



Law Librarians of New England

A chapter of the American Association of Law Libraries

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Members of the Panel:

Thank you for this opportunity to gather information from the library community on the proposal to produce only an electronic version of the Supreme Judicial Court and Appeals Court decision.

My name is Ellen Minot Frentzen, Associate Director for Administration and Access Services at the Boston University's Fineman and Pappas Law Libraries, and I am here today on behalf of Law Librarians of New England (LLNE) as the current Vice-President and incoming President. LLNE members work in college and university libraries, law schools, law firms and trial court libraries throughout New England. LLNE's hope is that the principles of the Uniform Electronic Legal Material Act (UELMA) will be a guide as the Supreme Judicial Court and Reporter of Decisions explore the ways to have the court decisions be published officially in only an electronic version. Although UELMA has not been passed by the Legislature, the principles of UELMA would ensure that the court decisions will be preserved and made permanently available to the public in an unaltered form. LLNE, along with the Uniform Law Commission, the American Association of Law Libraries and the American Bar Association, is a strong supporter of UELMA.

UELMA provides a framework to guarantee this same level of authority as the print. Specifically, official electronic legal material must be:

1. *Authenticated*, by providing a method to determine that it is unaltered;
2. *Preserved*, either in electronic or print form; and
3. *Accessible*, for use by the public on a permanent basis.

With the Internet, more material is available online and can be searched from any computer or mobile device. In law libraries, patrons have come to expect access to

information anytime and from anywhere. They appreciate government efforts to make the law available online. However, online publication has also raised concerns about ensuring that digital legal information designated as official has the same level of authority and reliability as the current official print version. If online legal material is not authenticated, researchers, be they lawyers, students or members of the public, may not be able to rely on electronic information; courts may not accept cites to online authority; and scholarship publishers may not accept electronic citations. The appellate court decisions must be authenticated.

UELMA does not mandate any particular technology. Preservation for the future needs to address the reality that software will evolve and that whatever software is utilized that newer software will ensure court decisions written today can be read digitally in the future. Preservation may still include having print versions available in several locations. National organizations like the American Association of Law Libraries and the Uniform Law Commission are already looking at best practices (and also what is not working well) in states already implementing UELMA.

Free digital access to the court decisions will be helpful to people and to libraries. However, not all areas of Massachusetts have equal access to high speed Internet or can afford such access or do not have the technology such as tablets, computers or smart phones. If the Reporter of Decisions moves forward with only electronic decisions, there should be information on the website as to where people can obtain access to court decisions such as public or public law libraries. It may be that library staff will need to guide people on how to download and print decisions.

Even though the Reporter of Decisions is only statutorily mandated to publish the appellate court decisions, law library patrons also want to see decisions from the court they are before such as Probate and Family and the Housing Court. So as the Reporter of Decisions proceeds with the appellate decisions, thought should be given as to whether the process by which the court decisions are authenticated and made public can also be a model for making lower court decisions available when appropriate.

Books have met the principles of authentication, preservation and being accessible to the public for centuries so it is a challenge to ensure that digital versions will continue to be available for centuries.

Thank you to the members of the panel for your work on this issue and for giving me the opportunity to express my views and the views of LLNE. Please let us know if there is any way that we, as information professionals, can assist the panel.