

APA-1

TRANSMITTAL SHEET FOR NOTICE  
OF INTENDED ACTION

Control: 471

Department or Agency: Alabama Office of Information Technology

Rule No.: 471-X-1-.04

Rule Title: Electronic Records And Signatures

Intended Action Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? No

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

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Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Laura E. Howell  
Laura Howell

Date

Thursday, August 1, 2024

**REC'D & FILED**

**AUG 1, 2024**

**LEGISLATIVE SVC AGENCY**

ALABAMA OFFICE OF INFORMATION TECHNOLOGY

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Office of Information Technology

RULE NO. & TITLE: 471-X-1-.04 Electronic Records And Signatures

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Amend minimum requirements for electronic signatures to provide for more flexibility in identification and verification of signatory

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

via email; laura.howell@oit.alabama.gov; 10/04/2024

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Friday, October 4, 2024

CONTACT PERSON AT AGENCY:

Laura Howell, General Counsel  
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*Laura E. Howell*

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Laura Howell

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

**471-X-1-.04****Electronic Records And Signatures.**

(1) Legal Basis: The Alabama Uniform Electronic Transactions Act ("UETA"), Code of Ala. 1975, §8-1A-1 et seq., enacted in 2002, is intended to facilitate the use of electronic documents in business, commercial, and governmental transactions. UETA promotes but not require the use of electronic signatures and creation of electronic documents. Section 8-1A-1B(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-13 provides that an electronic record may not be excluded from evidence in court solely because it is in electronic form. Section 8-1A-12(g) provides that the State Records Commission is not precluded by UETA from placing additional requirements for record retention on agencies.

(2) Definitions: Except as otherwise specified in this rule, undefined terms have the respective meanings set forth in the Uniform Electronic Transactions Act. Notwithstanding the forgoing, the following words where used in this rule shall have the following meanings:

(a) OIT. The State of Alabama Office of Information Technology, as established in Code of Ala. 1975, §41-28-1.

(b) 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, §§41-13-5 and 41-13-20 through 21.

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

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

(3) Use of Electronic Signatures and Electronic Records: In accordance with Code of Ala. 1975, §8-1A-18(a), OIT hereby establishes that to the fullest extent permitted by UETA and except as otherwise provided in this administrative rule, OIT 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 §8-1A-18(b), OIT 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~~ Signer identification and verification
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 OIT may require additional reasonable information from a signer in order to establish the identity and signature authority of the signer. OIT may provide additional requirements subject to a State of

Alabama information technology policy as promulgated by OIT.

(4) Creation and Retention of Electronic Records: In accordance with Code of Ala. 1975, §8-1A-17, OIT hereby establishes that to the fullest extent permitted by UETA and except as otherwise provided in this administrative rule, it will create and retain electronic records and convert written records to 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 OIT Records Disposition Authority. OIT 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 OIT record custodian, are admissible in OIT administrative proceedings as authorized by UETA as though they were the original document. The electronic document retains the confidential or public document characteristics of the original document.

**Author:** Taylor Nichols

**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 August 31, 2021; effective October 15, 2021. **Amended:** Published ; effective .