

Indiana

2007 Report by Rick Goheen, University of Toledo LaValley Law Library; 2009-10 Update by Sarah G. Holterhoff, Valparaiso University School of Law Library

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| <p>OFFICIAL STATUS</p> <p>✓</p> <p>No change since the 2007 report</p> | <p>AUTHENTICATION</p> <p>X</p> <p>No change since the 2007 report</p> |
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Two Indiana online legal resources are *official*, as stated on the state government web site. Other legal sources on the web site are *unofficial*, but provide no disclaimers to that effect.

Since July 2006, Indiana’s administrative rules have been published only on the state web site. The Indiana Register and the Indiana Administrative Code are “permanently published” as PDF files on the Internet.

Indiana is not specifically addressing the authentication of online legal resources.

Technology-based methods are not being used to authenticate online versions of primary legal resources.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Since July 2006, the *Indiana Register (IR)* and the *Indiana Administrative Code (IAC)* have been published exclusively in electronic format. Print publication of these titles was eliminated as of that date.

Has the state enacted legislation guaranteeing the public’s permanent access to state online government information since the 2007 report? According to statutory language, the state has been “permanently publishing” the *Indiana Register (IR)* and the *Indiana Administrative Code (IAC)* “on the Internet” since 2006.

Have courts in your state adopted a medium neutral citation system since the 2007 report? No medium neutral citation system has been adopted.

Have there been any other significant changes to the 2007 state summary? Additional changes have been described in the text below.

Since July 2006, the *Indiana Register (IR)* and the *Indiana Administrative Code (IAC)* have been published exclusively in electronic format, in accordance with P.L. 215-2005 and P.L. 123-2006, §§ 21-22 (amending IND. CODE §§ 4-22-8-2 & 4-22-8-5). Print publication of these titles was eliminated as of that date. Now, according to statutory language, the state is “permanently publishing” both these sources “on the Internet,” although there is no explicit statutory statement confirming their official status. The Indiana state web site does not prominently display any information about official status of these two sources, but the *User’s Guide to the -IR- Database* which is provided as a link from the web site (www.in.gov/legislative/iac/faqs.pdf) states (page 18) that both the *Indiana Administrative Code* and the *Indiana Register* are “official publications of the state of Indiana.”

Prior to July 2006, the administrative register was a serial publication, published in print and online (since October 2001, as a PDF copy of the print version). The final issue in that format was volume 29, number 10 (July 1, 2006). Since that time, the *IR* has been replaced by an online database of individual documents, still identified as the *Indiana Register*. Individual rule-making documents submitted by state agencies are each assigned a unique “document identification number” (DIN) and are posted by date on the *Indiana Register* web site (www.in.gov/legislative/register/irtoc.htm). Links to the DIN documents appear on the web page in chronological order, grouped into daily, weekly, and monthly collections. Clicking on one of the chronological links opens a contents page with links to the various types of documents, under the headings of notices, rules (proposed and final), and actions by the governor and attorney general. Individual documents are provided in HTML and PDF formats, and links to certain related documents are included. The online *IR* is searchable by subject (Google search engine), by the DIN or other document number, or by *IAC* or *Indiana Code* citation. An advance search capability is also available. The earlier editions of the *Indiana Register*, as a print publication (volumes 24-29, 2001-2006) and as an annual online list of monthly collections (2006-2008), are archived on the web site and are also available in CD-ROM format (annual subscription with monthly, cumulative updates).

As for citation to the online *Indiana Register*, according to the *User’s Guide to the -IR- Database* (dated 2-18-09), “the Indiana Supreme Court is considering whether any changes are necessary with respect to the Court’s rules for citing documents posted on the -IR- Database Website.” An example of a citation to an online *IR* document (taken from the *User’s Guide*) is: 20060726-IR-317050065FRA. When changing the format of the *Indiana Register*, it appears that no consideration was given to adopting a universal citation format. Instead the state has created a non-standard, somewhat cumbersome, organizational system for its administrative register, which is difficult to use and to cite.

The *Indiana Administrative Code* on the state government web site (www.in.gov/legislative/iac/iac title) includes the text of “all rules of a general and permanent nature.” (Note: Indiana uses the term “rule” rather than regulation.) As of July 2006, the print *IAC* was eliminated and the only version produced is the online one, which presumably has official status. It is updated on an ongoing basis as final rules

become effective and the main page bears the caption “Latest Update” and a recent date. This is in fact a working version of the next IAC edition, which will be the 2010 edition. Just as in the print version, mid-cycle changes to the IAC are not being captured; if the text of an IAC section in the working version is changed during the year, no permanent record of such a change is created. Current code sections are available in WordPerfect and PDF versions. The online *IAC* is searchable by subject (Google search engine), by document number, and by IAC and Indiana Code citation. Annual issues of the *IAC* are archived on the web site back to the 2003 edition and the content of the archived edition is presumably fixed and not subject to subsequent correction by an agency. The statutory requirement of “permanently publishing” the administrative code on the Internet starting with July 2006 provides for permanent public access. From 2003-2005, the *IAC* was also produced in CD-ROM format, with copies available for purchase. That format was discontinued when online publication began in 2006. Thomson West publishes an unofficial print edition of the *IAC*, but that is not mentioned on the web site.

Regarding authentication, the current and archived editions of the online *IAC* include a link to a Certificate of Authenticity for the edition, which certifies that the material submitted for publication by state agencies and boards has been properly endorsed by the Legislative Services Agency as being accurate and complete at one specific point in time. Although authentication is an important aspect of declaring electronic records and publications to be official, at this time Indiana is not authenticating the *IR* or the *IAC* through technologies such as encryption, public key infrastructure, or digital signature. However, the entire content of the both databases is refreshed every 30 minutes with a secure, back-up server, which is in a separate location from the live server. Also, a tape of the files is made every week and a CD of all files is created each week.

Also linked from the “Law and Administrative Rules” web page (www.in.gov/legislative/ic_iac/) are the *Acts of Indiana* and the *Indiana Code*. The annual *Acts* compilation is the session law version of state statutory law. The same database is used to produce both a print version and an online version. The most recent full session (2008 at the time of this writing) is available as a PDF in the legislative section of the Indiana website. The PDF file for the *Acts 2008* is over 3200 pages, and is a very large 16 MB download. The PDF is indexed by P.L. number on the Acts front page and there is also a link to the subject index (12 PDF pages) from the print version. There is no evidence of technology-based authentication, but a link is provided from the front page to a certificate of authenticity, signed by the Speaker of the House and Senate president pro tem, which is part of the original print document. This certificate states that the public laws of the particular session “have been compared with the enrolled acts from which they were taken and have been found correctly printed.” Links to PDF versions of the annual *Acts* compilations back to 2000 are also available on the web site. The *Acts* for these years have also been produced in CD-ROM format.

The online *Indiana Code* provides no statement regarding its status, but presumably this is considered to be an unofficial version, with the print *Indiana Code* being the official one. A note appears at the top of each page, stating that the information is “maintained by

the Office of Code Revision Indiana Legislative Services Agency.” There is no statement of authenticity. The Table of Contents on the opening page provides links to individual files of the 36 titles. These titles are sub-divided by article and chapter into many hundreds of smaller files, which are accessible in either HTML or PDF format. The search function available for the code (powered by Google) offers searching by subject/keyword and by code citation, with results retrieved in HTML format. The online *Indiana Code* lacks the print version’s introductory explanatory material regarding currency and the significance of headnotes and history lines. When accessed in mid-June 2009, the Table of Contents page displayed a notice that “This version of the Indiana Code is current through the 2008 Regular Session of the Indiana General Assembly. This version has NOT been updated to reflect changes made by the General Assembly in the 2009 Regular Session. The Indiana Code data base is being updated. To determine if a section of the Indiana Code was added, amended or repealed in 2009, click the Table of Citations Affected hyperlink below...” No archive of earlier statutory codifications is available on the web site. The *Indiana Code* was produced in CD-ROM format for the years 2003 through 2006; since 2007 it has been available in DVD format.

The web page of the Indiana Judiciary provides electronic access to opinions of the Indiana Supreme Court and Indiana Court of Appeals (www.in.gov/judiciary/opinions/). No notice is provided regarding the *official* status of the opinions or their *authenticity*. The site does not refer to the print *North Eastern Reporter*, which is designated as the official reporter of the Supreme Court and the Court of Appeals by court rule (Ind. R. App. P. 56 (c)). Appearing on the first page of each opinion is a “filed” stamp that notes the date and time of filing. No indication is given that the opinions are unofficial and subject to modification and correction by the courts. The “current” section on the web page contains new court opinions for one week after their initial online publication date. There are two archives of older opinions. Opinions more than one week old but more recent than June 6, 2005, are published in an Archived Opinions file in PDF format, arranged in reverse chronological order. Older opinions (prior to June 6, 2006, and extending back to 1997) are posted in a separate archive of previous opinions and are provided in both HTML and either Word or WordPerfect formats. Opinions can be searched by keyword using the search function available in the upper-right corner of each page on the site. Indiana courts have not yet adopted medium neutral citation format.

Members of the Indiana legal community, including law librarians and representatives of the state bar association, have expressed concern about the problematic situation with the official status and authentication of online primary legal sources in the state, particularly with the *Indiana Register* and the *Indiana Administrative Code*. There have been some efforts by individuals to lobby for changes to clarify the official status of primary legal sources on the state government web site (such as addition of disclaimers and references to the official print sources) and to address the issue of authentication. One solution for the *IR* and *IAC* that has been suggested by some is resuming print publication until problems with the organization, authentication, and preservation of the online versions can be resolved.