

Maryland

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OFFICIAL STATUS



AUTHENTICATION



Two Maryland online legal resources are considered *official*. One of the resources directly states it is *official*.

The online version of the Maryland Register claims that it is “an official publication of the State of Maryland.” While applicable statutes require the Division of State Documents to make the register accessible online (MD. CODE ANN., STATE GOV’T § 7-206.2), only the most recent six issues are available. Maryland’s online statutory code does not declare itself to be official. Section 10-201 of the Courts and Judicial Proceedings article of the Annotated Code of Maryland provides that “[t]he Code of Public General Laws compiled, updated, and maintained by the Department of Legislative Services” is evidence of the state’s laws (along with the LexisNexis and West codifications). Presumptively, this means the online version, as no print copy is published by the state. The brief notation given on the Department of Legislative Services website, however, does not directly reference the statute.

Maryland is not addressing the authentication of online legal resources.

There is no technological measure, policy or statute currently in place that addresses authentication. However, this is an issue of statewide importance, as there is a growing need to determine how electronic state publications should be acquired and distributed under the State Depository Library Program. See MD. CODE ANN., EDUC. §§ 23-301 to -304.

Most of Maryland’s online legal resources are not *official* versions and none of the sources are *authenticated*. While there are substantive disclaimers and notations regarding update cycles, in certain instances better wording on websites might provide greater clarity and information. Maryland’s legal information statutory structure presently is a patchwork of legislative approaches. Therefore, to effectively designate

online versions as *official*, legislation is called for to amend some of the current statutes that seem to envision a more print-oriented world.

One exception to Maryland's rule about online versions not being *official* is the Maryland statute codification. Section 10-201 of the *Courts and Judicial Proceedings* article of the *Annotated Code of Maryland* declares that "[t]he Code of Public General Laws, as compiled, updated, and maintained by the Department of Legislative Services" is evidence of the state's laws," so considered "in all courts of the State and by all public offices." The Department of Legislative Services produces only an online version of the code and no print copy. The website notes that the database text contains the "actual words of the codified law." While this is not technically untrue, one might wonder why the notation does not simply state that the text *is* the codified law. This online version of the code – Maryland's only *official* electronic version – lacks several features that would make for easier and more effective use. First, only the current version is available. Second, there is no authentication mechanism. This is problematic insofar as one might use the statute text from a particular year and then be unable to find it again in later years. One might even be unable to prove with certainty that the current version had not been changed within the past few months.

Maryland's session laws, the Laws of Maryland, are available online at two locations. The Department of Legislative Services offers those from recent years. However, access is somewhat cumbersome because searchers can only find chapter numbers by accessing bills first. The second location, the Maryland State Archives, provides free copies of scanned session laws through 1975. These high-quality TIF images will likely be viewed by most people, informally at least, as *official* and *authentic*, in spite of the fact that the images bear no watermark or digital signature. Furthermore, the available information on the State Archives' website would probably give users a general feeling of reliability about the scanned images.

Maryland's court opinions, while readily available online, consist of only copies of slip opinions. A prominent disclaimer to that effect is placed at the top of the web page. Maryland's statutes regarding the publication of opinions seem to envision the process to be print-based. *See* MD. CODE ANN., CTS. & JUD. PROC. §§ 13-201 to -204. As long as the *Maryland Reports* and *Maryland Appellate Reports* are published in print, these titles will remain the *official* versions.

The Code of Maryland Regulations (COMAR) is online for public use by statutory mandate. *See* MD. CODE ANN., STATE GOV'T § 7-206.2. Therefore, the statute arguably calls for this to be provided in perpetuity. Interestingly, the compiler, the Division of State Documents, states that only the printed text is the *official* version and provides a noticeable disclaimer to that effect on the COMAR website. The disclaimer references section 7-217 of the *State Government* article of the *Annotated Code of Maryland* as providing justification for the print version's *official* status. However, that section itself does not address document format, so it seems that this statute by itself would act as no impediment to making an online version *official*.

To the extent other statutes related to section 7-217 do make reference to print versions of COMAR, there would likely be some uncertainty as to the *official* status of an online copy unless there were legislative changes. For example, section 7-211 of the *State Government* article states that COMAR must be printed. Additionally, section 7-205 of the same article refers to the creation of permanent supplements for COMAR, mandating either printed looseleaf supplements to be distributed on a regular basis or “other appropriate permanent supplements.” If *official* status were bestowed upon the current online version of COMAR, then it might be best for the database to contain some type of authentication measure, which is not now in place.

According to its publisher, an *official* version of Maryland’s administrative register is available online for free. Section 7-206.2 of the *State Government* article of the *Annotated Code of Maryland* requires the Division of State Documents to make available to the public no-fee, “direct on-line searching of” both COMAR and the Maryland Register. The Division treats the online version of the Maryland Register as *official*, and its website states “[t]his is an official publication of the State of Maryland.” As noted above, however, the online version of COMAR is regarded as unofficial. Citing section 7-217 of the *State Government* article, the Division states on the website for the administrative code that “the printed version of COMAR is the official and enforceable text.” Applicable statutes do not clearly support this disparate treatment of the resources. In fact, section 7-206 of the *State Government* article, which describes the Maryland Register, refers to print characteristics of the resource, including page numbers and issue dates turning upon its deposit in the United States mail.

Maryland does not have a unified statutory framework for ensuring that electronic legal information resources are *official* or *authenticated* versions. As more users demand online access to such materials, state government officials may wish to begin discussions about the necessity and desirability of such legislation.