

New York

[2007 Report](#) and 2009-10 Update by Anita Postyn, New York City Civil Court – Queens County

<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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An “Official Reports Service” makes the Web version of court opinions, considered official, available from the database of the print *official* publisher. None of the state’s other online resources investigated here are *official*.

Official reports of New York’s Court of Appeals and Appellate Division are now available for no-fee online public access through an agreement between the New York State Law Reporting Bureau and Thomson West. There is currently no online official version of the state statutes, session laws, or administrative rules publications. However through an agreement between the Department of State and Thomson West, an unofficial version of the complete New York State administrative regulations is now available free of charge through a link on the Department of State website. In addition to the New York State Register information currently available on the Department of State website, West now publishes an unannotated version of the full text of the New York State Register.

New York is not specifically addressing the authentication of online legal resources.

There is no evidence the state is presently considering computer-based authentication methods for legal sources on the Web.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? The state has not eliminated any print publications in favor of online since the 2007 report.

Has the state enacted legislation guaranteeing the public’s permanent access to state online government information since the 2007 report? The state has not enacted any legislation concerning permanent public access to online governmental information. However, New York State has taken initiatives toward developing technologies to

address the issue of permanent public access including an update in 2007 of the ESRA Best Practices Guidelines suggesting the State "provide access to e-records in the form the user prefers"; publication of a 2008 report outlining steps to "help the state ensure that government electronic records are preserved and accessible to the public" as well as participation in a multi-state digital preservation project whose aim is to develop a system to collect, store and preserve electronic state records.

Have courts in your state adopted a medium neutral citation system since the 2007 report? New York has not adopted any medium neutral citation system since the 2007 report. However, the issue of vendor neutrality is discussed in the state's openness strategy report for e-records appearing below.

Have there been any other significant changes to the 2007 state summary? In 2007, New York again revised its Best Practices Guidelines-Electronic Signatures and Records Act (ESRA) (available at: <http://www.oft.state.ny.us/Policy/ESRA/esra.htm>). Online legal resources are still not directly addressed but issues of production and retention of authentic copies of e-records as well as maintenance of authenticity and integrity of electronically signed e-records are discussed as desired outcomes.

In 2007, legislation was passed authorizing the Department of State to make available online to the public free of charge, an unofficial version of the New York State administrative regulations (Ch. 407 of the Laws of 2007, now codified at N.Y. S. Exec. Law s106-a). In 2008, the regulations were posted on the Department of State website and are available through a link on the homepage. Although required by statute to maintain a link to the state website containing the link to NYCRR, links were observed on some but not on all agency websites. The regulations are available at <http://government.westlaw.com/linkedslice/default.asp?SP=NYCRR-1000>. A disclaimer appears on the website that the contents are to be used for information purposes only, accuracy of the contents is not guaranteed and directing users to the official version available through Thomson West.

Since 2007, certain agency websites have changed their disclaimers, addressing the issues of accuracy and certification. The Department of Health, in addition to stating that the version of the regulations available on its site is not official, now also addresses the issue of accuracy of its contents and directs users seeking reliance upon the regulations to the official print version available from West Publishing. The Banking Department also posts a similar disclaimer. Certification is addressed by the Department of Environmental Conservation which states in its disclaimer that its regulations are "not" certified copies and are to be used as a quick reference tool, "not" for legal interpretation. No other agency websites directly address the issue of certification in their disclaimers.

Legislation was introduced in 2007 in seven states, including New York, to address the issue of access to and preservation of electronic state documents. The format in which records were created and maintained was a major stumbling block to providing full public access to electronic state documents. Due to the problematic nature of the original

legislation which required state agencies to "accept all documents received in open document format for office applications", Minnesota, the first state to pass this type of legislation, passed a study bill. In August 2007, New York, the second and only other state to pass this type of bill, passed a study bill similar in language to the Minnesota bill. Ch. 477 of the Laws of 2007, now codified at N.Y. State Tech. Law § 305 (4), directed the New York State Office for Technology to commence a study addressing the issues of creation, maintenance and preservation of electronic documents in a manner encouraging appropriate government control, access, choice, interoperability and vendor neutrality.

In May 2008, the New York State Office for Technology and the New York State Archives issued a study report entitled "A Strategy for Openness: Enhancing E-Records Access in New York" to address these issues available at <http://www.oft.state.ny.us/policy/ESRA/erecords-study.htm>. Some key recommendations for the State Legislature were that the state not mandate a specific technology for creation or preservation as technologies change and become outdated, and that an Electronic Records Committee (ERC) be created to ensure that openness to technology be recognized by the vendor community as a long term goal of the state.

Legislation is currently pending to amend the public officers law by creating the "Electronic Access to Records Act" (A03584/2009; A01050/2009). However, budgetary issues will likely delay consideration of these bills and any openness strategy efforts as proposed in the study to address possible permanent public access to electronic records would be on hold.