

APA-3

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached are correct copies of rules as promulgated and adopted on the 10th day of February 2022 and filed with the agency secretary on the 10th day of February 2022.

AGENCY NAME: Department of Education

_____ Amendment New _____ Repeal (Mark appropriate space)

Rule No. 290-1-1-.15

(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

Rule Title: Electronic Signatures and Records Policy

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

The Rule was adopted without changes.

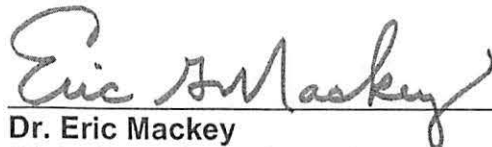
NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XI,
ISSUE NO.3 AAM, Dated December 30, 2021.

Statutory Rulemaking Authority: Sections 16-3-11 through 16-3-14 Ala. Code (1975)

(Date Filed)
(For LRS Use Only)

REC'D & FILED
FEB 10 2022

LEGISLATIVE SVC AGENCY



Dr. Eric Mackey
State Superintendent of Education

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

ALABAMA STATE DEPARTMENT OF EDUCATION
STATE DEPARTMENT OF EDUCATION
ADMINISTRATIVE CODE

RULE 290-1-1-.15
ELECTRONIC SIGNATURES AND RECORDS POLICY

(a) Legal Basis.

The Alabama Uniform Electronic Transactions Act ("UETA"), Section 8-1A-1 et seq. of the Code of Alabama 1975, enacted in 2002, is intended to facilitate the use of electronic documents in business, commercial, and governmental transactions. The Act promotes but not require the use of electronic signatures and creation of electronic documents. Section 8-1A-18(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 the Act from placing additional requirements for record retention on agencies.

(b) Definitions.

Except as otherwise specified in this rule, undefined terms have the respective meanings set forth in the Act. Notwithstanding the forgoing, the following words were used in this rule shall have the following meanings:

(1) Act or UETA. Alabama Uniform Electronic Transaction Act, Code of Alabama 1975, Section 8-1A-1 et seq.

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

(3) 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 Alabama 1975, Sections 41-13-5 and 41-13-20 through 21.

(4) State Records Commission. The State Records Commission, as established in Code of Alabama 1975, Section 41-13-20.

(c) Use of Electronic Signatures and Electronic Records.

In accordance with Section 8-1A-18(a) of the Code of Alabama 1975, the Department of Education hereby establishes that to the fullest extent permitted by the Act and except as otherwise provided in this administrative rule, the Department of Education 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 Section 8-1A-18(b), the Department of Education use of electronic records and electronic signatures will comply with the following requirements:

(1) Provide an identical copy of the original signed and executed document to the signer.

(2) Ensure non-repudiation; that the signer cannot deny the fact that he or she electronically signed the document.

(3) Capture information about the process used to capture signatures (i.e. create an audit trail), including but not limited to:

- a. IP address
- b. Date and time stamp of all events
- c. All web pages, documents, disclosures, and other information presented
- d. What each party acknowledged, agreed to, and signed

(4) 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 the Department of Education may require additional reasonable information from a signer in order to establish the identity and signature authority of the signer. The Department of Education may provide additional requirements subject to a State of Alabama information technology policy as promulgated by OIT.

(d) Creation and Retention of Electronic Records.

In accordance with Section 8-1A-17 of the Code of Alabama 1975, the Department of Education hereby establishes that to the fullest extent permitted by the Act 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 Department of Education Records Disposition Authority. The Department of Education 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 the Department of Education record custodian, are admissible in the Department of Education administrative proceedings as authorized by the Act as though they were the original document. The electronic document retains the confidential or public document characteristics of the original document.

Author: Eric G. Mackey

Statutory Authority: Ala. Code §§ 16-3-11 through 13, 16-3-16, 16-23-2, 32-14-23 Title 16, Chapter 46 and Title 41, Chapter 22 (1975), as amended; Code of Ala. 1975, §§8-1A-7, 8-1A-12, 8-1A-13, 8-1A-17, 8-1A-18.

History: New rule filed 10-10-22; effective 3-15-22.