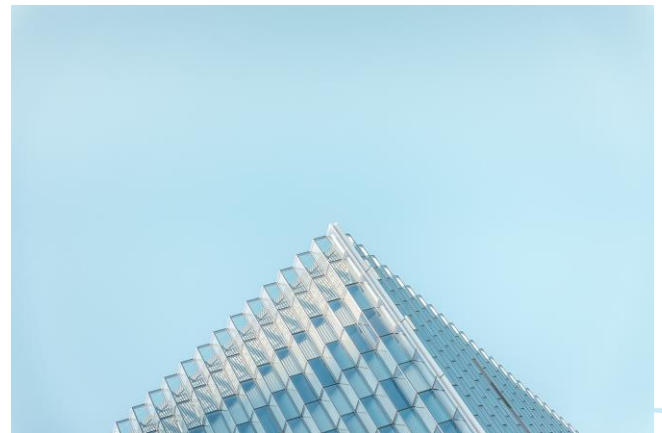
The evidential or probative value of electronic versions of paper records may be more easily challenged

before a court than it would be for the originals. This is mainly because the original records could be tampered with or changed before being scanned, and, unless proper technology has been used (e.g., encryption and timestamping), it may not be easy to detect such changes from a scanned copy. In specific situations, it may be good practice for employers to retain archives of paper originals in the event such originals would be requested by a specific investigator, auditor, judge or authority.

Are electronic scanned copies of paper originals legally valid?

Electronic scanned copies are legally valid in the Philippines except in cases where the law specifically prohibits copies and requires a record to be retained in its original form. In that case, the original version must be maintained (whether paper or electronic).

Generally, there is no law in the Philippines prohibiting keeping HR-related documents in electronic form. That said, Rule X of the Rules Implementing the Labor Code shows that employee time records are expected to be kept in paper form. Similarly, under Section 6, Rule X of the Rules Implementing the Labor Code, employers are required to pay employees by means of a payroll wherein certain information is individually shown in a paper/payslip so that employees can verify their salaries and mandatory deductions. Please note though that this is an old rule that did not take into account the advent of technology. In common practice, as long as the employer can show proof, for instance, of payment, whether in electronic form or otherwise, then electronic records are generally considered allowed.



An employer or person who seeks to introduce an electronic copy in a legal proceeding has the burden of proving the record's authenticity (Section 1, Rule 4 and Rule 5 of Supreme Court A.M. No. 01-7-01-SC or "Rules on Electronic Evidence"). For an electronic copy to be considered the equivalent of an original document under the Best Evidence Rule of the Rules of Court, it must be a printout or output readable by sight (or other means), which is shown to accurately reflect the data.

Before an electronic HR-related document is offered as evidence, its authenticity should be proved by any of the following:

- by evidence that it had been digitally signed by the person purported to have signed the document;
- by evidence through other appropriate security procedures or devices (as authorized by the Supreme Court or law); or
- by evidence showing the record's integrity and reliability to the satisfaction of the judge. (Section 2, Rule 5 of the Rules on Electronic Evidence).

Are there any legal requirements for electronic archiving systems (EAS)?

If the integrity of an electronic archiving system in a legal proceeding is questioned, it must be established that the system continually maintained

the integrity of the record and there was also no reason to doubt the integrity of the system.

In addition, it must be established that the data was recorded and stored in the usual manner and through the ordinary company procedures followed by an individual who isn't a party to the legal proceedings and didn't "act under the control of the party using the record (Electronic Commerce Act of 2000, Ch. II, Sec. 11)."



HR Best Practices: The full electronic archiving era is approaching, but for now it is not possible to guarantee that all paper documents can be destroyed. Indeed, the acceptance of digital copies remains subject to the discretion of the judge.

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