

# **American Association of Law Libraries**

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## **When Is the Law THE Law?**

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# AALL's Vision and Core Values

- To ensure equitable and permanent public access to authentic legal information.
- Government information, as a valuable public good created at taxpayer expense, should be:
  - Comprehensive
  - Trustworthy and reliable
  - Accessible to all people
  - “Official” and designated as such by statute or rule
  - Preserved and permanently accessible.

# Importance of Electronic Life-Cycle Management

- What is “e-life cycle management”?
  - Creation
  - Version control
  - Finding tools (cataloging, metadata)
  - Citation
  - Authentication
  - Permanent public access
  - Preservation

# 2007 Report on Authentication of State Online Legal Resources

- How trustworthy are state-level primary legal resources on the Web?
- Are states and the federal government doing anything to authenticate and designate as official online primary legal resources?

# 2006 State Authentication Survey

- Goal: to determine which states, if any, have adopted website versions of primary legal resources as *official* and/or *authentic*.
- Six online state sources checked:
  - administrative code
  - administrative register
  - session laws
  - statutory code
  - state Supreme Court
  - intermediate appellate court information, including opinions

# What is Official?

- Mandated or approved by statute or rule.
- An online official legal resource has the same status as a print official legal resource.
- The fixed nature of print, plus multiple copies and wide distribution, ensure that the print official legal resource is an authentic resource.

# GPO's Definition of Authentic

- Content verified by a government entity to be complete and unaltered when compared with the version approved or published by the content originator.
- Authentic text will typically bear a certificate or mark that conveys information as to its certification.
- Digital signatures, PKI & “chain of custody” used for GPO's Federal Digital System (FDsys).

# Key Finding # 1

- *States are discontinuing print official resources and substituting online official sources.*
- The disappearance of print official legal resources without an authentic online substitute threatens trustworthiness of the resources.

## Key Finding # 2

- **Ten states & D.C. have designated as official one or more of their online primary legal resources.**
- 23 sources of law (primarily regulatory) are available in online repositories that are considered “official” ~ none are authenticated.

# Key Finding # 3

- *Eight states have “official traits,” but evidence as to the actual status of the resources is conflicting.*
- The word “official” is not always used on a resource; or,
- “Official” is there, but the online resource isn’t considered as *official* as the print version; or,
- The *official* status is noted with no information as to why it is *official* (e.g., statutory authority or court rule).

# Key Finding # 4

- *States have not been sufficiently deliberate in their policies and practices.*
- States have not considered the issues raised when their only legal resources are not authenticated.
- ARJD Principles for “Official” On-line Documents parallel our findings.

# Key Finding # 5

- *No state's online primary legal resources are authenticated or afford ready authentication by standard methods.*
- *2009 Update: all online opinions on Supreme Court of Ohio's Web site have digital signatures but are not considered official.*

# Key Finding # 6

- *10 states provide for permanent public access to one or more of their online primary legal resources.*
- Problem: an unfunded mandate.

# Conclusions

- Online legal resources are increasingly the sole *official* published source.
- *Official* status requires authentication procedures (digital signatures, PKI, “chain of custody” information).
- The goal is that online legal resources will be as trustworthy as print.



— Site Tools —



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## AALL Leadership on Authentic Legal Information in the Digital Age

### State-by-State Report on Authentication of Online Legal Resources

Are government-hosted legal resources on the Web *official* and capable of being considered *authentic*? The groundbreaking [State-by-State Report on Authentication of Online Legal Resources](#), published by AALL in March 2007, reveals that a significant number of state online legal resources are considered to be official but that states have not yet implemented ready authentication by standard methods. States are increasingly moving to an online only environment for some of their core legal resources, which makes these findings particularly alarming.

#### [State-by-State Report on Authentication of Online Legal Resources Full Report \[PDF\]](#)

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### Authentic Legal Information in the Digital Age: AALL National Summit

To address the authentication issue, AALL convened a National Summit on Authentication of Digital Legal Information in Chicago on April 20-21, 2007.

# Progress Since National Summit

- GPO digitally authenticates online Public and Private Laws and congressional bills.
- NCCUSL Executive Committee approves creating drafting committee for *The Authentication of Online State Legal Materials Act*.
- Hague Conference on Private International Law investigating these issues.