

NALIT 2007 Professional Development Seminar

Authentication of and Permanent Public Access to Electronic Documents

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Importance of Electronic Life Cycle Management

- To ensure that electronic government information is easily located
- To ensure that it is deemed 'authentic' and 'official'
- To ensure that government information of long-term value will be preserved for permanent public access (PPA).

AALL Reports on the Electronic Life Cycle

- 2003 AALL 50-State Report on Permanent Public Access to Electronic Government Information (PPA)
- 2007 AALL 50-State Report on Authentication of Online Legal Resources

Needs of the Legal Community

- Must be able to say ‘what the law is’ for any given period of time
- References to legal authority *must* include a citation to the official version
- Rules of federal, state, and local courts; citation rules of *The Bluebook: A Uniform System of Citation*

Illinois Examples

- There is no official published version of the Illinois Compiled Statutes.
- There is no official published version of the Illinois Administrative Code.
- We can easily obtain legislation online, but the bills and laws are not official and cannot be authenticated.

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.
- Encryption, digital signatures, PKI & “chain of custody” planned for GPO's Future Digital System (FDsys)
- New GPO Pilot: Authenticated Public and Private Laws of the 110th Congress

Key Finding # 1

- ***States are discontinuing print official resources and substituting online official sources.***
- This trend will continue.
- State agencies believe they are serving citizens best by providing online access to legal sources.
- State agencies save print and distribution costs by publishing only online.

Online Versions Are the Sole *Official* Resource

- 5 states – Alaska, Indiana, New Mexico, Tennessee and Utah – give official status to their online legal resources
- None are authenticated and only Utah requires PPA
- 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.*
- Alaska, Indiana, Maryland, Michigan, Minnesota, New Mexico, New York, Tennessee, Utah and Virginia & the District of Columbia
- 23 sources of law (primarily regulatory) are available in online repositories that are considered *official*

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 acknowledged important needs of citizens and researchers who seek government information.
- States have not considered the issues raised when their only legal resources are not authenticated.
- New ARJD Principles for “Official” On-line Documents parallel our findings.

Our Recommendations

- Provide a clear statement of the *official* status and source of authority for same.
- Use the designation *official* with care, to avoid confusion.
- Titles for online and print should be consistent.
- Identify print *official* sources and tell where to find them.
- Resolve and communicate differences in currency between print and online.

Our Recommendations (cont'd)

- Identify source of data, its “chain of custody” and relevant processes.
- Prominently display any representations and disclaimers, and provide the specific scope of such.
- Develop thorough policies, procedures and rationales.
- Address *official* status, authentication and PPA for online resources.

Key Finding # 5

- ***No state's online primary legal resources are authenticated or afford ready authentication by standard methods.***
- Minnesota, Ohio, Vermont, and Virginia are beginning to address the problem.
- Eight other states – Alabama, Arkansas, Connecticut, Maryland, Montana, Ohio, South Carolina, and Tennessee – perceive authentication as a specific concern that warrants attention.

Key Finding # 6

- *Since our 2003 report, nine states have provided for PPA for one or more of their online primary legal resources.*
- AK, CA, IN, MN, MT, OH, PA, TX and UT
- In Montana, newly enacted H.B. 132 mandates PPA “regardless of format or medium.”
- “The state library shall coordinate with state agencies and depository libraries to ensure permanent public access to state publications.”

Conclusions

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

National Summit on Authentication of Online Legal Resources

- Convened by AALL, April 20-21, 2007
- 50 delegates from ABA, NCSL, NCCUSL, state courts, state archives, state legislative IT services & federal officials
- Sessions on Authentication Report and findings, technological and legal challenges
- Breakout sessions on challenges and on building alliances
- A great success, but just the beginning!

Where Do We Go From Here?

- Education and outreach – articles, programs
- Technology initiatives – develop standards; possible state initiatives in CT, DE, MN, NM, WA
- Legal initiatives – NCCUSL study committee; changes to court rule; “best practices” manual
- Advocacy – build alliances at state, national and international levels
- More on Summit & follow-up at:
<http://www.aallnet.org/summit/>