

## 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.

ME. REV. STAT. ANN. tit. 1 § 401 (West 1989 & Supp. 2001).

This is a public record and public proceedings statute.

CODE ME. R. 29 255 001 (1999).

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

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

ME. REV. STAT. ANN. tit. 1 § 402 (West 1989 & Supp. 2001).

The Statute covers “any record that is in the possession or custody of any agency or public official of the State or any of its political subdivisions ... and has been received or prepared for use in connection with the transaction of public governmental business ...” There are eleven (11) exceptions.

See also; CODE ME. R. 29 255 001 (1999).

Additional comments:

Also includes the Board of Trustees of the University of Maine System, Maine Maritime Academy, Maine Technical Colleges, the full membership meetings of the Counties, Municipalities, School Associations and any Advisory Committee authorized by law, resolve or executive order and not otherwise covered by this section. Some Advisory Committees may be exempt under other subsections of the Public Records Statute. Public records also includes criminal justice agency records.

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

ME. REV. STAT. ANN. tit. 1 § 402(3) (West Supp. 2001).

Additional comments:

This is a lengthy definition covering over a page of text. Part of the definition is included in the answer to question two (2) above.

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?

They are not treated differently.

"The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension..."

ME. REV. STAT. ANN. tit. 1 § 402 (West Supp. 2001).

"Record means all documentary material, regardless of media or characteristics..."

CODE ME. R. 29 255 10 (2000).

Additional comments:

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

Yes  
 No

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

The Statute that addresses the retention of records is:

ME. REV. STAT. ANN. tit. 5 § 95 (West 2002).

The Office of the State Archivist has the authority to promulgate rules for retention and destruction of State records. The Archivist administers the records management program for the State.

CODE ME. R.29 255 10 (2000).

This section of Code contains the guidelines for record retention. It contains detailed record retention guidelines for various types of documents.

The distinction between electronic and other media was explicitly eliminated. Under the “Rules For Disposition of Local Government Records” CODE ME. R. 29 255 10 (2000).

“Record means all documentary material regardless of media or characteristics.”

“E-mail is subject to the same retention requirements as is paper correspondence. The Archives’ General Schedule (covering records in all agencies) establishes retention periods for correspondence, regardless of media.” Maine State Archives, *Electronic and Voice Mail 2.0: A Management Guide for State Government* available at

<http://www.state.me.us/sos/arc/general/admin/email.htm>

Electronic and other materials all follow the same retention schedule.

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.

See above.

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.

ME. REV. STAT. ANN. tit. 1 § 401 (West 1989).

“The Legislature finds and declares that public proceedings exist to aid in the conduct of the people’s business. It is the intent of the Legislature that their actions be taken openly and that the records of their actions be open to the public inspection and their deliberations be conducted openly. It is further the intent of the Legislature that clandestine meetings, conferences or meetings held on private property without proper notice and ample opportunity for attendance by the public not be used to defeat the purposes of this subchapter.

This subchapter shall be liberally construed and applied to promote its underlying purposes and policies as contained in the declaration of legislative intent.”

Another useful title in understanding the legislative intent is Archives and Records Management Law , ME. REV. STAT. ANN. tit. 5 § 91 (West 2002).

This section deals with the office of the State Archivist. This is separate from the “Public Records” statute. The “Declaration of policy” states; “The Legislature declares that it is the policy of the State to make the operations of State Government and local government more efficient, more effective and more economical through records management; and, to the end that the people may derive maximum benefit from a knowledge of state affairs, preserve its records of permanent value for study and research.”

ME. REV. STAT. ANN. tit. 5, § 92 (West 2002).

Additional comments:

CODE ME. R. 29 255 003 (1999).

“Permanent Record means any record determined by the State Archivist to have sufficient value to warrant its continued preservation by 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.

ME. REV. STAT. ANN. tit. 5 § 95 (West 2002).

The State Archivist is empowered to adopt rules for record retention and destruction of records. This office is also responsible for preserving records of permanent value.

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:

ME. REV. STAT. ANN. tit. 1 § 410 (West 1989 & Supp. 2001).

Only the State Attorney General May Enforce the “Freedom of Access Act” by seeking imposition of fine. *Cook v. Lisbon School Committee*, 682 A.2D 672.

CODE ME. R. 29 255 002 (1999).

Each agency is also responsible for enforcing the Statutes and Regulations.

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.

ME. REV. STAT. ANN. tit. 5 § 95 (West 2002).

Permanent retention obligations fall the State Archivist. The State Archives preserves State records and makes these records available for public use at “reasonable times”.

CODE ME. R. 29 255 003 (1999).

Additional comments:

“Permanent Record means any record determined by the State Archivist to have sufficient value to warrant its continued preservation by the State.”

Additional comments:

As can be seen from previous discussion an electronic public record has the same “permanent public access” as all other records. This is limited by retention schedules and what is considered to have continuing value.

For further discussion of the term “electronic” see Part II below.

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:

Litigation has occurred around defining what is a public record and/or meeting, what is or is not confidential and whether errors can be corrected in State Documents after members of the public have relied on the incorrect information. (Errors can be corrected even if people have relied on the incorrect information.)

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.

ME. REV. STAT. ANN. tit. 1 § 401 (West 1989).

This is the same Statute as discussed in “A”. Many answers will be the “same as above”.

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

Additional comments:

This statute is entitled “Freedom of Access”.

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.

Same as Item A. 2 above.

Additional comments:

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

Same as Item A. 3 above.

Additional comments:

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

- Yes  
 No When amended?

- 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.

ME. REV. STAT. ANN. tit. 1 § 402 (West 1989 & Supp. 2001).

The term “electronic data” was added to the *Maine Revised Statutes Annotated* in 1975.

1975 Me. Laws 623.

- 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.

See Item A. 8 above.

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.

See Item A.6 above.

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?

See Item A. 8 above.

- 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:

See “A” above.

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.

Printing and Purchase of Documents and Laws, ME. REV. STAT. ANN. tit. 1 § 501 (West 1989 & Supp. 2001).

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

Additional comments:

This section relates to state publications not public records.

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.

Me. Rev. Stat. Ann. tit. 1 § 501-A (West Supp. 2001).

Additional comments:

This section explicitly mentions the publications of “all agencies’, the University of Maine System, the Maritime Academy and the Legislature.

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:

Two sections worth noting are below.

ME. REV. STAT. ANN. tit. 1 § 502 (West 1989). “Property of the State”

“All Maine reports, digests, statutes, codes and laws printed or purchased by the State and previously distributed by law to the several towns and plantations within the State, shall be and remain the property of the State and shall be held in trust by such towns or plantations for the sole use of the inhabitants thereof.”

ME. REV. STAT. ANN. tit. 1 § 521 (West 1989). “Executive Orders”

1. Available to public. The Governor shall maintain in his office a file containing a copy of every executive order issued by him or by previous governors, which is currently in effect. This file shall be open to public inspection at reasonable hours.”
2. Dissemination. A copy of every executive order shall be filed with the Legislative Council, the Law and Legislative References Library and every county law library in this State within one week after the Governor has issued that order.

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?

Me. Rev. Stat. Ann. tit. 1 § 501A(5) (West Supp. 2001).

Additional comments:

Must send 1 copy of electronic State publications to the State Librarian. If it is also available in print and sent to the State Librarian an electronic version does not need to be provided.

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.

ME. REV. STAT. ANN. tit. 27 § 2 (West 1988 & Supp. 2001).

Requires State Librarian to “keep” ... “full and complete sets of all documents printed by the State”. (This is not the only material the State Librarian is required to keep.)

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.

ME. REV. STAT. ANN. tit. 1, § 501-A (West 1989).

Publication must be sent to the State Librarian. Fifty-five (55) copies of biennial or annual reports not included in Maine State Government Annual report must be sent to the State Librarian. Eighteen (18) copies or print publications must be sent to the State Librarian.

Additional comments:

CODE ME. R. 29 255 002 (1999).

ME. REV. STAT. ANN. tit. 27 § 31 (West 1988).

State Library is open to the public.

ME. REV. STAT. ANN. tit. 27 § 2 (West 1988).

The State Library collects a complete set of all documents published by the State.

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:

The only legislative intent is noted in Section A, Item 6.

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?

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

ME. REV. STAT. ANN. tit. 1 § 501 A(5)(West Supp. 2001).  
One (1) copy of electronic publications is sent to State Library.

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.

Yes  
 No

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

Additional comments:

#### **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.

Richard H. Hinckley, Director of the Bureau of Information Services ME. REV. STAT. ANN. tit. 5, § 1884 (West 2002)

Harry Lanphear, Chief Information Officer ME. REV. STAT. ANN. tit. 5, § 1971 (West 2002)

- 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?

ME. REV. STAT. ANN. tit. 5, § 1884 (West 2002) Effective July 1, 1986 (Director)  
ME. REV. STAT. ANN. tit. 5, § 1971 (West 2002) Effective September 21, 2001 (Chief Information Officer)

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.

None promulgated.

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.

ME. REV. STAT. ANN. tit. 5, § 1885 (West 2002) defines the responsibility of the Bureau of Information Services as "providing information and enterprise services in data processing and telecommunications throughout State Government." However, the Legislature recently contracted with a private Internet service provider and will discontinue these services through the Bureau of Information Services.

ME. REV. STAT. ANN. tit. 5, § 1973 (1) (A) (West 2002) defines the responsibilities of the Chief Information Officer to include "central leadership and vision in the use of information and telecommunications technology on a statewide basis," and subsection 2 provides that the Chief Information Officer shall serve as information technology liaison to the Governor's office, the judicial branch, and the legislative branch.

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?

No print responsibilities in the office of Information Services or the Office of the Chief Information Officer.

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:

There is no statutory requirement for the Bureau of Information Services to retain information permanently. The Bureau of Information Services "keeps the data for as long as the agency wants us to keep it. Some agencies want to retain files for five years, seven years, or longer. . . . We set up a tape rotation for archived data with the customer. It is dictated more by convention and custom on our end and by the customers' business requirements on their end(s). We do nightly incremental backups and full backup each week. We rely on the customers to identify the data that needs to be backed up. (We don't generally back up test data, for example.) The customers tell us whether they want a three-week or a five-week rotation. We generally keep quarterly backup for a year and annual backups for as long as requested. For customer data, it is the agency that specifies the retention period." (E-mail from Mary Silva, Information Technology Manager, Office of the Chief Information Officer, to Lynn Randall, State Law Librarian (May 30, 2002 2:48 PM) The e-mail continues by pointing out that there is a statute the charges the Bureau of Information Services with "assuring adequate backup for all information services." (ME. REV. STAT. ANN. tit. 5, § 1887 (2) (C) (West 2002) However, the e-mail acknowledges that this cannot be construed as "available in perpetuity."

The Chief Information Officer does have responsibility for information technology planning, standards for data processing and telecommunications, and strategic planning initiatives for data processing and telecommunications. ME. REV. STAT. ANN. tit. 5, § 1973 and 1974 (West 2002). Permanent public access is not mentioned.

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.

ME. REV. STAT. ANN. tit. 5, § 92 (West 2002) declares the policy of the State to preserve its records of permanent value for study and research. ME. REV. STAT. ANN. tit. 5, § 95 (10-B) (West 2002) specifies a goal of ensuring "the preservation of adequate and permanent records of the organization, functions, policies, procedures, decisions and essential transactions of the agencies of State Government or local government."

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.

The Bureau of Information Services referred to the Maine State Archives with regard to permanent preservation. (E-mail from Mary Silva, Information Technology Manager, Office of the Chief Information Officer, to Lynn Randall, State Law Librarian (May 30, 2002 2:48 PM) The e-mail continues: "As far as BIS practices go, we keep the data for as long as the agency wants us to keep it...For customer data, it is the agency that specifies the retention period...There is no statutory requirement to retain any information permanently. Note that the data files are the property of the agencies and not BIS. There is a lot of IT in state government that is not done by BIS, as you know. Any statutes would have to be aimed at the agencies that own the information." In the same e-mail the Bureau "has taken the step occasionally of returning data to the customer for storage if we've had it for years and years and it resides on obsolete media."

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 Director serves as the contracting authority for the InforME Board. InforME is "a self-supporting and cost-effective electronic gateway to provide and enhance access to State's public information." ME. REV. STAT. ANN. tit. 1, § 533 (West Supp. 2001) No statute or documentation relating to InforME contains any language relating to permanent preservation of government information.

## 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.

Information Services Policy Board ME. REV. STAT. ANN. tit. 5, § 1893 (West 2002)

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

*Strategic Information Technology Plan: Technical Architecture, Roadmap Development, Final Report.* Office of the Chief Information Officer, Information Services Policy Board and Gartner Consulting. January 7, 2002, available at [http://www.state.me.us/cio/ITstrat\\_plan/index.html](http://www.state.me.us/cio/ITstrat_plan/index.html)

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.

ME. REV. STAT. ANN. tit. 5, § 1893 (3) (West 2002) requires the Board to assist the commissioner in a “departmental planning process,” which indicates the Executive Branch. However, representatives from the legislative and judicial branches participated as non-voting advisory members of the Board, as provided in ME. REV. STAT. ANN. tit. 5, § 1893 (2) (West 2002). The participation of the legislative and judicial representatives is also acknowledged in the Plan itself.

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:

The Plan does discuss backup, disaster recovery, and data storage issues. Archives and Records Management functions are presented in the high level view. The specifics under this heading include the ability to determine if legal requirements are being met and the ability to insure that data and documents requested are readily available.

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.

The Department of Administrative and Financial Services, through the Bureau of General Services has authority to “establish and conduct a central duplicating service at the seat of government.” Me. Rev. Stat. Ann. tit. 5, § 1811 (4) (West 2002) This service was formerly known as Central Printing.

- 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.

Same as 1, above.

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 central duplicating service has no jurisdiction over any branch of government, but the statute does provide that the “duplicating service must be available to all departments and agencies of the State Government.” ME. REV. STAT. ANN. tit. 5, § 1811 (4) (West 2002)

Additional comments:

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

No functions are specified in statute.

- a. Describe your state’s use of in-house agency publishing and/or commercial publishing of government information.

Commercial publishing contracts are competitively bid through the Bureau of Purchases. No information regarding in-house publishing is available.

- b. What percentage of official state government documents are printed by the printing office/official printer?

A fairly large percentage of printing is contracted out through the Bureau of Purchases.

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

The central duplicating service is not 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?

The central duplicating service is not involved in the electronic dissemination of government information.

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:

"The State Purchasing Agent, Central Printing and all other printing operations within State Government shall forward to the State Librarian upon receipt one copy of all requisitions for publications to be printed." ME. REV. STAT. ANN. tit. 1, § 501-A (6) (West 2002)

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.

ME. REV. STAT. ANN. tit. 5, § 92 (West 2002) declares the policy of the State to preserve its records of permanent value for study and research. ME. REV. STAT. ANN. tit. 5, § 95 (10-B) (West 2002) specifies a goal of ensuring “the preservation of adequate and permanent records of the organization, functions, policies, procedures, decisions and essential transactions of the agencies of State Government or local government.”

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.

State Archivist; Maine State Archives; ME. REV. STAT. ANN. tit. 5, § 94 (West 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.

ME. REV. STAT. ANN. tit. 5, § 95 (West 2002)

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.

CODE ME. R. §29 250 1-10 (2000)

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.

ME. REV. STAT. ANN. tit. 5, § 92-A (West 2002) defines "state agency" or "agency" and any unit of state government except the Legislature and the Judicial Department. However, ME. REV. STAT. ANN. tit. 5, § 95 (10-C) (West 2002) provides for the transfer of legislative records to the Maine State Archives, and ME. REV. STAT. ANN. tit. 4, § 8-A (1) (West 1989) provides for the transfer of judicial records.

Additional comments:

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

The functions of the State Archivist are to provide for the transfer of state records to the Maine State Archives, to establish standards to ensure preservation of adequate and permanent records, to make archival material available for public use, and to establish and administer a records management program.

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?

However, “record and “electronic record” have separate definitions in ME. REV. STAT. ANN. tit. 5, § 92-A (5) (West 2002) and (6) respectively.

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:

The Archivist points out that “[t]he notion of ‘permanent public access’ applies only to records that have been designated for permanent retention. Most records are authorized for destruction, thus access for them is time-limited. 5 MRSA Chapter 6 [ME. REV. STAT. ANN. tit. 5, §§ 91-97 (West 2002)] provides that the Archives may make rules regarding the retention of state government records, including designating some as ‘archival’ or ‘permanent.’ The latter must be transferred to the control of the Archives, which has an obligation to provide continuing public access, sometimes restricted by confidentiality requirements....16 MRSA 456-A [ME. REV. STAT. ANN. tit. 16, § 456-A (West Supp. 2001)] addresses electronic records and the requirement to retain them in an accessible format as long as required by law, with the proviso that ‘Nothing in this subsection precludes any agency [e.g., the Maine State Archives] from specifying additional requirements for the retention of records, either written or electronic, that are subject to the jurisdiction of that agency.’” E-mail

from James Henderson, State Archivist, to Lynn Randall, State Law Librarian (May 28, 2002 12:31 PM).

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.

ME. REV. STAT. ANN. tit. 5, § 92 (West 2002) declares the policy of the State to preserve its records of permanent value for study and research. ME. REV. STAT. ANN. tit. 5, § 95 (10-B) (West 2002) specifies a goal of ensuring "the preservation of adequate and permanent records of the organization, functions, policies, procedures, decisions and essential transactions of the agencies of State Government or local government."

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.

In responding to this question, Mr. Henderson referenced ME. REV. STAT. ANN. tit. 5, §§ 91-97 (West 2002) in his e-mail. E-mail from James S. Henderson, State Archivist, to Lynn E. Randall, State Law Librarian (May 15, 2002, 9:17 EST). Also, acknowledged in the *Digital Records Management Plan*, referenced in the response to the next question: "The Archives will, first and foremost, assure the preservation of archival records...it will assure their continued accessibility on readable media, preferably human readable media, for as long as they continue to be designated as archival." Page 9

In a further e-mail Mr. Henderson pointed out that "Responsibility is only 'to permanently maintain government information' except that which has been authorized for destruction by the Archives. No records may be destroyed unless so authorized. E-mail from James S. Henderson, State Archivist, to Lynn E. Randall, State Law Librarian (May 28, 2002 12:31 PM).

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.

A major initiative has been the development of the *Maine State Archives Digital Records Management Plan 1999-2003*, prepared by Lars H. Rydell; revised and edited by James S. Henderson April, 1999, available at <http://www.state.me.us/sos/arc/files/filehome.htm> Development of the Plan was funded by the National Historical Publications and Records Commission and the Maine State Archives. However, the Archivist states that funding has been lacking to properly implement the plan.

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.

Maine State Library; State Librarian; ME. REV. STAT. ANN. tit. 27, § 1 (West 1988)

- 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.

ME. REV. STAT. ANN. tit. 27, §§ 1, 2, 5, 32, 36, 66, 69, and 111 (West 1988)

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:

ME. REV. STAT. ANN. tit. 27, § 1 (West 2002) authorizes the State Librarian to "make such rules and regulations as are necessary for the proper management of the Library and the safety of its contents." This is not the same as language authorizing rules under the Administrative Procedures Act.

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.

ME. REV. STAT. ANN. tit. 1, § 501-A (4) (West 1989 & Supp. 2001) requires any agency or legislative committee to deliver 18 copies of any publication issued to the State Librarian. Although the Judicial Department does not appear to be specifically mentioned, they would be expected to also deliver 18 copies of any publication to the State Librarian. E-mail from Michele Brann, State Documents Librarian, to Lynn Randall, State Law Librarian (June 21, 2002 9:07 AM).

Additional comments:

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

The State Librarian manages and supervises the Maine State Library, gives advice to local libraries and fosters cooperation among libraries of all types, distributes reports and documents, and serves as Secretary of the Maine Library Commission.

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?

ME. REV. STAT. ANN. tit. 1, § 501-A (5) (West 1989 & Supp. 2001) requires any agency or committee that electronically publishes information to the public to deliver one printed copy to the State Librarian. Agencies and legislative committees issuing publications are required to deliver 18 copies of the publications in published format to the State Librarian. ME. REV. STAT. ANN. tit. 1, § 501-A (4) (West 2002)

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:

ME. REV. STAT. ANN. tit. 27, § 2 (6) (West 1988) requires the State Librarian to "procure and keep" in the Maine State Library a number of specific resources. The word "permanent" does not appear.

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.

ME. REV. STAT. ANN. tit. 5, § 92 (West 2002) declares the policy of the State to preserve its records of permanent value for study and research. ME. REV. STAT. ANN. tit. 5, § 95 (10-B) (West 2002) specifies a goal of ensuring "the preservation of adequate and permanent records of the organization, functions, policies, procedures, decisions and essential transactions of the agencies of State Government or local government." Elaine Stanley, Reference and Information Specialist, and Michele Brann, State Documents Librarian, Maine State Library, noted in their response to this question on June 20, 2002 (on file with Lynn E. Randall, State Law Librarian) that ME. REV. STAT. ANN. tit. 5, § 95 (10-B) (West 2002) applies to public records only, not publications.

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.

This responsibility was acknowledged by Elaine Stanley, Reference and Information Specialist, and Michele Brann, State Documents Librarian, Maine State Library, in their response to this question on June 20, 2002 (on file with Lynn E. Randall, State Law Librarian).

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:

Maine has a State Law Librarian appointed by the Legislative Council, as provided in ME. REV. STAT. ANN. tit. 3, § 162 (6) (West 1989). The State Law Librarian does not have the authority to promulgate rules. Legislation relating to the Law and Legislative Reference Library does not provide for permanent public access, although the State Law Librarian does acknowledge a duty to permanently preserve legal and governmental records. The State Law Librarian serves as Records Officer for the Legislature, working cooperatively with the Maine State Archives to facilitate scheduling of legislative record series and transfer of the records to the Records Center or the Archives. Decision-making authority with regard to preservation and access to legislative records rests with the House and Senate and the Legislative Council.

Online access to legislative information is complicated by the ongoing migration of legislative computer systems. Currently information is provided on the Internet and also on an in-house system that is not compatible with the Internet. Transferring information from the in-house system to the Internet remains an issue, especially with regard to information from prior legislative sessions. Further, bill status information for the previous legislature (1999-2000) was removed from the Internet, although the bill and amendment texts remain. This bill status information is still accessible through the Law and Legislative Reference Library, but access is through the in-House system only. In addition, the in-house system provides access to current bill status information not available on the Internet, such as access by statute title and section. These issues should be resolved when all functions have been migrated to a single computer system.

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.

ME. REV. STAT. ANN. TIT. 27, § 66 (West 1988) authorizes the State Librarian to transmit one copy of each published report of each department of the State Government to each library in the state.

b. If “No,” skip this whole section.

Additional comments:

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?

ME. REV. STAT. ANN. tit. 1, § 501-A (5) (West 1989 & Supp. 2001) requires any agency or committee that electronically publishes information to the public to deliver one printed copy to the State Librarian. This differs from the requirement that 18 copies of a paper publication be delivered to the State Librarian found in ME. REV. STAT. ANN. tit. 1, § 501-A (4) (West 1989 & Supp. 2001)

- 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:

Not available

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

“Unfortunately, we have difficulty in acquiring government publications, which directly impacts our effectiveness in preserving, disseminating and providing access. Many State Agency personnel are unaware of the statute requiring them to provide us with copies of their publications, and there is no time, staff or money for outreach programs to educate them. Consequently, the State Documents Librarian spends a great deal of time chasing down items. Also, the system in place to notify the Librarian of new publications is not completely effective, resulting in fugitive documents about which the Librarian is unaware and, therefore, can not acquire. As to electronically published items, many of the State Agency personnel responsible for such items do not recognize them as actual publications and do not see the need for permanent access. It has been a battle, in many cases, to convince them that this information is valuable and should be retained for permanent access, but we are trying.” Elaine Stanley, Reference and Information Specialist, and Michele Brann, State Documents Librarian, Maine State Library, in their response to this question on June 20, 2002 (on file with Lynn E. Randall, State Law Librarian).

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.

Additional comments:

The state does have a public/private partnership with Information Resource of Maine for “a self-supporting and cost-effective electronic gateway to provide and enhance access to the State's Public information....” ME. REV. STAT. ANN. tit. 1, § 533 (West 1989) Permanent public access does not appear as a concept in the InforME legislation or in the InforME Board mission statement.

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:

For more information please see the Executive Summary. Permanent public access is not neglected in the State of Maine. One area that could use future advocacy is to increase funding to implement plans for preservation and also to educate the various departments regarding these plans. Educating the workforce, regarding the need to ensure documents and records are preserved, is a continual effort. The statutes, regulations and plans are in place. In section G “State Archives and State Archivist” question 10 indicates that it is difficult to implement plans without sufficient funding. In this case, implementing the *Maine State Archives Digital Records Management Plan 1999-2003*.

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)

Richard Hinckley, Director  
Harry Lanphear, Chief Information Officer  
Bureau of Information Services  
145 State House Station  
Augusta, Maine 04333-0145  
Tel. (207) 624-7840  
Fax (207) 287-4563  
harry.lanphear@maine.gov

2. State Archivist

James Henderson, State Archivist  
Maine State Archives  
84 State House Station  
Augusta, Maine 04333-0084  
Tel. (207) 287-5790  
Fax (207) 287-5739  
james.henderson@state.me.us

3. State Librarian and/or State Law Librarian

J. Gary Nichols, State Librarian  
Maine State Library  
64 State House Station  
Augusta, Maine 04333-0064  
Tel. (207) 287-5600  
Fax (207) 287-5615  
gary.nichols@state.me.us

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

G. Steven Rowe, Attorney General  
6 State House Station  
Augusta, Maine 04333-0006  
Tel. (207) 626-8800  
Fax (207) 287-3145  
steven.rowe@state.me.us

## M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page  
<http://www.state.me.us/>
2. State agency portal  
No separate portal. State agency links: <http://www.state.me.us/government/agencies.html>
  - a. Does the portal have a searching capability similar to FirstGov?

Keyword searching only from state's homepage.

3. Legislative website  
<http://janus.state.me.us/legis/>
  - a. Does the website cover the current year only?

No

- b. Are services free or fee-based?

Free

4. Judicial websites  
<http://www.courts.state.me.us/>

5. Regulatory agency websites  
No separate listing for all regulatory agencies. This page provides the text of all regulations:  
<http://www.state.me.us/sos/cec/rcn/apa/depts.htm>

6. Freedom of Information Service Hotline  
None

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

No

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

Only the Attorney General or his representative may enforce the Freedom of Access Act. *Lewiston Daily Sun v. School Administrative Dist. No. 43*, 738 A.2D 1239 (Me. 1999); *Scola v. Town of Sanford*, 695 A.2D 1194 (Me. 1997).