

ALABAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS
ADMINISTRATIVE CODECHAPTER 305-0-3
ELECTRONIC RECORDS AND SIGNATURES POLICY

TABLE OF CONTENTS

305-0-3-.01	Legal Basis
305-0-3-.02	Definitions
305-0-3-.03	Use Of Electronic Signatures And Electronic Records
305-0-3-.04	Creation And Retention Of Electronic Records

305-0-3-.01 Legal Basis.

The Alabama Uniform Electronic Transactions Act ("UETA"), Section 8-1A-1et seq. of the Code of Ala. 1975, enacted in 2002, Is intended to facilitate the use of electronic signatures and other records in business, commercial, and governmental transactions. The Act promotes, but does not require, the use of electronic signatures and creation of electronic documents. Section 8-1A-18(a) provides that "each government agency of this state with rule-making authority...may determine by rule whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures." Section 8-1A-12(a) provides that an electronic record meets other state law requirements for record retention if the electronic record both accurately reflects the original document and is accessible for later reference. Section 8-1A-12(f) provides that a record retained as an electronic record satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless otherwise prohibited by law. Section 8-1A-12(g) provides that additional requirements for record retention on agencies may be placed on agencies by the State Records Commission, Local Government Records Commission, or other governmental agencies.

Author: Kevin W. Blackburn, Clay Weaver

Statutory Authority: Code of Ala. 1975, §§8-1A-7, 8-1A-12, 8-1A-13, 8-1A-17, 8-1A-18.

History: New Rule: Published May 28, 2021; effective July 12, 2021.

305-0-3-.02 Definitions.

Except as otherwise specified in this rule, undefined terms have the respective meanings set forth in the Act. Notwithstanding the foregoing, the following words in this rule shall have the following meanings:

(a) Act or UETA. Alabama Uniform Electronic Transaction Act, Code of Ala. 1975, Section 8-1A-1et seq.

(b) ADECA. The Alabama Department of Economic and Community Affairs, as established in Code of Ala. 1975, Section 41-23-1.

(c) Records Disposition Authority or RDA. An agency-level records retention schedule issued by the State Records Commission under the authority granted by the Code of Ala. 1975, Sections 41-13-5 and 41-13-20 through 21

(d) State Records Commission. The State Records Commission, as established in Code of Ala. 1975, Section 41-13-20.

Author: Kevin W. Blackburn, Clay Weaver

Statutory Authority: Code of Ala. 1975, §§8-1A-7, 8-1A-12, 8-1A-13, 8-1A-17, 8-1A-18.

History: New Rule: Published May 28, 2021; effective July 12, 2021.

305-0-3-.03 Use Of Electronic Signatures And Electronic Records.

In accordance with Section 8-1A-18(a) of the Code of Ala. 1975, ADECA hereby establishes that to the fullest extent permitted by the Act and except as otherwise provided in this administrative rule, ADECA will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures. In accordance with Section 8-1A-18(b), ADECA's use of electronic records and electronic signatures will comply with the following requirements:

(a) Provide an identical copy of the original signed and executed document to the signer.

(b) Ensure non-repudiation; that the signer cannot deny the fact that he or she electronically signed the document.

(c) Capture information about the process used to capture signatures (i.e. create an audit trail), including but not limited to:

1. IP address;
2. Date and time stamp of all events;
3. All web pages, documents, disclosures, and other information presented;
4. What each party acknowledged, agreed to, and signed.

(d) Encrypt, end-to-end, all communication within the signature process. Encryption technologies shall comply with state encryption standards, including the requirements that cryptographic modules be validated to the current Federal Information Processing Standards (FIPS).

The information contained in this subsection constitutes the minimum that is required for a valid electronic signature. Any authorized person within ADECA may require additional reasonable information from a signer in order to establish the Identity and signature authority.

Author: Kevin W. Blackburn, Clay Weaver

Statutory Authority: Code of Ala. 1975, §§8-1A-7, 8-1A-12, 8-1A-13, 8-1A-17, 8-1A-18.

History: New Rule: Published May 28, 2021; effective July 12, 2021.

305-0-3-.04 Creation And Retention Of Electronic Records.

In accordance with Section 8-1A- 17of the Code of Ala. 1975, ADECA hereby establishes that to the fullest extent permitted by the Act and except as otherwise provided in this administrative rule, it will create and retain electronic records. Any such electronic records will be retained in compliance with State Records Commission requirements, including the records retention schedules set forth in the ADECA Records Disposition Authority. ADECA may create a retrievable electronic record or copy, by optical scan or otherwise, of paper original documents or make other images or paper copies which accurately reproduce the originals and may destroy original paper documents so copied as specified in the RDA. Electronic copies of original documents, when certified by an authorized ADECA record custodian, are admissible in ADECA administrative proceedings as authorized by the Act as though they were the original document. The electronic document retains the confidential or public document characteristics of the original document.

Author: Kevin W. Blackburn, Clay Weaver

Statutory Authority: Code of Ala. 1975, §§8-1A-7, 8-1A-12, 8-1A-13, 8-1A-17, 8-1A-18.

History: New Rule: Published May 28, 2021; effective July 12, 2021.