

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.

Ky. Rev. Stat. Ann. § 171.410-171.740
725 Ky. Admin. Regs. 010-050

b. If “No,” skip this whole section.

Additional comments:

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 (Local)

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

Ky. Rev. Stat. Ann. § 171.410(4)
Ky. Rev. Stat. Ann. § 26A.200(1)

Records made by, generated for, received by the Court of Justice, or any other court, are property of the Court of Justice, and are subject to control by the Supreme Court.

Ky. Rev. Stat. Ann. § 26A.210

The Court of Justice may utilize technical assistance of the Department for Libraries and Archives and the Supreme Court may offer records to said Department.

Additional comments:

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

Ky. Rev. Stat. Ann. § 171.410(4)

Additional comments:

Statute defines a "public record" as all books, papers, maps, photographs, cards, tapes, disks, diskettes, recordings, and other documentary materials, regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency.

According to the FAQ page of the Kentucky Department of Libraries and Archives, this definition is broad enough to encompass electronic records.

See <<http://www.kdla.net/pubrec/ElectronicRecordsFAQ-General.htm#ER1>>

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

Yes
 No

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

Additional comments:

There is an online document that specifically addresses the status of E-mail as a public record, The Status of Electronic Mail as a Public Record <<http://www.state.ky.us/kirm/emailpol.htm>>, which specifically states that e-mail is a public record. As for its maintenance or disposal, government officials are told to look at the relevant retention schedules to see if the E-mail includes information that must be maintained or can be deleted.

The Kentucky Department for Libraries and Archives maintains a web site that answers many questions related to access to and management of electronic records. The main web address is <<http://www.kdla.net/pubrec/ElectronicRecordsFAQ.htm>>

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

Yes
 No

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

Ky. Rev. Stat. Ann. § 171.530
725 Ky. Admin. Regs. 1:030 (2001)

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.

"The legal retention period of records (regardless of format), depends on the information contained in the records, the function of the records and the administrative, fiscal, legal, or historical use of the records. The retention period for records can be found in the agency's records retention schedule the General Schedule for State/ Local Government Agencies. The retention schedule is a

document created by the agency with the assistance of staff in the Department's Public Records Division which has been approved by the State Archives and Records Commission. The retention period could be several months, several years, or permanent.

Electronic records, like any other record, must be maintained in a reliable and secure format for the entire retention period. Electronic records are machine-readable, they require hardware and software to be interpreted. Hardware and software is constantly evolving. If the retention period is longer than five years, then the agency needs to have a plan for migrating or converting the records to a new format and/or storage medium."

Taken from <http://www.kdla.net/pubrec/ElectronicRecordsFAQ-General.htm>

State Records Retention Schedules can be viewed at
<http://www.kdla.net/pubrec/state_rec_sched.htm>

Additional comments:

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.

Additional comments:

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.

Ky. Rev. Stat. Ann. § 171.420

State Archives and Records Commission (A 17 member commission chaired by the state librarian or his or her designee.)

- 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.

Ky. Rev. Stat. Ann. § 171.450

It is really up to the Department for Libraries and Archives to promulgate and enforce the rules associated with permanent access to government information. The statute uses "shall",

which indicates that the Department must create standards by which government information is to be maintained by the state and local agencies.

Additional comments:

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

Additional comments:

As the Department of Libraries and Archives reads the applicable statutes to include electronic records in the definition of a public record, there does not at present appear to be a need for a separate statute covering this topic.

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.

Ky. OAG 91-25

The Attorney General ruled that an agency should not destroy public records without first following the rules set forth by the Department of Libraries and Archives and permission of the Commission.

Additional comments:

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.

Ky. Rev. Stat. Ann. § 61.870 to 61.884

5 Ky. Admin. Regs. 1:010; 20 Ky. Admin. Regs. 1:010; 1 Ky. Admin. Regs. 5:01 [Deals with agencies making public records in machine readable format open to the public.]; 40 Ky. Admin. Regs. 1:030; 103 Ky. Admin. Regs. 1:050; 201 Ky. Admin. Regs. 20:240; 400 Ky. Admin. Regs. 1:060; 405 Ky. Admin. Regs. 30:121; 405 Ky. Admin. Regs. 30:150; 415 Ky. Admin. Regs. 1:135; 418 Ky. Admin. Regs. 1:020; 502 Ky. Admin. Regs. 30:070; 601 Ky. Admin. Regs. 2:020; 701 Ky. Admin. Regs. 5:035; 806 Ky. Admin. Regs. 4:010; 922 Ky. Admin. Regs. 1:310; 922 Ky. Admin. Regs. 1:330

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

Additional comments:

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 (Local)

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

The Freedom of information Act statutes are not applicable to the Judicial Branch (See Ky. OAG 90-4) as the State Constitution bars the legislature from regulating the judiciary, but the Kentucky Supreme Court said in Ex Parte Farley, 570 S.W.2d 617 (KY 1978) that “there is very little in the policies evinced by the Open Records Law that we could not accept as a matter of comity.” Id. At 625. See also City of St. Matthews v. Voice of St. Matthews, Inc., 519 S.W.2d 811 (1974).

Additional comments:

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

Ky. Rev. Stat. Ann. § 61.870(2)

Additional comments:

The Freedom of Information laws define a public record using the same language as that found in the Public Records statutes.

Ky. Rev. Stat. Ann. § 61.874 mandates that where an agency maintains records in electronic format then it must make said nonexempt public records available for copying in either standard

electronic or standard hard copy format. The minimum standard format for electronic files is American Standard Code for Information Interchange (ASCII).

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.

Ky. Rev. Stat. Ann. § 61.8701

"The General Assembly finds and declares that the basic policy of KRS 61.870 to 61.884 is that free and open examination of public records is in the public interest and the exceptions provided for by KRS 61.878 or otherwise provided by law shall be strictly construed, even though such examination may cause inconvenience or embarrassment to public officials or others."

Ky. Rev. Stat. Ann. § 61.8715

"The General Assembly finds an essential relationship between the intent of this chapter and that of KRS 171.410 to 171.740, dealing with the management of public records, and of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102, dealing with the coordination of strategic planning for computerized information systems in state government; and

that to ensure the efficient administration of government and to provide accountability of government activities, public agencies are required to manage and maintain their records according to the requirements of these statutes. The General Assembly further recognizes that while all government agency records are public records for the purpose of their management, not all these records are required to be open to public access, as defined in this chapter, some being exempt under KRS 61.878.”

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.

Ky. Rev. Stat. Ann. § 7.500

- 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.

This statute charges the Legislative Research Commission with making the following documents available to the public in electronic form: The Constitution of Kentucky, the Kentucky Revised Statutes, the Kentucky Acts, and the Kentucky Administrative Regulations.

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.

1 KAR 5:010

Additional comments:

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?

Additional comments:

This section deals exclusively with electronic records.

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.

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.

The information ... "shall be made available to the public by means of access by way of the largest nonproprietary, nonprofit cooperative public computer network. The information shall be made available in one (1) or more formats and by one (1) or more means in order to provide the greatest feasible access to the general public in this Commonwealth. Any person who accesses the information may access all or any part of the information. The information shall be made available in the shortest feasible time after the information is available to the Legislative Research Commission."

Ky. Rev. Stat. Ann. § 7.500

Additional comments:

The statute states that the information is to be provided to the public at no charge.

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:

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?

b. If "Yes," also cite to documents from the legislative or regulatory history.

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.

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.

Aldona K. Valicenti, Commonwealth CIO
Governor's Office for Technology

2000 KY ACTS Ch. 506 (KRS 11.505-11.511)

- 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?

2000 KY ACTS Ch. 506 (KRS 11.505-11.511)

Additional comments:

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.

Additional comments:

No regulations promulgated yet.

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.

Additional comments:

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:

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:

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:

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.

The primary purpose of the Governor’s Office for Technology is to promote electronic commerce and enhance the information infrastructure of the State of Kentucky. There is no real public records role for this office.

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.

Governor’s Office for Technology (See previous section for authority note.)

- b. If “Yes,” also provide complete bibliographic information about the plan; when was it published?
<http://got.state.ky.us/> click on the link for “Roadmap” (Draft June 2001)

- 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.

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.

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.

Division of Printing, Finance and Administration Cabinet
 Ky. Rev. Stat. Ann. 42.025

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

Additional comments:

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

1978 Ky. Acts Ch. 155, sec. 51

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.

The Printing Office is responsible for printing in house or contracting out the printing and binding of laws, journals, agency reports and other such public documents. If an agency has their own printing plant, they may print their own documents with the approval of the Finance and Administration Cabinet, but may not contract out said plant to others.

Ky. Rev. Stat. Ann. 57.021

Additional comments:

5. Briefly discuss the functions of the printing office/official printer.

The State printer handles printing requests from state government either in their printing facilities or at a facility run by the corrections department. For jobs that they cannot handle the Finance and Administration Cabinet sends the jobs out in a competitive bid process. Any jobs sent out on bid through the Finance Cabinet are beyond the purview of the State Printer and thus they have no statistics on the number of items printed in such manner. Since the State Printer has little control over information printed outside of its facilities there is no way to ascertain the amount of government publishing done outside of the state printer facilities. Likewise the printer cannot give a percentage of official state government documents printed by them versus what is sent out to commercial printers.

- 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?
- b. To what extent is the printing office/official printer involved in the electronic dissemination of government information?

Not involved at all.

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.

Department for Libraries and Archives, headed by a Commissioner, whose official title is State Librarian, currently James A. Nelson. The State Librarian chairs the Archives and Records Commission.

Ky. Rev. Stat. Ann. 171.130, 171.420

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

Additional comments:

In Kentucky there is no separation between the State Library and the State Archives, they fall under the same Department.

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

The State Archives and Records Commission was created by 1958 Ky. Acts Ch. 49. The same Act defined the powers and responsibilities of the Department.

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.

725 KAR 1:010-050
725 KAR 2:015E-080

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.

The Department for Libraries and Archives has responsibility over State and Local agencies with respect to document retention. (See KRS 171.450 (4)) The department is the central depository for public records. All departments, boards, commissions, officers or other agencies of the Commonwealth must supply to the central depository copies of each of their reports and publications issued for general public distribution. (See KRS 171.500)

The department shall prescribe the policies and principles to be followed by state and local agencies in the conduct of their records management programs. (See KRS 171.520(1))

The commission (State Archives and Records Commission) shall establish standards for the selective retention of records of continuing value, and the department (Department for Libraries and Archives) shall assist state and local agencies in applying such standards to records in their custody. (See KRS 171.540)

As noted earlier in Section A.2., the Courts fall under the jurisdiction of the Supreme Court, but can seek assistance from the department.

Likewise, according to KRS 171.580 the legislature can (but does not have to) deposit documents with the State Archives.

Additional comments:

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

Additional comments:

The Kentucky Department for Libraries and Archives serves Kentucky's need to know by assuring equitable access to high quality library and information resources and services and by helping

public agencies ensure that adequate documentation of government programs is created, efficiently maintained and made readily accessible.

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:

For question 7-12 See Part I A above for a full response to these questions.

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.

[Author asked this question]

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

[Answer by Kentucky Department for Libraries and Archives]

The department's statutory mandate contained in KRS 171.410.740 defines a "public record" as all books, papers, maps, photographs, cards, tapes, disks, diskettes, recordings, and other documentary materials, regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency. The State Archives and Records Commission approve records retention schedules and each agency is obligated to follow those schedules. Those permanent records with historical or research value are generally scheduled to come to the State Archives. We plan to increase the number of records accessioned in electronic format, where appropriate.

[Author's question]

By placing documents online, does Kentucky assure permanent public access to those documents, is there any means of preserving that information? Or are the online documents simply held to the same retention standards of print documents?

[Answer by Kentucky Department for Libraries and Archives]

For those electronic records that have a permanent retention, we try to determine the best format for preserving and retaining them. Records with high access potential might be retained in an electronic format (a costly alternative), while those permanent records with low retrieval rates would likely be saved in film (Computer Output Format) where practical. Our Document Management Digitization System, which is now in place, will increase our capability of converting between paper, microfilm and electronic formats.

[Author's Question]

Do the guidelines set up for public records apply equally to government publications?

[Answer by Kentucky Department for Libraries and Archives }

Yes, most government publications are considered permanent records and thus need to be kept in the most useful format. Our State Publications Program has been actively collecting and preserving state documents in paper, microfilm or electronic format for many years.

Source: E-mail from Glen McAninch, Kentucky Department for Libraries and Archives, Tel: 502-564-8300 ext. 242, glen.mcaninch@kdla.net, Tuesday, Sept. 10th, 2002.

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.

See Item G.1 on the State Archives for answers to all of these questions. The State Archivist and the State Librarian are one and the same person. KRS 171.130 states that the department is to be headed by a commissioner whose title shall be state librarian. No separate person is called the State Archivist.

- 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.

Additional comments:

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.

Additional comments:

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.

Additional comments:

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

Additional comments:

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?

Additional comments:

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.

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 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.

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.

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

Additional comments:

There was in the past an attempt by the Department to compile a Core Publications for Kentucky Department for Libraries and Archives that was updated each month. Libraries could then contact

the agency responsible for issuing a document and try to get a copy. This program had not been kept up to date.

However, Kentucky's accession lists for state publications, once offered only in paper, are now on the web at: <http://www.kdla.state.ky.us/arch/month.htm>. This list will be published monthly and include publications from state agencies and the legislature that were intended for the public. It will not include publications of local governments nor items such as newsletters.

Source: Telephone interview with Barbara Teague Archival Services Branch Manager (502) 564-8300 x 249 barbara.teague@kdla.net on Thursday Sept. 26th, 2002

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?
- 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.

Additional comments:

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:

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.

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:

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

Additional comments:

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.

The Chase College of Law Library (Northern Kentucky University) has partnered with the Kentucky Supreme Court to make Briefs submitted to the Court available on the World Wide Web. This arrangement is still being built and has not yet been completed. Eventually the Briefs will appear on the Chase College of Law Library Web Site. The law library receives no extra money for this project from the State. See <http://www.nku.edu/~chase/library/lib_home.htm>

The Kentucky Bar Association in conjunction with the University of Kentucky College of Law Library makes recent opinions of the KBA’s Committees on Ethics and Unauthorized Practice of

Law available to the public on the Law Library's Web Site. The Law Library receives no money from the KBA for this project. See <<http://www.uky.edu/Law/kyethics/index.htm>>

Additional comments:

These agreements are not actually formalized by any law or regulation.

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."

The natural place for responsibility of "permanent public access" lies with the Department for Libraries and Archives. Any efforts at increasing efforts in the area will in all likelihood come out of this Department.

Additional comments:

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

Additional comments:

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)

Aldona K. Valicenti, Commonwealth CIO
Governor's Office for Technology
101 Cold Harbor Drive
Frankfort, KY 40601
Telephone : (502) 564-1201
Fax : (502) 564-6856
E-Mail: avalicenti@mail.state.ky.us

2. State Printer

Donna S. Hall
Division of Printing
Finance and Administration Cabinet
300 Myrtle Ave.
Frankfort, KY 40601
Telephone: (502) 564-2670 x223
E-Mail: DonnaS.Hall@mail.state.ky.us

3. State Archivist

State Librarian & Commissioner (also is the State Archivist)
James A. Nelson
Kentucky Department for Libraries and Archives
300 Coffee Tree Road
P.O. Box 537
Frankfort, KY 40602
Telephone: (502) 564-8300 x312
Fax: (502) 564-5773 (fax)
E-Mail: Jim.nelson@kdla.net

4. State Librarian and/or State Law Librarian

See Question Three above.

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

State Attorney General
Ben Chandler
Office of the Attorney General
The Capitol, Suite 118
700 Capitol Ave.
Frankfort, KY 40601
Telephone: (502) 696-5300

Fax: (502) 564-2894

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page

<<http://www.kydirect.net/>>

2. State agency portal

<<http://www.kydirect.net/>> and click on “Government Directory.”

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

There is searching capability similar to FirstGov on the official state home page.

3. Legislative website

<<http://www.lrc.state.ky.us/>>

a. Does the website cover the current year only?

The Website covers the 1997 legislative sessions to the present.

b. Are services free or fee-based?

The services are free.

4. Judicial websites

<<http://www.kycourts.net/>>

5. Regulatory agency websites

<<http://www.kydirect.net/> and click on “Government Directory.”>

6. Freedom of Information Service Hotline

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

No central number, each agency has a custodian (an agency employee) who is responsible for maintaining the agency records. A written request must be sent to this person.

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

Any denial of an Open Records request can be appealed to the Attorney General's Office.