

## A. PUBLIC RECORDS STATUTES

As noted in the Introduction and Glossary of Terms, your state likely recognizes a distinction between “public records,” which may include correspondence, office records, personnel records, etc., and “government publications,” which may be compiled as a means to disseminate government information of educational or public interest. This section addresses statutes that concern public records and, in particular, those that focus on record keeping requirements and retention. The compilation of statutes for your state may combine record keeping requirements with public access provisions or freedom of information laws. Those statutes are addressed in Sections B & C.

1. Does your state have “public records statutes,” as referred to in the paragraph above?

Yes  
 No

a. If “Yes,” cite your state’s public records statutes and the administrative regulations that supplement them.

Public Records, ARIZ. REV. STAT. ANN. §§ 39-101 to 39-161 (West 2002); Department of Library, Archives and Public Records, *Id.* at §§ 41-1331 to 41-1355 (West 1999 and Supp. 2002); Department Of Library, Archives and Public Records, ARIZ. ADMIN. CODE R2-3-13 to R2-3-18 (2001).

b. If “No,” skip this whole section.

Additional comments:

Additional statutes scattered throughout the Arizona code address specific public records or record issues. Examples are: University Records, ARIZ. REV. STAT. ANN. § 15-1640 (West 2002), Silent Witness Program Records, *Id.* at § 12-2312 (West Supp.2002), and Tampering With a Public Record, *Id.* at § 13-2407 (West 2001). Judicial records and documents are addressed in Rules 29, 111, 123 and 124 of the Rules of the Supreme Court. See *id.* at R. SUP. CT. (West 1997 and Supp. 2002). Administrative court rules appear in various Administrative Orders.

The ARIZONA AGENCY HANDBOOK by the Office of the Arizona Attorney General (2001) provides guidelines for agencies regarding public records. See Public Records, 6.1 to 6.7.5 and appendices.

<[http://www.attorneygeneral.state.az.us/Agency\\_Handbook/Agency\\_Handbook.html](http://www.attorneygeneral.state.az.us/Agency_Handbook/Agency_Handbook.html)>.

2. The public records statutes/regulations apply to which of the following branches?

Executive  
 Legislative  
 Judicial  
 Administrative (applying to all agencies, no matter what branch of government)  
 Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

The public records laws apply to “any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or chairman of any public body.” ARIZ. REV. STAT. ANN. § 39-121.01(A)(1) (West Supp. 2002).

Additional comments:

A public body is “the state, any county, city, town, school district, political subdivision or tax-supported district in the state, any branch, department, board, bureau, commission, council or committee of the foregoing, and any public organization or agency, supported in whole or in part by monies from the state or any political subdivision of the state, or expending monies provided by the state or any political subdivision of the state. *Id.* at § 39-121.01(A)(2)). Employees of public officers and public bodies are also bound by the public records laws.

3. Cite to public records statutes/regulations where “public record” is defined.

ARIZ. REV. STAT. ANN. § 41-1350 (West 1999); ARIZ. ADMIN. CODE R2-3-13 (3), (5) and (6) (2001).

Additional comments:

“Records” in § 41-1350 means all books, papers, maps, photographs or other documentary materials, regardless of physical format, including film or electronic media, made or received by a governmental agency according to law or connected with the transaction of business as evidence of the organization, functions, policies, decisions, procedures, operations or other activities, or because of the informational and historical value they contain. All officers and public bodies of the state and its political subdivisions are required to maintain records reasonably necessary to provide an accurate accounting of their official and other government-supported activities. ARIZ. REV. STAT. ANN. § 39-121.01(B) (West Supp. 2002). Few, if any, records in the possession or control of a public officer will not be “public records.” ARIZ. AGENCY HANDBOOK, *supra*, at 6.2.1, citing *Carlson v. Pima County*, 687 P.2d 1242, 1245 (Ariz. 1984).

Arizona case law notes three definitions of public records. The term refers to a record “made by a public officer in pursuance of a duty, the immediate purpose of which is to disseminate information to the public, or to serve as a memorial of official transactions for public reference.” *Salt River Pima-Maricopa Indian Community v. Rogers*, 815 P.2d 900, 907 (Ariz. 1991) (citing *Matthews v. Pyle*, 251 P.2d 893, 895 (Ariz. 1952)). A public record is also one that is “required to be kept, or necessary to be kept in the discharge of a duty imposed by law or directed by law to serve as a memorial and evidence of something written, said or done.” *Id.* Finally, a “public record” is any “written record of transactions of a public officer in his office, which is a convenient and appropriate method of discharging his duties, and is kept by him as such, whether required by law or not.” *Id.* at 908.

Rule 123 of the Rules of the Supreme Court (ARIZ. REV. STAT., *supra*) defines several terms (court, record, closed or confidential) and identifies particular types of court records (criminal history record information, administrative record, and case record).

Types of documents found to be “public records” include: 1) permits and application forms for permits (Ariz. Att’y Gen. Op. I80-097 (1980)); 2) personnel documents indicating number of applicants by race and national origin which exclude personal identification (*Id.* at I80-044 (1980)); 3) records of proceedings of state boards and commissions (*Id.* at I79-316 (1979); *Industrial Comm’n v. Holohan*, 397 P.2d 624, 627 (Ariz. 1964)); 4) property tax valuations and records of appeals to Board of Tax Appeals (Ariz. Att’y Gen. Op. I78-234 (1978)); 5) probate files (*Henderson v. Las Cruces Prod. Credit Ass’n*, 435 P.2d 56, 61 (Ariz. Ct. App.1967)); 6) budgets of the legislature (Ariz. Att’y Gen. Op. 78-76 (1978)), 7) records of expenditures of public monies (*Id.* at 70-1 (1970)); 8) annual corporate reports filed with the Arizona Corporation Commission (*State v. Betts*, 227 P.2d 749, 751-52 (Ariz. 1951); Ariz. Att’y Gen. Op. 61-114-L (1961)); 9) account books of municipalities (Ariz. Att’y Gen. Op. 56-8 (1956)); 10) a county sheriff’s offense report of an assault by a prisoner (*Carlson*, 687 P.2d at 1242), 11) petitions for land annexation by cities (*Moorehead v. Arnold*, 637 P.2d 305, 307 (Ariz. Ct. App.1981)); 12) autopsy reports by county medical examiners (*Star Publ’g v. Parks*, 875 P.2d 837 (Ariz. Ct. App. 1993)); 13) reports of industrial injuries (Ariz. Att’y Gen. Op. I86-090 (1986)); 14) computer back-up tapes of documents and email of employees (*Star Publ’g Co. v. Pima County Attorney’s Office*, 891 P.2d 899 (Ariz. Ct. App. 1994)); and 15) videotapes held by police department (*KPNX-TV v. Super. Ct.*, 905 P.2d 598 (Ariz. Ct. App. 1995)). *See also* ARIZ. AGENCY HANDBOOK, *supra*, at 6.3.

4. Do the public records statutes/regulations address electronic records separately vis-à-vis print records?

Yes

No (Both “Yes” and “No,” as qualified below)

a. If “Yes,” cite to and briefly discuss statutes/regulations addressing electronic records; how are they treated differently?

Statutes dealing with public records and their management in general apply to materials “regardless of physical form or characteristics,” and to items “produced or reproduced on film or electronic media.” ARIZ. REV. STAT. ANN. § 41-1350 (West 1999). The State Library is charged with acquiring and providing access to materials in print, electronic, or any other format. *Id.* at § 41-1331(B)(1) (West Supp. 2002). Generally, there is no statutory distinction between print and electronic public records in terms of maintenance and preservation of the records. Statutes about electronic records may include additional provisions or allow discretionary use of the format by public officers and public bodies. Relevant statutes are broad and inclusive of both print and electronic formats. Newer statutes, discussed in Additional Comments below, are targeting specifically electronic records and publications; as a result, in this long-term period of transition, both “yes” and “no” is an appropriate answer to the question of whether the statutes separately address electronic records.

Additional comments:

Several provisions in the Arizona Electronic Transactions Act, 2000 ARIZ SESS. LAWS ch. 268, codified at ARIZ. REV. STAT. ANN. §§ 44-7001 to 7051 (West Supp. 2002), address electronic record terms. “Electronic” is defined as relating to technology that has electrical, digital, magnetic, wireless, optical or electromagnetic capabilities or similar capabilities. *Id.* at § 44-7002(5). An “electronic record” is a record that is created, generated, sent, communicated, received or stored by electronic means. *Id.* at § 44-7002(7). A “record” is information that is inscribed on a tangible

medium or that is stored in an electronic or other medium and that is retrievable in perceivable form. *Id.* at § 44-7002(13). “Information” means data, text, images, sounds, codes, computer programs, software or databases or similar items. *Id.* at, § 44-7002(10). The Secretary of State is developing the “Arizona Electronic Signature Infrastructure (AESI)” with policy authority procedures and practices to inform potential users. *See* <http://www.sosaz.com/pa/>.

In the judicial system, electronic records, documents, databases, operating systems, network programs, and remote electronic access are addressed generally in the Supreme Court’s Rule 124, Electronic Filing, Delivery and Service of Documents (ARIZ. REV. STAT. ANN., *supra*). Access to various electronic media is covered in Rule 123(g). *Id.* A recent court administrative order directed at email identifies an official electronic communication as a “communication pertaining to public business, which must be preserved as a record of official action or policy.” Electronic Communications, Ariz. Sup. Ct. Admin. Ord. No. 2002-30 (April 11, 2002). “Electronic communication” includes email, Internet services, voice mail, and facsimile messages.

5. Do the public records statutes/regulations address retention of records?

Yes  
 No

a. If “Yes,” cite to and briefly summarize the retention provisions.

ARIZ. REV. STAT. ANN. § 39-121.01(C) (West Supp. 2002) states each public body and respective officer is responsible for preservation, maintenance and care of that office’s public records, and has the duty to preserve from deterioration, mutilation, loss or destruction, unless disposed of according to statutes. *Id.* at § 41-1347 and § 41-1351 (West Supp. 2002). The heads of each state and local agency establish standards and schedules for record retention, submitting lists of essential records to the director of the state library. *Id.* at § 41-1346. The director of the department of library, archives and public records establishes standards for retention of records and establishes procedures for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of records no longer possessing sufficient administrative, legal or fiscal value to warrant further keeping (§ 41-1345(A)(1) and (3)) as the state library archives division is the central depository of records not in current use. *Id.* at §41-1339. The library director also determines if public records have any historical value and disposes of those determined to be of no historical significance. *Id.* at § 41-1349(A). The director of the records management division in the state library department establishes standards and procedures for control and housing of records in the records management center. *Id.* at §§ 41-1345 and 1345.01. General requirements such as quality and type of format for permanent public records are found at § 39-101 to 103 (West 2001). Records having legal, administrative, historical or other value are preserved as proscribed in § 41-1351 and § 41-1347 (West Supp. 2002). *See generally* <<http://www.lib.az.us/records>> for state library records retention management information, and Item H.3, below.

b. If “Yes,” also cite to and discuss any provisions/regulations that address retention of electronic records; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Each governmental agency shall determine which records, if any, will be created and retained in electronic format, and which print records, if any, will be converted to electronic format. ARIZ. REV. STAT. ANN. § 44-7041 (West Supp. 2002). Retention of electronic transaction records is addressed at § 44-7012. For schedules of retention of judicial records consult Ariz. Sup. Ct. Admin. Ord. No. 2001-43 (March 29, 2001).

Additional comments:

If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record if it accurately reflects the original information and remains accessible for reference. ARIZ. REV. STAT. ANN. §44-7012 (West. Supp. 2002). However, electronic recordings made to aid in transcription of written minutes of meetings need only be preserved for a period which is convenient provided the written minutes accurately reflect the business conducted. Ariz. Att’y Gen. Op. 180-198 (1980) (school board meetings).

6. Do the public records statutes/regulations or other sources of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to public records or acknowledge the state’s responsibility to permanently maintain public records?

Yes  
 No

- a. If “Yes,” cite to and provide relevant language.

Public records and other matters in the custody of any officer shall be open to inspection by any person at all times during office hours. ARIZ. REV. STAT. ANN. § 39-121 (West 2001).

Additional comments:

“Arizona’s policy of public disclosure...seeks to increase public access to government information and to make government agencies accountable to the public.” ARIZ. AGENCY HANDBOOK, *supra*, at 6.2.1. It is well settled that Arizona evinces a general “open access” policy toward public records. *Phoenix Newspapers, Inc. v. Purcell*, 927 P.2d 340, 347 (Ariz. Ct. App. 1996); *Carlson*, 687 P.2d at 1244. The purpose of the Public Records Law, like the FOIA, is “to open agency action to the light of public scrutiny.” *Scottsdale Unified School Dist. v. KPNX Broadcasting Co.*, 955 P.2d 534, 539 (Ariz. 1998) (*citing* *Department of Air Force v. Rose*, 425 U.S. 352, 361 (1976)). A person’s right to public records is not conditioned on showing that the documents are relevant to anything. *Bolm v. Custodian Of Records Of Tucson Police Dept.*, 969 P.2d 200, 204 (Ariz. Ct. App. 1998). The public policy [established in the public records statutes]...is to preserve as a memorial matters customarily retained in public offices for future enlightenment... *Beasley v. Glenn*, 520 P.2d 310, 311 (Ariz.1974).

The open records policy appearing in Rule 123(c)(1) of the Rules of the Supreme Court, ARIZ. REV. STAT. ANN., *supra*, acknowledges that “[h]istorically, this state has always favored open government and an informed citizenry. In the tradition, the records in all courts and administrative offices of the Judicial Department of the State of Arizona are presumed to be open to any member of the public for inspection or to obtain copies at all times during regular office hours at the office having custody of the records.” This rule, “Public Access to the Judicial Records of the State of

Arizona,” covers creation and management of records (c)(2); access to case records (d); access to administrative records (e); access to paper records (f); access to audiotape, videotape, microfilm, computer or electronic based records (g); and inspection and photocopying (h).

In addition to public records, Arizona statute § 39-121 states “other matters” in the custody of any officer shall be open to inspection by any person at all times during office hours. “Other matters” include documents that are not required by law to be filed as public records. *Salt River Pima-Maricopa Indian Community*, 815 P.2d. at 908. Documents held in the official capacity of a state officer in which the public has a legitimate interest in disclosure that outweighs any government’s interest in confidentiality are “other matters.” *Id.* The proper way to view all requests for information is not to determine whether or not a record is technically a public record or other matter but instead to determine if release of the information would have an important and harmful effect upon the official duties of the official or agency. *Church of Scientology v. City Of Phoenix Police Dep’t.*, 594 P.2d 1034, 1035 (Ariz. Ct. App.1979) (quoting Ariz. Att’y Gen Op. 76-43 (1976)). Examples of “other matters” include annexation petitions (*Moorehead*, 637 P.2d at 307), information concerning trade secrets or proprietary material voluntarily disclosed by a private party to a state agency (Ariz. Att’y Gen. Op. 179-2115 (1979)), and proposals by private companies for state-contracted services (*Id.* at R75-721 (1976-77)).

In addition to access to public records during office hours, any person may request that a copy of a public record not otherwise available on an agency’s website be mailed to him. The custodian may require advance payment for any copying and postage charges. *Id.* at § 39-121.01(D)(1) (West Supp. 2002). The charges for copies vary if the use is for non-commercial or commercial use. *See id.* at § 39-121.01 and §39-121.03, and § 39-122 (West 2001).

The availability of records for public inspection is not without qualification, however. The public right of inspection may be curtailed in the interest of confidentiality, privacy or the best interests of the state. *Carlson*, 687 P.2d at 1245. The record may be made confidential by statute, and public inspection denied. *Berry v. State*, 699 P.2d 387, 388 (Ariz. Ct. App. 1985). Examples include adoption records, home address and phone numbers of peace officers, and names of persons providing information to the Attorney General in a consumer fraud investigation. *Scottsdale Unified School Dist.*, 955 P.2d at 537. The ARIZ. AGENCY HANDBOOK, *supra*, Appendices 6.1 and 6.1.2 contain a comprehensive list of records confidential by statute, of which there are over 300.

The custodian of public records has discretion to deny public inspection where personal privacy concerns outweigh the public’s right to know. *Scottsdale Unified School Dist.*, 955 P.2d at 537. Reasonable people do not expect that their privacy interest in information will disappear merely because that information may be available through some personal source. *Id.* at 538. Information is “private if it is intended for or restricted to the use of a particular person or group or class of persons: not freely available to the public.” *Id.* (quoting *United States Dep’t of Justice v. Reporters Comm. For Freedom Of the Press*, 489 U.S. 749, 763-64 (1989)). Privacy interests include birth dates and social security numbers (*Id.*), and home addresses and phone numbers of state employees. (Ariz. Att’y Gen. Op. I91-004 (1991)).

If the state's interest outweighs the public's right of inspection, the State can properly refuse inspection where "inspection may lead to substantial and irreparable harm. *Carlson*, 687 P.2d at 1246. The burden of overcoming the presumption of favoring disclosure rests with the State. *Cox Arizona Publ'ns, Inc. v. Collins*, 852 P.2d 1194, 1198 (Ariz.1993). If disclosure is to be avoided, the public entity must point to specific risks with respect to a specific disclosure; it is insufficient to hypothesize cases... *Star Publ'g Co. v. Pima County Attorney's Office*, 891 P.2d 899, 901 (Ariz. Ct. App. 1994). When the release of information would have an "important and harmful effect on the duties of the officials or agency in question," a public body can designate a record as confidential. *Board of Regents v. Phoenix Newspapers, Inc.*, 806 P.2d 348, 351-352 (Ariz. 1991). Information protected by common law privilege may be protected from disclosure if release of information would be harmful to the best interests of the state, such as the informant's privilege. Officials cannot deny access to public records to save an officer from inconvenience or embarrassment (*Dunwell v. Univ. of Arizona*, 657 P.2d 917, 921 (Ariz. Ct. App. 1982); *Ariz. Att'y Gen. Op. 76-43* (1976)), nor because the records could be used to establish tort liability of the state (*Ariz. Att'y Gen. Op. I89-022* (1989)).

A copy of a record containing commingled confidential and public information may be made available if confidential information is redacted. *Carlson*, 687 P.2d at 1245-1246. Confidential information attached to an otherwise disclosable record may be removed. *Ariz. Att'y Gen. Op. I86-090* (1986); *I85-097* (1985); *ARIZ. REV. STAT. ANN. R. SUP. CT. 123(c)(2)* (West Supp. 2002).

See *ARIZ. AGENCY HANDBOOK*, supra, at 6.4.3, "Discretionary Refusal To Disclose" for detailed coverage of this issue. "Guidelines on refusing public inspection may not apply when the person requesting access to records is a party to litigation with the state."

7. Is a public records administrator, a public records commission or other officer/government entity responsible for administering the public records statutes/regulations?

Yes  
 No

a. If "Yes," cite to applicable statutes/regulations and identify the responsible officer/government entity.

*ARIZ. REV. STAT. ANN. § 41-1345 (A)* (West Supp. 2002), State Library Director; *§ 41-1345.01 (A)*, state library records management officer; *§ 41-1346*, records managers at state and local agencies and departments.

b. If "Yes," also cite to and discuss any source of law requiring the responsible officer/government entity to permanently maintain government information; cite attorney general opinions, court decisions, and administrative rules or guidelines.

Additional comments:

The director of the state library [Arizona State Library, Archives and Public Records] is responsible for the preservation and management of records. *Id.* at *§ 41-1345 (A)*. A records management officer employed by the state library is responsible for the direction and control of

the records management center. *Id.* at § 41-1345.01 (A). The head of each state and local agency is responsible for the care, maintenance and preservation of the public records of the agency, and designates an individual within the agency to manage the records management program. *Id.* at § 41-1346.

8. Has any public records legislation/administrative regulation been proposed calling for “permanent public access” to electronic public records?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?

2000 ARIZ.SESS. LAWS ch. 88 § 65 updated and clarified the mandate of Arizona State Library, Archives and Public Records to acquire and provide access to materials in electronic format, as well as print and other formats (codified at ARIZ. REV. STAT. ANN. § 41-1331 (West Supp. 2002)). “Materials” includes public records.

- b. If “Yes,” also cite to documents from the legislative or regulatory history.

Additional comments:

9. Has litigation under the public records statutes resulted from the state’s failure to “permanently” maintain a public record?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

Statutory provisions allow for restoration and substitution of lost or destroyed documents. Parol evidence of the contents may be supplied (ARIZ. REV. STAT. ANN. § 39-141 (West 2001)), certified copies may be recorded (§ 39-144), or re-recording of original records may be done (§ 39-145). An action may be brought in court (§ 39-142), and if the court finds the instrument existed, has been lost or destroyed, determines the contents, and enters a judgment, the judgment may be recorded and substituted for the original (§ 39-143).

Any person who has been denied access to a public record can appeal the decision through a special action to the superior court. *Id.* at § 39-121.02(A)(C). If the court finds the custodian acted in bad faith or an arbitrary or capricious manner, legal costs, including reasonable attorneys fees, may be awarded to the petitioner. *Id.* at § 39-121.02(B); Ariz. Att’y Gen. Op. I83-006 (1983). *See Cox*, 852 P.2d 1194, reconsideration denied.

10. Discuss any unique circumstances in your state relevant to “permanent public access” of public records under public records statutes/regulations.

## B. FREEDOM OF INFORMATION ACT

A state's freedom of information act (or law) generally addresses public access to "public records." As noted under Section A above, the compilation of statutes for your state may combine record keeping requirements and public access provisions.

1. Does your state have a "freedom of information act," as referred to in the paragraph above?

Yes  
 No

- a. If "Yes," cite your state's freedom of information act (or law) statutes and the administrative regulations that supplement them.
- b. If "No," skip this whole section.

Additional comments:

In the absence of a state freedom of information act, Arizona courts look to the federal FOIA for guidance when state law does not directly address an issue regarding disclosure of public records. *Scottsdale Unified School Dist. V. KPNX*, 937 P.2d 689, 693 (Ariz. Ct. App. 1997); *Salt River Pima-Maricopa Indian Community*, 815 P.2d at 909-10.

2. The freedom of information act statutes/regulations apply to which of the following branches?

Executive  
 Legislative  
 Judicial  
 Administrative (applying to all agencies, no matter what branch of government)  
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

3. Cite to freedom of information law statutes/regulations where "public record" is defined.

Additional comments:

4. Do the freedom of information act statutes/regulations address electronic records separately vis-à-vis print records?

Yes  
 No

- a. If "Yes," discuss whether the freedom of information act statutes/regulations had been amended at any time to cover electronic records; cite to and provide amending language.
- b. If "Yes," also cite to and briefly discuss statutes/regulations addressing electronic records; how are they treated differently?

Additional comments:

5. Do any freedom of information act statutes/regulations assure “permanent public access” of electronic public records?

Yes  
 No

- a. If “Yes,” cite to and discuss any provisions/regulations that address “permanent public access”; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

6. Do the freedom of information act statutes/regulations or other sources of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to public records or acknowledge the state’s responsibility to permanently maintain public records?

Yes  
 No

- a. If “Yes,” cite to and provide relevant language.

Additional comments:

7. Has any freedom of information legislation/administrative regulation been proposed calling for “permanent public access” of electronic public records?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?  
b. If “Yes,” also cite to documents from the legislative or regulatory history.

Additional comments:

8. Has litigation under the freedom of information act resulted from the state’s failure to “permanently” maintain a public record?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

9. Discuss any unique circumstances in your state relevant to “permanent public access” of public records under freedom of information act statutes/regulations.

### C. PUBLIC ACCESS LAWS

The term “public access law” is intended to be a catchall for all other statutes that address the permanency and public accessibility of government information. The type of law appropriately falling under this section is most likely to be a statute that governs availability and access of *government publications*. An example of such a statute is the “Free Public Access to the Code of Maryland Regulations Act,” whose title alone explains much about its purpose.

1. Does your state have any “public access laws,” as referred to in the paragraph above?

Yes  
 No

a. If “Yes,” cite each of your state’s public access law statutes and the administrative regulations that supplement them.

ARIZ. REV. STAT. ANN. § 39-102 (West 2001); § 41-121(7) and (12) (West Supp. 2002); § 41-1176.01, § 41-1177.03(B) and § 41-1335(6) (West 1999); § 41-4153) (West Supp. 2002); R. SUP. CT. 111 and 123 (West Supp. 2002).

b. If “No,” skip this whole section.

Additional comments:

2. For each public access law, specify the branches to which it applies.

Executive  
 Legislative  
 Judicial  
 Administrative (applying to all agencies, no matter what branch of government)  
 Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

§ 39-102; § 41-121(7) and (12); § 41-4153 (Executive)  
§§ 41-1176.01 and 41-1177.03 (Legislature); § 41-1335(6) (State Library/ Legislature)  
§ 12- 108; Sup. Ct. Rules 111 and 123 (Judicial)

Additional comments:

3. For each public access law, cite to and discuss provisions/regulations addressing the particular form of government information addressed by the law.

Additional comments:

Each agency, board, commission and department that prepares an annual report shall distribute copies as required by law. ARIZ. REV. STAT. ANN. § 39-102 (West 2001). In 2002 this was expanded to require agencies, etc., to post annual reports on their web sites in lieu of printed copies excepting those paper copies required by law to be directed to particular officers/offices. *Id.* at § 41-4153 (West Supp. 2002).

The Secretary of State shall publish slip laws of each act of the legislature and make them available to interested persons for a reasonable fee to compensate for the cost of printing, and make available to the public without charge copies of title 33, chapter 11 [Arizona Mobile Home Parks Residential Landlord and Tenant Act]. *Id.* at § 41-121(7) and (12) (West Supp. 2002).

The legislature shall sell printed copies of the session laws and journals to the public at a price equal to the cost of publishing and distributing each copy. *Id.* at § 41-1177.03 (B) (West Supp. 2002). Copies of reports or any other publications may be sold to the public by the legislative body or agency by which they are produced at a price sufficient to cover cost of printing and binding. *Id.* at § 41-1176.01 (West 1999). The legislature shall supply to the director of the Arizona state library, archives and public records for the purpose of exchange with other states, territories, the United State and foreign countries copies of session laws and journals. *Id.* at § 41-1177.03(A) (West Supp. 2002).

The state library director provides access, including electronic access, to the official compilation or revision of state laws to each public library or court library that applies for access, upon the state librarian's discretion. *Id.* at § 41-1335(8) (West Supp. 2002).

The supreme court contracts to publish the court's opinions, and the contractor agrees to furnish to the Secretary of State the number of copies required for distribution to courts, law libraries, and designated agencies, boards, commission and departments. *Id.* at § 12-108 (West Supp. 2002). Supreme Court Rule 111 (addresses orders, memorandum decisions, and opinions published and depublished by the Supreme Court and Court of Appeals. Rule 122 provides guidelines particularly regarding the media for electronic and photographic coverage of public judicial proceedings. Public access to the records in print, audio- and videotape, microfilm, and computer or electronic formats, of all courts and administrative judicial offices public is addressed in Rule 123, including inspection and photocopying and remote access.

4. For each public access law, do the applicable statutes/regulations address electronic information separately vis-à-vis print information?

Yes

No

- a. If "Yes," cite to and briefly discuss statutes/regulations addressing electronic information; how is it treated differently?

ARIZ. REV. STAT. ANN. § 41-1331(B) (West Supp. 2002) says the state library shall acquire and provide access to materials, i.e. all state government publications, in print, electronic or other format.

Additional comments:

5. For each public access law, do the applicable statutes/regulations specifically address permanency of the information?

Yes  
 No

a. If "Yes," for each public access law, cite to and briefly discuss the permanency provisions.

Several statutes use the term "archives" or "archival" when referring to books and other publications acquired and maintained by the library (*Id.* at § 41-1331(B)(2)(b); § 41-1338 to 1339)), or "historical" (§ 41-1340) or "preservation" (§ 41-1335(6)). There is an Historical Advisory Commission (*Id.* at § 41- 1352) and an Arizona Historical Records Advisory Board (§ 41-1355) consisting of experts in historical records or archives appointed by the library director.

Additional comments:

6. For each public access law, do the applicable statutes/regulations specifically address accessibility of information?

Yes  
 No

a. If "Yes," cite to and briefly discuss the accessibility provisions.

Additional comments:

The duties of the library director include adopting rules for use of library materials (*Id.* at §41-1335(1), (6), (8)). The state archives shall be "available for inspection" (*Id.* at § 41-1339(A)).

7. For each public access law, do the applicable statutes/regulations or any other source of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens' access to government publications or acknowledge the state's responsibility to permanently maintain government publications?

Yes  
 No

a. If "Yes," cite to and provide relevant language.

Additional comments:

See above.

8. Has any public access legislation/administrative regulation been proposed calling for "permanent public access" of electronic publications?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?

Current State Library standards and guidelines (regulations) address permanent public access to electronic media, complementing existing statutes.

- b. If “Yes,” also cite to documents from the legislative or regulatory history.

For applicable State Library standards and guidelines, see Item H.3.a.

Additional comments:

9. Has litigation under any public access law resulted from the state’s failure to “permanently” maintain a government publication?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

10. Discuss any unique circumstances in your state relevant to “permanent public access” of government publications under public access laws.

In 2002 Arizona received the first-ever Digital Legislature Award sponsored by the Center for Digital Government and *Government Technology* magazine in recognition of the excellence of the Arizona Legislative Information System (ALIS) for “digital democracy.” The web site allows the public to easily access primary legislative materials covering several legislative sessions, to create individualized bill-tracking systems, and other features and services.

#### **D. STATE OFFICE FOR TECHNOLOGY AND CHIEF INFORMATION OFFICER**

1. Does your state have an office for technology (or department of information technology, department of information service, or equivalent) and/or a chief information officer (or equivalent)?

Yes  
 No

- a. If “Yes,” provide the complete official name for the office and/or officer; cite to the statute giving that information.

“Agency” means the Government Information Technology Agency. ARIZ. REV. STAT. ANN. § 41-3501(1) (West 1999). “Director” means the director of the agency. *Id.* at § 41-3501(4). The director is the chief information officer for information technology. *Id.* at § 41-3503.

- b. If “No,” skip this whole section.

Additional comments:

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the office/officer; when was the statute first enacted?

1996 ARIZ. SESS. LAWS ch. 342 sect. 12-15, eff. Jan. 1, 1997 (codified at ARIZ. REV. STAT. ANN. §§ 41-3501 to 3521 (West 1999 and Supp. 2002)).

Additional comments:

Powers and duties of the director are located at ARIZ. REV. STAT. ANN. § 41-3503 (West 1999) and powers and duties of the agency are enumerated at § 41-3504 (West Supp. 2002). The director also serves as chairperson of the Information Technology Authorization Committee, which has oversight responsibility for information technology projects over \$1 million in all three branches of state government. *Id.* at §41-3521(A)(7).

3. Does the office/officer have power to promulgate administrative regulations?

Yes  
 No

a. If “Yes,” cite the body of administrative regulations promulgated by the office/officer.

Agency rulemaking is authorized at § 41-3504(12) (West Supp. 2002). The Information Technology Authorization Committee can also adopt rules. *Id.* at § 41-3521(C)(11)). Regulations are published at ARIZ. ADMIN. CODE R2-18-101 to 401 (2001).

Additional comments:

4. The office/officer has jurisdiction over which branches?

Executive  
 Legislative  
 Judicial  
 Administrative (applying to all agencies, no matter what branch of government)  
 Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

Jurisdiction of the agency and director extends directly to “budget units” that are defined at ARIZ. REV. STAT. ANN. § 41-3501(2) (West 1999). The Agency serves in an advisory capacity to the legislature and judiciary. *Id.* at § 41-3504(B) (West Supp. 2002)).

Additional comments:

A budget unit is a department, commission, board, institution or other agency receiving/ expending/disbursing state funds including the board of regents for the universities and communities colleges but excluding the academic institutions themselves as well the legislative and judicial branches of state government. *Id.*, § 41-3501 (2) (West 1999).

5. Are the powers/responsibilities of the office/officer defined differently for electronic government information vis-à-vis print government information?

Yes  
 No

a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

6. Do applicable statutes/regulations for the office/officer set forth powers/responsibilities relating to "permanent public access" of government information?

Yes  
 No

a. If "Yes," cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

The Government Information Technology Agency (GITA) is responsible for statewide information technology planning, coordinating and consulting, and as such establishes standards for IT projects, approves plans, and ensures compliance with statewide policies regarding access to equipment and technology for people with disabilities.

<[http://gita.state.az.us/about\\_gita/responsibilities.htm](http://gita.state.az.us/about_gita/responsibilities.htm)>. The term "standards" throughout the agency statutes refers to the requirements relating to technical coordination and security aspects of information technology that are adopted to develop and maintain coordinated use and access to information technology resources. ARIZ.ADMIN. CODE. R2-18-101(20). GITA assists agencies in meeting electronic permanent public access objectives and addressing concerns as expressed in their individual Information Technology Plans.

7. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

Yes  
 No

a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

See above.

8. Whether or not a supporting source of law can be identified, does the office/officer acknowledge responsibility to permanently maintain government information?

Yes  
 No

- a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

9. Has the office/officer undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes  
 No

- a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

GITA has conducted programs for agencies on aspects of public access, i.e., web site accessibility, and on policies, such as Americans With Disabilities Act, email use, Internet usage, and network security. See <[http://www/gita.state.az.us/policies\\_standards](http://www/gita.state.az.us/policies_standards)>.

10. Has any litigation involving the office/officer resulted from the state's failure to "permanently" maintain government information?

Yes  
 No

- a. If "Yes," cite to and briefly discuss each case.

Additional comments:

11. Discuss any unique circumstances in your state relevant to the office for technology and/or chief information officer.

## **E. STATE TECHNOLOGY PLANS**

1. Does your state have a current official information technology plan (or equivalent)?

Yes  
 No

- a. If "Yes," describe what government entity was responsible for creating the plan; cite to the source of its authority.

Government Information Technology Agency, ARIZ. REV. STAT. ANN. §41-3504(A) (West Supp. 2002).

- b. If "Yes," also provide complete bibliographic information about the plan; when was it published?

Government Information Technology Agency, SUMMARY OF AGENCY INFORMATION TECHNOLOGY PLANS, STATE OF ARIZONA FOR FISCAL YEARS 2001-2003 (2001).

<[http://gita.state.az.us/planning\\_inventory/2002%20Agency%20IT%20Plans/pdf/summary2.pdf](http://gita.state.az.us/planning_inventory/2002%20Agency%20IT%20Plans/pdf/summary2.pdf)>

- c. If "No," skip this whole section.

Additional comments:

2. The technology plan covers which branches?

- Executive  
 Legislative  
 Judicial  
 Administrative (applying to all agencies, no matter what branch of government)  
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

The technology plan applies to state budgetary units as defined in ARIZ. REV. STAT. ANN. § 41-3501(2) (West 1999). See above at D4.

Additional comments:

3. Does the current plan include a section on permanency and public accessibility of electronic government information?

- Yes  
 No

- a. If "Yes," cite to and provide relevant language of the plan.

Additional comments:

4. Discuss any unique circumstances in your state relevant to technology planning or the current information technology plan.

The Judicial Branch established its own technology office, the Commission On Technology (Sup. Ct. Admin. Ord. No. 2001-09 (January 11, 2001)), to establish goals, policies and priorities for the Arizona Judicial Information Network (AJIN) (Admin. Ord. No. 2001-10 (January 11, 2001)) which coordinates statewide court automation. Court automation standards have been established (Admin. Ord. No. 2001-08 (January 11, 2001)). The only court in Arizona that has a complete electronic document system and an e-filing system is the Court of Appeals Division (as of July 2002). See <<http://www.apltwo.ct.state.az.us/e-filer/e-filerAO.pdf>>. The Supreme Court's Ad Hoc Committee To Study Public Access To Electronic Court Records issued a report with recommendations in 2001 that focused on technology and the Internet. The Committee continues to study the issues and will make additional recommendations in the future. As of mid-2002,

online public access to court information exists in some form for 87% of the 180 courts statewide. See <<http://www.supreme.state.az.us/publicaccess/default.htm>>.

**F. STATE PRINTING OFFICE AND STATE PRINTER**

1. Does your state have an official printing office (or equivalent) and/or an official printer (or equivalent)?

Yes  
 No

- a. If “Yes,” provide the complete official name for the printing office and/or official printer; cite to the statute giving that information.
- b. If “No,” skip this whole section.

Additional comments:

ARIZ. REV. STAT. ANN. § 39-201 to 221 (West 2001) covers “printing and publication,” and provides for contracts for printing any publication or publishing a public notice in a newspaper. Example: the Speaker of the House of Representatives and the President of the Senate may jointly or separately contract for legislative printing services according to § 41-1171 (West 1999).

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the printing office/official printer.

Additional comments:

3. Does the printing office/official printer have power to promulgate administrative regulations?

Yes  
 No

- a. If “Yes,” cite the body of administrative regulations promulgated by the printing office/official printer.

Additional comments:

4. The printing office/official printer has jurisdiction over which branches?

Executive  
 Legislative  
 Judicial  
 Administrative (applying to all agencies, no matter what branch of government)  
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

5. Briefly discuss the functions of the printing office/official printer. Then:
- a. Describe your state's use of in-house agency publishing and/or commercial publishing of government information.
  - b. What percentage of official state government documents are printed by the printing office/official printer?
  - c. To what extent is the printing office/official printer involved in the electronic dissemination of government information?

Additional comments:

6. Are the powers/responsibilities of the printing office/official printer defined differently for electronic government information vis-à-vis print government information?

Yes  
 No

- a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the printing office/official printer set forth powers/responsibilities relating to "permanent public access" of government information?

Yes  
 No

- a. If "Yes," cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

Yes  
 No

- a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the printing office/official printer acknowledge responsibility to permanently maintain government information?

Yes  
 No

- a. If “Yes,” briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

10. Has the printing office/official printer undertaken any special initiatives or projects involving “permanent public access” of government information?

- Yes
- No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the printing office/official printer resulted from the state’s failure to “permanently” maintain government information?

- Yes
- No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the official printing office and/or official printer.

## G. STATE ARCHIVES AND STATE ARCHIVIST

This section addresses your state’s official archives and state archivist. If these responsibilities are by law under the auspices of your state library and state librarian, please move on to Section H.

1. Does your state have an official archives (or equivalent) and/or an official archivist (or equivalent)?

- Yes
- No

- a. If “Yes,” provide the complete official name for the archives and/or archivist; cite the statute giving that information.

*See Arizona State Library, Archives and Public Records, ARIZ. REV. STAT. ANN. §§ 41-1330 to 1355 (West 1999 and Supp. 2002).*

- b. If “No,” skip this whole section.

Additional comments:

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the archives/archivist.

Additional comments:

3. Does the archive/archivist have power to promulgate administrative regulations?

- Yes
- No

a. If “Yes,” cite the body of administrative regulations promulgated by the archive/archivist.

Additional comments:

4. The archive/archivist has defined responsibilities for which branches?

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

5. Briefly discuss the functions of the archive/archivist.

Additional comments:

6. Are the powers/responsibilities of the archive/archivist defined differently for electronic government information vis-à-vis print government information?

- Yes
- No

a. If “Yes,” cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the archive/archivist set forth powers/responsibilities relating to “permanent public access” of government information?

- Yes
- No

a. If “Yes,” cite to and discuss any provisions /regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

- Yes
- No

a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the archive/archivist acknowledge responsibility to permanently maintain government information?

- Yes
- No

a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

10. Has the archive/archivist undertaken any special initiatives or projects involving "permanent public access" of government information?

- Yes
- No

a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the archive/archivist resulted from the state's failure to "permanently" maintain government information?

- Yes
- No

a. If "Yes," briefly discuss the circumstances of each case and its outcome, and provide citations to any court decisions.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the official archive and/or official archivist.

## H. STATE LIBRARY AND STATE LIBRARIAN

This section addresses your state's official library and state librarian. There is no separate section that addresses the official law library and state law librarian, if any. If your state has an official library *and* an

official law library (and/or official librarian *and* official law librarian), it may be appropriate to address those government entities and/or persons separately.

1. Does your state have an official library (or equivalent) and/or an official librarian (or equivalent)?

Yes  
 No

a. If "Yes," provide the complete official name for the library and/or librarian; cite to the statute giving that information.

"State Library" means the "Arizona State Library, Archives and Public Records," ARIZ. REV. STAT. ANN. § 41-1330(3) (West Supp. 2002). "Director" means the director of the state library. § 41-1330(2).

b. If "No," skip this whole section.

Additional comments:

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the library/librarian.

1937 ARIZ. SESS. LAWS ch. 32 created the State Library and Archives Department and enumerated powers and duties of the library director. The Department of Library, Archives and Public Records, so named by a 1976 law (chapter 104), was changed to Arizona State Library, Archives and Public Records in 2000 (chapter 88). Powers and duties are at ARIZ. REV. STAT. ANN. § 41-1335 (West Supp. 2002).

Additional comments:

The Territorial Library was created by Session Law No. 59, 17<sup>th</sup> Legislative Assembly, 1883. The REVISED STATUTES OF ARIZONA, 1887, incorporating 1887 amendments to the Territorial Library Statutes (§§ 2542 to 2547), designated a Territorial Librarian (§ 3037). The librarian procured copies of the newspapers, books, and pamphlets published in the territory, and accepted books, maps, etc., donated to the library by the United States, other states and territories, and individuals and corporations. The librarian was charged with marking and stamping them and keeping them in order.

3. Does the library/librarian have power to promulgate administrative regulations?

Yes  
 No

a. If "Yes," cite the body of administrative regulations promulgated by the library/librarian.

ARIZ. ADMIN. CODE R2-3-01 to R2-3-46.

Additional comments:

The regulations published in the Administrative Code were adopted in 1977 when the state library was an executive branch agency; now the state library is part of the legislative branch. The rules

remain unchanged but revisions are being considered. The State Library has recently published several guidelines that, in effect, are “rules:” RECORDS MANAGEMENT MANUAL FOR ARIZONA AGENCIES (1999), RECORDS MANAGEMENT MANUAL FOR ARIZONA COMMUNITY COLLEGES AND DISTRICTS (2000), RECORDS MANAGEMENT MANUAL FOR ARIZONA SCHOOL DISTRICTS (2000), and STANDARDS FOR PERMANENT RECORDS MEDIA AND STORAGE (2000).

4. The library/librarian has defined responsibilities for which branches?

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

The state library is a division within the legislative branch; however, it is the central depository of official archives of various state officers and departments of the state, the counties, cities and towns. ARIZ. REV. STAT. ANN. § 41-1339 (West Supp. 2002).

Additional comments:

5. Briefly discuss the functions of the library/librarian.

The state library acquires and provides access to materials in enumerated collection areas of state interest. The library cooperates with state agencies to acquire and provide access to state publications and public records, and manages the official state archives, and public records departments. The library accepts and manages federal monies and materials received for state library purposes, and cooperates with federal, other states and foreign countries in exchanges of materials. The state library advises public libraries throughout the state in the development and operation of libraries and library service.

Additional comments:

The broad areas of responsibilities of the state library are listed in § 41-1331 and § 41-1335 (West Supp. 2001). The library acquires and provides access to materials in print, electronic and other formats in the areas of law, political science, economics, sociology, subjects pertaining to the theory and practice of government, genealogy, and Arizona history. The library provides a general and legal reference service, a records management and archives program, a state and federal government documents depository program, a library development service, library service for visually or physically impaired persons, and operates the state capitol museum and other museums for educational purposes as approved by the state library board.

The librarian adopts rules for the acquisition, maintenance, access, use, and preservation of books and materials in the custody of the library, adopts rules for the description of state publications in all formats, disposes of duplicate copies, brings actions for unreturned materials, and certifies copies of records and other materials in library custody. The library director arranges for exchange

of official state reports and publications, session laws, statutes, legislative journals, and supreme court reports with the federal government, other states and foreign countries, as deemed necessary. The librarian enters into agreements with libraries in the state for a state documents program, and establishes a depository system and an exchange program with public and academic libraries in the state, and with out-of-state research libraries. The director provides access to the laws, in print or electronic format, of the state to each public or court library that requests access. The librarian appoints personnel to carry out the duties of the state library, cooperates with the legislative council, and submits an annual report to the legislature on the condition of the state library. *Id.* at § 41-1335.

The state library, also, accepts and administers money and materials from the federal government for state library purposes (*Id.* at § 41-1336), and plans for and develops statewide public library service, including service to the blind and physically disabled (*Id.* at § 41-1337). In its archival function (“state archives”), the state library acquires, manages, and provides public access to historical publications, documents and records (*Id.* at §§ 41-1338 to 1343, and §§41-1349 to 1350), and historical state property (*Id.* at § 41-1353), and works with an historical advisory commission (*Id.* at § 41-1342) and historical records advisory board (*Id.* at § 41-1355). The director is responsible for the preservation and management of public records of the state. *Id.* at § 41-1345 to 1348).

6. Are the powers/responsibilities of the library/librarian defined differently for electronic government information vis-à-vis print government information?

Yes

No

a. If “Yes,” cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Library/librarian responsibility for electronic and print publications and records is treated the same in state statutes (ex: acquires and provides access to materials in print, electronic or other format, *Id.* at § 41-1331(B)(1); provides access to state laws either in print or electronically, *Id.* at § 41-1335(8); requests transmittal of originals of a record or certified negatives, film or electronic media, *Id.* at § 41-1345(A)(7)). However, agencies that may implement a program for production or reproduction of records, current or historical, on film or in electronic format must obtain prior approval from the state library of the methods of production, handling and storage and equipment. *Id.* at § 41-1348). Statutory guidelines for printed materials are established at § 39-101 to 103 (West 2001).

Additional comments:

A recent bill from the 2001 legislative session (HB 2429, 45<sup>th</sup> Legislature first regular session), which did not pass into law, addressed special concerns of electronic format government information, specifically electronic records security. It provided for confidentiality of information systems security as records are transferred between agencies and to the state library, and appropriated monies to the state library for “developing policies, procedures and techniques to ensure continuing access to state electronic records while ensuring their security, authenticity and integrity.”

7. Do applicable statutes/regulations for the library/librarian set forth powers/responsibilities relating to “permanent public access” of government information?

Yes  
 No

- a. If “Yes,” cite to and discuss any provisions/regulations that address those powers/responsibilities ; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

The state library provides public access to state and local records and archival materials in its custody by classifying, cataloging, and making them available for inspection. *Id.* at § 41-1331(B)(b) and §§ 41-1338 to 1345 (West Supp. 2002). “Records” are defined broadly in § 41-1350 (West 1999) to include “books, papers, maps, photographs and other documentary material” regardless of format. State library regulations address preservation of materials as evidence of government activities and for the informational and historical value of data contained. ARIZ. ADMIN. CODE R2-3-13(3).

Additional comments:

In addition, the state library “shall classify, edit, annotate and publish from time to time [historical] records considered of public interest.” ARIZ. REV. STAT. ANN. § 41-1340(3) (West Supp. 2002). By law, the librarian is given reasonable access to all non-confidential state and local records in order to determine their value for historical and research purposes and the need for preservation or disposal. *Id.* at §41-1343.

8. Does any relevant source of law acknowledge in any way the state’s responsibility to permanently maintain government information?

Yes  
 No

- a. If “Yes,” briefly discuss that recognition; cite to and provide relevant language.

See above.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the library/librarian acknowledge responsibility to permanently maintain government information?

Yes  
 No

- a. If “Yes,” briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Statutory charge: *Id.* at § 41-1335.

Additional comments:

10. Has the library/librarian undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes  
 No

a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

The state library formed the Arizona ‘Electronic Records Taskforce (ALERT) to support its mission to design and implement an electronic records management program that meets archival and public access needs for state government. The state library is one of six partners collaborating in the Arizona Electronic Records Research Initiative (AERRI) to investigate the management of electronic records, including conversion and migrating of documents and ensuring authenticity over time. The library is partnering with an academic library under an IMLS grant to study preservation of electronic state publications.

Forms and record management manuals for agencies are posted on the library’s web site, including guidelines and standards for digital imaging projects. The state library itself has begun a project to scan legislative study committee reports and to put them on the web. The library produces computer output microforms, generating primarily microfiche on-line directly from a computer or off-line from magnetic media (tape, disk) for permanent public access of state electronic information.

“FIND-IT! ARIZONA” is a demonstration Government Information Locator Service (GILS) library project to aid the public in locating state government information on the state web site. The library’s web site maintains information for the public on types of records available, location, and how to access them.

Additional comments:

11. Has any litigation involving the library/librarian resulted from the state’s failure to “permanently” maintain government information?

Yes  
 No

a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the state library and/or state librarian.

## I. STATE DEPOSITORY LIBRARY LAWS

States often have a depository library program patterned after the federal model for disseminating federal government publications.

1. Does your state have a “depository library program,” as referred to in the paragraph above?

Yes  
 No

a. If “Yes,” cite your state’s depository library law statutes and the administrative regulations that supplement them.

ARIZ. REV. STAT. ANN. §§ 41-1335(A)(5), (6) and (8), and (B) (West Supp. 2002). *See also* § 35-103.

b. If “No,” skip this whole section.

Additional comments:

The state library shall arrange with the federal government, other states and foreign countries for a system of exchange of official state reports and publications, session laws, statutes, legislative journals and Supreme Court opinions. *Id.* at § 41-1335(A)(5)(a). The library can enter into agreements with any municipal, county, regional, academic library in the state, or out-of-state research library, for the state documents depository program. *Id.* at § 41-1335(A)(5)(b) and (c). Subsection (A)(6) of this statute charges the state library to adopt “rules for the acquisition, maintenance, access and preservation of state publications.” Section B of this statute requires all heads of departments and officers and agents to supply the library with the number of copies necessary to fulfill the requirements or agreements entered into by the state library. Annual agency financial reports are requested similarly in § 35-103. The latest amendments to these statutes were in 2000 (Arizona State Library – State Documents, ARIZ. SESS. LAWS ch. 368) which, while enacted, did not carry the requested funding. A depository program was authorized in 1976 (ARIZ. SESS. LAWS ch. 104 §6) but no effort was made in the past to inaugurate and carry out the program.

2. Do the depository library statutes/regulations address electronic government information separately vis-à-vis print government information?

Yes  
 No

a. If “Yes,” cite to and briefly discuss statutes/regulations addressing electronic government information; how is it treated differently?

The state library has the option of providing access electronically to an official compilation or revision of law to any public or court library. *Id.* at § 41-1335(8).

b. If “No,” explain whether or not the statutes/regulations have been construed to cover electronic government information?

Additional comments:

3. Do any depository library statutes/regulations assure “permanent public access” of electronic government information?

Yes  
 No

- a. If "Yes," cite to and discuss any provisions/regulations that address "permanent public access"; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

The library director adopts rules for the acquisition, maintenance, access and preservation of state publications as necessary (*Id.* at § 41-1335(6)), under the general mission for the library to acquire and provide all materials whether in print, electronic or other format. *Id.* at § 41-1331(B)(1).

Additional comments:

The state library is the official depository of archival documents and publications of the state (*Id.* at § 41-1339(A)) and it is the duty of public officials to see that copies these materials are provided to the library (*Id.* at § 41-1338(2)). It is the library's responsibility to preserve and make access available to these publications (*Id.* at § 41-1339 ). The statutes that set forth the purpose of the state library and the powers and duties of the state librarian blend in the statutory elements of the state documents depository program, indicating legislative intent to construe provisions together regarding permanent public access to electronic state publications.

4. Do the depository library statutes/regulations or any other source of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens' access to government information or acknowledge the state's responsibility to permanently maintain public records?

Yes  
 No

- a. If "Yes," cite to and provide relevant language.

Additional comments:

The "Fact Sheet" for S.B. 1087, 44<sup>th</sup> Legis. 2nd Reg. Sess. (2000), the state documents program bill enacted into law, notes that creating a partnership among libraries will "make documents more accessible." State and local government offices shall supply state documents to the state library for this program at no cost.

5. Have depository libraries as a whole undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes  
 No

- a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

The state library is creating a partnership with other six libraries in Arizona (three university and three large metropolitan libraries) to make state documents more accessible through the use of a shared catalog supported by interlibrary loan and electronic document delivery services. The state

library is working with OCLC Partnership For Preservation to study and test permanent access methods for publications in electronic format, and under an IMLS grant to study preservation of electronic state publications. Under an LSTA grant, the library inaugurated a pilot project of the Government Information Locator Service (GILS) (see Item H.10, above).

Additional comments:

6. Please determine the absolute number or percentage of titles:

- Formerly distributed in print, now distributed exclusively in electronic format.  
 Never before distributed, now distributed in electronic format.

Additional comments:

Unknown; however, it appears no titles formerly distributed in print are now distributed exclusively in electronic format. Arizona does have several publications, e.g., annual agency reports, which are encouraged by the governor to be produced electronically to save money. Nonetheless, there remains the requirement that a certain number of paper copies be issued and distributed to designated places, such as the State Library, to maintain archival copies. (As yet, electronic copies alone cannot be said to be archival copies.)

7. Discuss the depository library program's effectiveness and actual accomplishments in disseminating, preserving and providing access of electronic government information?

Additional comments:

The state documents depository program is in preliminary stages.

## J. COOPERATIVE ARRANGEMENTS

One can imagine any number of cooperative arrangements to assure "permanent public access." A well-known example is the partnership between the Texas Electronic Depository program (involving the Texas State Library and Archives Commission) and the University of North Texas Libraries (see description for program C304 at Computers in Libraries 2002 on the Information Today website). A hypothetical example of a less formalized cooperative arrangement is where a state's highest court relies on the state bar association to publish the court's decisions.

1. To secure PPA, has any state agency or other government entity (judicial, legislative or executive) partnered with any not for profit, educational, or for profit organization outside of government?

- Yes  
 No

a. If "Yes," describe each partnership, noting whether it is funded by a grant or through a government appropriation; give a brief history and summary of accomplishments.

1956 ARIZ. SESS. LAWS ch. 129 authorized the Governor and legislature to partner with West Publishing Company (now Thomson West) to officially publish the ARIZONA REVISED

STATUTES ANNOTATED, which includes the laws and rules of court, and to provide an updating service, all of which continue today. The legislature has a link on its homepage to West's latest codification of Arizona statutes providing free public searching of an unannotated version. The legislature and Legislative Council contract for the publishing of session laws and house and senate journals that are currently printed by MP Bookbinding. Other publications, such as the ARIZONA LEGISLATIVE BILL DRAFTING MANUAL and ARIZONA LEGISLATIVE MANUAL by the Arizona Legislative Council, and the ARIZONA ADMINISTRATIVE CODE, ARIZONA REGISTER, and LOBBYING IN ARIZONA, all by the Office of the Secretary of State, are contracted out for printing as provided by statute. Most of these publications are available on the Internet, also.

The Supreme Court arranges for publication of opinions according to Supreme Court Rule 111 in compliance with ARIZ. REV. STAT. ANN. § 12-107, § 12-108 and § 12-120.07 (West 1992 and Supp. 2002) on terms "most advantageous to the state." West Publishing Company, a for-profit company, publishes ARIZONA REPORTS. The Supreme Court's website posts opinions without search enhancements, but the court rules are powered by westlaw.com.

Additional comments:

2. Does the state rely on any cooperative activities that are not actually formalized?

Yes  
 No

a. If "Yes," describe each relationship and cooperative activity; give a brief history and a summary of accomplishments.

Additional comments:

3. Does any state agency or other government entity secure "permanent public access" through any other type of cooperative arrangement?

Yes  
 No

a. Describe each cooperative arrangement; give a brief history and a summary of accomplishments.

Additional comments:

## **K. FACTORS TO BE CONSIDERED IN FUTURE ADVOCACY OR REFORM EFFORTS**

1. If "permanent public access" is neglected in your state, carefully examine existing public records statutes, freedom of information statutes, public access laws, etc., and respond to the following:

a. If possible, cite to and discuss one or two specific places in statutes or other sources of law where the state legislature or a responsible agency might naturally insert basic reform language.

- b. If specific places to insert reform language are not obvious, very briefly discuss what state agency or other government entity might naturally be made responsible for “permanent public access.”

Additional comments:

2. Discuss known failed efforts in your state to achieve “permanent public access”; how might new efforts succeed?

Additional comments:

The realization of many efforts to enhance public access of state government information is dependent upon legislative funding. The state documents depository statutes, for example, were enacted into law absent a request for \$850,000 for implementation of the program. The Government Information Technology Agency found that a lack of funding was identified by 65% of the agencies as being “a major obstacle on being successful in their IT function.” SUMMARY OF AGENCY INFORMATION TECHNOLOGY PLANS, *supra*. The Supreme Court’s Ad Hoc Committee To Study Public Access To Electronic Court Records encourages the “development of standards, guidelines and *funding* [emphasis added] that allow accessing electronic information of Arizona’s courts from a single point of access...” REPORT AND RECOMMENDATIONS, *supra*. Clearly, education of legislators is key for political and financial support of new and existing programs.

Against the backdrop of major budget problems, however, creative financing has allowed state agencies to continue to fund technological initiatives. Use of bonds, convenience fees, grants, and performance-based contracting for e-government projects has been successful, and is expected to continue into the foreseeable future. A 2002 Digital State Survey by the Center for Digital Government, *Government Technology* magazine, and the Progress and Freedom Foundation ranked Arizona as the leading state in applying advanced technology to government operations. See <<http://www.centerdigitalgov.com/center/02digitalstates.phtml>>.

## L. DIRECTORY

This section asks you to collect directory-type information for important state officials involved in the dissemination of government information.

Provide official contact information for:

1. State Chief Information Officer (or equivalent)

The Honorable Janet Napolitano  
Governor Of Arizona  
1700 W. Washington  
Phoenix, AZ 85007  
Telephone: (602) 542-4331  
Fax: (602) 542-1381

2. State Printer

None.

3. State Archivist

See State Librarian

4. State Librarian and/or State Law Librarian

GladysAnn Wells  
Director  
Arizona State Library, Archives and Public Records  
1700 West Washington Suite 200  
Phoenix, AZ 85007  
Telephone: (602) 542-4035  
Fax: (602) 542-4972

5. State Attorney General (on freedom of information act issues, etc.)

Attorney General Terry Goddard  
Attorney General's Office  
Department of Law  
1275 West Washington  
Phoenix, AZ 85007  
Telephone: (602) 542-5025

**M. IMPORTANT STATE RESOURCES**

Provide URLs or other finding information for:

1. Official state home page

Arizona @ Your Service: <<http://www.az.gov>>

2. State agency portal

State government portal <<http://www.az.gov/webapp/portal>>

a. Does the portal have a searching capability similar to FirstGov?

Keyword searching plus government topical categories and directory list. Additional search options provided.

3. Legislative website

Arizona Legislative Information Service (ALIS): <<http://www.azleg.state.az.us>>

a. Does the website cover the current year only?

No.

b. Are services free or fee-based?

Free.

4. Judicial websites

Arizona Supreme Court (includes court directory and links): <<http://www.supreme.state.az.us>>

5. Regulatory agency websites

Accountancy, Board of	< <a href="http://www.acountancy.state.az.us">http://www.acountancy.state.az.us</a> >
Acupuncture Examiners Board	
Agriculture, Department of	< <a href="http://www.agriculture.state.az.us">http://www.agriculture.state.az.us</a> >
Appraisal, State Board of	< <a href="http://www.appraisal.state.az.us">http://www.appraisal.state.az.us</a> >
Banking Department	< <a href="http://www.azbanking.com">http://www.azbanking.com</a> >
Barbers, Board of	1400 W. Washington, Suite 220, Phoenix, AZ 85007 602-542-4498
Behavioral Health Examiners, Board of	< <a href="http://aspin.az.asu.edu/~abhe">http://aspin.az.asu.edu/~abhe</a> >
Boxing Commission	1400 W. Washington, Suite 210 Phoenix, AZ 85007 (602) 542-1417
Building and Fire Safety, Department of	< <a href="http://www.dbfs.state.az.us">http://www.dbfs.state.az.us</a> >
Charter Schools, Board for	< <a href="http://www.asbcs.state.az.us/asbcs">http://www.asbcs.state.az.us/asbcs</a> >
Chiropractic Examiners, Board of	< <a href="http://www.aschiroboard.com">http://www.aschiroboard.com</a> >
Community Colleges, Board of	
Directors for	< <a href="http://www.stbd.cc.az.us">http://www.stbd.cc.az.us</a> >
Contractors, Registrar of	< <a href="http://rc.state.az.us">http://rc.state.az.us</a> >
Corporation Commission	< <a href="http://www.cc.state.az.us">http://www.cc.state.az.us</a> >
Cosmetology, Board of	1721 E. Broadway Rd. Tempe, AZ 85282 (480) 784-4539
Dental Examiners, Board of	< <a href="http://azdentalboard.org">http://azdentalboard.org</a> >
Education, Department of	< <a href="http://ade.state.az.us">http://ade.state.az.us</a> >
Economic Security, Department of	< <a href="http://www.de.state.az.us">http://www.de.state.az.us</a> >
Environmental Quality, Department of	< <a href="http://www.adeq.state.az.us">http://www.adeq.state.az.us</a> >
Funeral Directors and	
Embalmers, Board of	1400 W. Washington Suite 230 Phoenix, AZ 85007 (602) 542-3095
Game and Fish Department	< <a href="http://gf.state.az.us">http://gf.state.az.us</a> >

Gaming Department of	< <a href="http://www.gm.state.az.us">http://www.gm.state.az.us</a> >
Health Services, Department of	< <a href="http://www.hs.state.az.us">http://www.hs.state.az.us</a> >
Homeopathic Medical	
Examiners, Board of	< <a href="http://www.goodnet.com/~bhme">http://www.goodnet.com/~bhme</a> >
Industrial Commission, Arizona	< <a href="http://www.ica.state.az.us">http://www.ica.state.az.us</a> >
Insurance, Department of	< <a href="http://www.state.az.us/id">http://www.state.az.us/id</a> >
Liquor Licenses and Control,	
Department of	< <a href="http://www.azll.com">http://www.azll.com</a> >
Lottery	< <a href="http://www.arizonalottery.com">http://www.arizonalottery.com</a> >
Medical Examiners, Board of	< <a href="http://bomex.org">http://bomex.org</a> >
Medical Radiological Technology	
Board of Examiners	4814 S. 40th Street, Phoenix, Az 85040 (602) 542-4845
Mine Inspector	< <a href="http://www.asmi.state.az.us">http://www.asmi.state.az.us</a> >
Naturopathic Physicians Examiners,	
Board of	1400 W. Washington Suite 230 Phoenix, AZ 85007 (602) 542-4282
Nursing, Board of	< <a href="http://www.nursing.state.az.us">http://www.nursing.state.az.us</a> >
Nursing Care Institution Administrators	
Examiners, and Assisted Living	
Facility Managers Board	1400 W. Washington Suite 230 Phoenix, AZ 85007 (602) 542-3095
Opticians Dispensing, Board of	1400 W. Washington Suite 230 Phoenix, Az 85007 (602) 542-3095
Optometry, Board of	1400 W. Washington Suite 230 Phoenix, AZ 85007 (602) 542-3095
Osteopathic Examiners In Medicine	
and Surgery, Board of	< <a href="http://azosteoboard.org">http://azosteoboard.org</a> >
Parks, Arizona State	< <a href="http://www.pr.state.az.us">http://www.pr.state.az.us</a> >
Pharmacy, Board of	< <a href="http://www.pharmacy.state.az.us">http://www.pharmacy.state.az.us</a> >
Physician Assistants, Joint Board	
for the Regulation of	1651 E. Morten Ave. Suite 210, Phoenix, AZ 85020 (602) 255-3751.
Podiatry Examiners, Board of	440 W. Washington, Suite 230, Phoenix, AZ 85007 (602) 542-3095
Private Postsecondary Education,	
Board of	< <a href="http://www.acpe.asu.edu">http://www.acpe.asu.edu</a> >
Psychologist Examiners Board	< <a href="http://www.psychboard.az.gov">http://www.psychboard.az.gov</a> >
Public Safety, Department of	< <a href="http://dps.state.az.us">http://dps.state.az.us</a> >
Racing, Department of	< <a href="http://www.racing.state.az.us">http://www.racing.state.az.us</a> >
Radiation Regulatory Agency	< <a href="http://www.arra.state.az.us">http://www.arra.state.az.us</a> >
Real Estate, Department of	< <a href="http://www.re.state.az.us">http://www.re.state.az.us</a> >
Respiratory Care Examiners, Board of	< <a href="http://www.rb.state.az.us">http://www.rb.state.az.us</a> >
Revenue, Department of	< <a href="http://www.revenue.state.az.us">http://www.revenue.state.az.us</a> >
Secretary of State	< <a href="http://www.sosaz.com">http://www.sosaz.com</a> >
Structural Pest Control Commission	< <a href="http://www.sb.state.az.us">http://www.sb.state.az.us</a> >

Supreme Court	< <a href="http://www.supreme.state.az.us">http://www.supreme.state.az.us</a> >
Technical Registration, Board of	< <a href="http://btr.state.az.us">http://btr.state.az.us</a> >
Transportation, Dept. of	< <a href="http://www.dot.state.az.us">http://www.dot.state.az.us</a> >
Veterinary Medical Examining Board	1400 W. Washington Suite 230 Phoenix, AZ 85007 (602) 542-3095
Water Resources, Department of	< <a href="http://water.az.gov">http://water.az.gov</a> >
Weights and Measures, Department of	< <a href="http://www.weights.az.gov">http://www.weights.az.gov</a> >

6. Freedom of Information Service Hotline

- a. Does the state have an ombudsman for freedom of information act issues?

For state public records access issues:

Arizona State Library, Archives and Public Records, Ombudsman-Citizens' Aide (800) 255-5841  
Fax: (800) 576-8738 (toll-free numbers can be dialed only from within the state of Arizona and outside the 602/623/480 area codes).

- b. Is the state attorney general's office the public's contact for freedom of information act issues?

For state public information access issues:

Office of Attorney General, Ombudsman-Citizens' Aide (800) 377-6108 (toll-free numbers can only be dialed from within the state of Arizona and outside the 602/623/480 area codes).