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June 12, 2017

Ms. Jennifer Nou
Committee Chair
Committee on Administration and
Management
Administrative Conference of the United
States
1120 20th St NW, Suite 706 South
Washington, D.C. 20036

Mr. Daniel J. Sheffner
Staff Counsel and In-House Researcher
Committee on Administration and
Management
Administrative Conference of the United
States
1120 20th St NW, Suite 706 South
Washington, D.C. 20036

RE: Adjudication Materials on Agency Websites

Dear Ms. Nou and Mr. Sheffner:

Thank you for the opportunity to provide comment on the Administrative Conference of the United States (ACUS) Committee on Administration and Management's Proposed Recommendation, "Adjudication Materials on Agency Websites."

The American Association of Law Libraries (AALL) commends the Committee for developing the report and recommendations. We believe that it is critical for the federal government to develop and implement processes to ensure that government information is freely and accurately made available for us all now and in the future.

AALL is the only national association dedicated to the legal information profession and its professionals. Founded in 1906 on the belief that people—lawyers, judges, students, and the public—need timely access to relevant legal information to make sound legal arguments and wise legal decisions, its nearly 4,500 members are problem solvers of the highest order. AALL fosters the profession by offering its members knowledge, leadership, and community that make the whole legal system stronger.

AALL's Principles and Core Values Concerning Public Information on Government Websites sets out five core values that we believe are relevant to these recommendations. The core values are:

1. Information on government websites must be accessible to all people.
2. Information published on government websites must be trustworthy and reliable.
3. If an electronic version of legal information is official, it should be designated as such by statute or rule.
4. Information published on government websites should be comprehensive.



5. Information on government websites must be preserved by the entity, such as a state library, an archives division, or other agency, within the issuing government that is charged with preservation of government information.

AALL explains each core value further in the Principles document, attached as Appendix A.

We are pleased to see Core Value 1 and Core Value 4 generally reflected in the Recommendations and commend you for recognizing the importance of dissemination and access to adjudication materials. However, we believe the Recommendations could and should go further. In general, we suggest that the Recommendations emphasize the importance of information life-cycle management, which is reflected in AALL's Principles. As stated in Circular A-130, revised in 2016, "Federal information is properly managed throughout its life cycle, including all stages through which the information passes, such as: creation, collection, use, processing, storage, maintenance, dissemination, disclosure, and disposition."

Specifically, we suggest that the Committee add to its recommendation to urge agencies to make materials accessible by providing links to ensure that information is preserved, that sufficient information is provided to the public to make assessments about the accuracy and currency of legal information published on the website, and that persistent URLs (PURLs) are developed for essential information (Core Value 2). We also suggest adding a recommendation that official information be clearly marked. If the information is not official, agencies should name the official version and direct the user on how to obtain the official version (Core Value 3). We also suggest adding under Recommendation 3 that agencies note whether or not the material posted on their websites is comprehensive.

We commend you for Recommendation 4, which closely mirrors Core Value 1. We suggest adding a recommendation that agencies provide guidance documents to ensure that users understand the material and what is available on their websites (Core Value 1). If an agency has chosen to post only a selection of materials, the agency should clearly state that fact on its website (Core Value 4). We also suggest that language be added to the Recommendations to reiterate records management requirements to which agencies must adhere (Core Value 5).

Finally, we are disappointed that the Recommendations do not include any reference to posting materials on Regulations.gov. AALL strongly endorsed the Committee on the Status and Future of Federal e-Rulemaking's 2008 report, *Achieving the Potential The Future of Federal e-Rulemaking*, referenced in the Recommendations. This included the report's recommendations on governance and public access and participation. The



potential benefits of having one centralized point of access include the ability to assure authenticity, certify material as official, and maintain preservation standards.

Thank you again for the opportunity to comment. If we can provide additional information or assistance, please contact AALL's Director of Government Relations Emily Feltren at efeltren@aall.org or 312.205.8010.

Sincerely,

A handwritten signature in black ink that reads "Ronald E. Wheeler". The signature is written in a cursive, slightly slanted style.

Ronald E. Wheeler Jr.
President
American Association of Law Libraries

Appendix A

PRINCIPLES & CORE VALUES CONCERNING PUBLIC INFORMATION ON GOVERNMENT WEBSITES

The American Association of Law Libraries' *2005-2010 Strategic Directions* identifies five core values for AALL. Three of these core values – the role of the law librarian in a democratic society, equitable and permanent access to legal information, and continuous improvement in the quality of justice – are reflected in the “Principles & Core Values Concerning Public Information on Government Websites,” developed by the AALL’s Access to Electronic Legal Information Committee (AELIC).

Equitable and permanent public access to legal information is the heart of law librarianship. Without equitable and permanent public access to legal information law librarians cannot continue to improve the quality of justice in our free and democratic society. Changes in the way legal information is recorded, disseminated and authenticated are significantly impacting permanent public access to official government pronouncements of current and past statutes, court decisions, administrative actions and even organic documents, such as constitutions.

Previously, a printed book was the gold standard of accurate representation of law as it was made; now law is often captured only in fragile media. Additionally, changes in technology, such as on demand book printing, make it possible for anyone to alter the “letter of the law” relatively inexpensively and easily, thereby subverting the will of the people and our governing bodies. It is more important than ever that law librarians participate actively with our governments to develop and implement necessary processes to ensure that our laws are freely and accurately made available for us all now and in the future.

Thus, AELIC sets out the following “Core Values Concerning Public Information on Government Websites”:

CORE VALUE #1: INFORMATION ON GOVERNMENT WEBSITES MUST BE ACCESSIBLE TO ALL PEOPLE.

- Information must be available without charge.
- Information must be accessible to those with disabilities.
- Government websites that provide access to primary legal information should provide guidance documents to ensure that users of primary legal information understand the context for the document and the relevance and interdependence of legal materials.
- Website navigation should be intuitive and easy to follow.
- Content on government websites should be easily searchable, and there should be clear instructions, including examples, about developing effective searches.
- Information on government websites should be available to all people within the community that they serve, and it is recommended, therefore, that government websites should provide translation services to ensure that non-English speaking residents can use the legal information posted on the website.

CORE VALUE #2: INFORMATION PUBLISHED ON GOVERNMENT WEBSITES MUST BE TRUSTWORTHY AND RELIABLE.

- Appropriate safeguards should be established to protect the integrity and authenticity of materials published in all formats – electronic and print.
- Government websites must provide users with sufficient information to make assessments about the accuracy and currency of legal information published on the website.
- Persistent URLs (PURLs) should be developed for essential information.

CORE VALUE #3: IF AN ELECTRONIC VERSION OF LEGAL INFORMATION IS OFFICIAL, IT SHOULD BE DESIGNATED AS SUCH BY STATUTE OR RULE.

- A certifying mark on each item must be used to designate official information.
- Government entities must establish and maintain a clear chain of custody for all electronic information published on its website.
- If the electronic version of legal information is not official, the government website should name the official version and tell the user how to obtain the official version.

CORE VALUE #4: INFORMATION PUBLISHED ON GOVERNMENT WEBSITES SHOULD BE COMPREHENSIVE.

- Information should be in full text, or, at a minimum, instructions should be provided on how to obtain full text.
- Information should be complete. For example, statutory and regulatory websites must include all statutes or regulations currently in force. If for some legitimate reason portions of a code cannot be made available online, such as image-based information accompanying zoning regulations, that omission must be clearly stated.

CORE VALUE #5: INFORMATION ON GOVERNMENT WEBSITES MUST BE PRESERVED BY THE ENTITY, SUCH AS A STATE LIBRARY, AN ARCHIVES DIVISION, OR OTHER AGENCY, WITHIN THE ISSUING GOVERNMENT THAT IS CHARGED WITH PRESERVATION OF GOVERNMENT INFORMATION.

- Government entities must ensure continued access to all their legal information.
- Archives of government information must be comprehensive, including all supplements.
- Snapshots of the complete underlying database content of dynamic websites should be taken regularly and archived in order to have a permanent record of all additions, changes and deletions to the underlying data.
- Governments must plan effective methods and procedures to migrate information to newer technologies.

Approved by the Access to Electronic Legal Information Committee, February 26, 2007

Adopted by the AALL Executive Board, March 24, 2007