

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.

OHIO REV. CODE ANN. §149.01 et seq. (Anderson 2001 & Supp 2001) (Documents, Reports, and Records).

OHIO ADMIN. CODE §149:1-1-01 et. seq.(2001) (State Records Commission: General Provisions).

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

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

OHIO REV. CODE ANN. §149.011(Anderson 2001) (Definitions):

149.011 Definitions.

As used in this chapter:

(A) "Public office" includes any state agency, public institution, political subdivision, or any other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government.

(B) "State agency" includes every department, bureau, board, commission, office, or other

organized body established by the constitution and laws of this state for the exercise of any function of state government, including any state-supported institution of higher education, the general assembly, or any legislative agency, any court or judicial agency, or any political subdivision or agency thereof.

(C) "Public money" includes all money received or collected by or due a public official, whether in accordance with or under authority of any law, ordinance, resolution, or order, under color of office, or otherwise. It also includes any money collected by any individual on behalf of a public office or as a purported representative or agent of the public office.

(D) "Public official" includes all officers, employees, or duly authorized representatives or agents of a public office.

(E) "Color of office" includes any act purported or alleged to be done under any law, ordinance, resolution, order, or other pretension to official right, power, or authority.

(F) "Archive" includes any public record that is transferred to the state archives or other designated archival institutions because of the historical information contained on it.

(G) "Records" includes any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

Additional comments:

Under the record retention provisions there are additional sections discussing records management and specific governmental bodies:

OHIO REV. CODE ANN. §149.331 (Anderson 2001), (Records management procedures for all state agencies.)

OHIO REV. CODE ANN. §149.332 (Anderson 2001) (Record management programs in the legislative and judicial branches).

OHIO REV. CODE ANN. §149.34 (Anderson 2001) (Records management programs for all state agencies).

Political subdivisions & Schools and Educational Service Centers:

OHIO REV. CODE ANN. §149.38 et seq. (Anderson 2001) (Records Commissions). (Records management for counties, cities, schools & educational service centers, & townships).

Electronic records by state agencies:

OHIO REV. CODE ANN. §1306.20 (Anderson Supp. 2001) (State agency provisions).

“(I) For the purposes of this section, "state agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government, but does not include the general assembly, any legislative agency, the supreme court, the other courts of record in this state, or any judicial agency.”

Section (A) subjects state agencies to §1306.11:

OHIO REV. CODE ANN. §1306.11 (Anderson Supp. 2001) (Requirement that record be retained; checks).

“(A) If a law requires that a record be retained....”

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

OHIO REV. CODE ANN. §149.011(G) (Anderson 2001) (Definitions).

Additional comments:

For text see brief explanation under question 2.

The Ohio Supreme Court has held to be a “record” the information has to be used by the government agency to carry out its duties and responsibilities. See, State ex. rel. Beacon Journal Publishing Co. v. Whitmore, 83 Ohio St. 3d 61, 63, 667 N.E.2d 640, 641 (1998).

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:

Note in the definition of “records” in §149.011 indicates that format is irrelevant when determining if something is a record, “regardless of physical form.”

For an example of a case involving electronic information arising under §149.011 see, State ex. rel. Athens County Property Owners Association, Inc. v. City of Athens, 85 Ohio App. 3d 129, 619 N.E.2d 437 (1992).

If a state agency makes a certified copy, format does not have to be the same, of a record and it will have the same legal effect as the original. OHIO REV. CODE ANN. §9.01 (Anderson 2001) (Photostat, microfilm or other recording).

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

Yes
 No

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

OHIO REV. CODE ANN. §149.33 et. seq. (Anderson 2001), Establishes a state records administrator, within the Department of Administrative Services. The state records administrator is responsible for the management of state records. This includes oversight of state agencies' record retention, transfer, and disposal.

Additional comments:

Note, the State Auditor is responsible for final approval of all requests to retain, transfer, or destroy public records. OHIO REV. CODE ANN. §149.333 (Anderson 2001)(Applications for records disposal or transfer; schedules of retention and destruction.)

To see general information about actual records retention, see Ohio Government Records Database, <http://www.gsd.das.state.oh.us/rims/default/default.asp>, (last update today, June 29, 2002).

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:

The author spoke with Dr. David Larson, State Records Administrator. He says that looking at the laws tells you nothing about whether a state is preserving its records. He says the only way to know is to visit places. He states that whether or not state records are preserved depends on funding and staffing, no matter what the laws says. He says that Ohio is under funded and understaffed and therefore has no system of preserving (or at least ensuring the preservation) state records.

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.

OHIO REV. CODE ANN. §149.33 (Anderson 2001) (State records program and office administration established).

“office of state records” is a department of administrative services §149.33(a)

- 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.

OHIO REV. CODE ANN. §149.33 (Anderson 2001).

The author spoke with Dr. David Larson, State Records Administrator. He says that looking at the laws tells you nothing about whether a state is preserving its records. He says the only way to know is to visit places. He states that whether or not state records are preserved depends on funding and staffing, no matter what the laws says. He says that Ohio is under funded and understaffed and therefore has no system of preserving (or at least ensuring the preservation) state records.

Additional comments:

Note, the State Auditor is responsible for final approval of all requests to retain, transfer, or destroy public records. OHIO REV. CODE ANN. §149.333 (Anderson 2001)(Applications for records disposal or transfer; schedules of retention and destruction.)

- 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:

- 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:

Court found the destruction of records allowable because it was authorized under §149.351, Miller v. Delaney, No. 2001CA109, 2002 WL 191610 (Ohio App. 2 Dist).

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.

OHIO REV. CODE ANN. §149.43 et. seq. (Anderson 2001) (Availability of public records).

There are no administrative regulations.

- 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

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

OHIO REV. CODE ANN. §149.43 (Anderson 2001):

“(A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in Ohio kept by a nonprofit or for profit entity

operating such alternative school pursuant to section 3313.533 [3313.53.3] of the Revised Code. "Public record" does not mean any of the following: ..."

“(B)(1) Subject to division (B)(4) of this section, all public records shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(4) of this section, upon request, a public office or person responsible for public records shall make copies available at cost, within a reasonable period of time. In order to facilitate broader access to public records, public offices shall maintain public records in a manner that they can be made available for inspection in accordance with this division.”

Additional comments:

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

OHIO REV. CODE ANN. §149.43(A) (Anderson 2001).

Additional comments:

See brief explanation under question 2 for text of definition.

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:

Ohio Department of Administrative Services, Electronic Records, ITP E.30, 5.1.3 (5/1/1999)
States that electronic records could be public records subject to §149.43.

http://www.state.oh.us/das/dcs/opp/pdfs_policy/ITPE.30.pdf

The dynamic existence of electronic information has been recognized to create new issue of what is “the record.” See, Ohio Electronic Records Committee, Databases as Public Records Guidelines,
<http://www.ohiojunction.net/erc/databases/databasesguidelines.html> (last modified 2/13/02).

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Public access is enforced through a mandamus action. OHIO REV. CODE ANN. §149.43(C) (Anderson 2001).

The Ohio Attorney General's office does publish a detailed explanation of Ohio's public records laws: [2001 Yellow Book: Ohio Sunshine Laws](http://www.ag.state.oh.us/agpubs/2001YellowBook.PDF)
<http://www.ag.state.oh.us/agpubs/2001YellowBook.PDF>

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.

OHIO REV. CODE ANN. §1707.12 (Anderson 2001) (Documents open to inspection.)

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

Additional comments:

See, State ex rel. Dublin Securities, Inc. v. Ohio Div. Of Securities, 68 Ohio St. 3d 426, 627 NE2d 993 (1994). (§149.43 does not apply to Ohio Division of Securities.)

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.

Additional comments:

Applies only to the Ohio Division of Securities.

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

OHIO REV. CODE ANN. §1707.12(D) (Anderson 2001) (Documents open to inspection.)

Public records are to be promptly prepared and made available upon request by any member of the general public. Upon request copies will be made for cost and within a reasonable period of time.

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:

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.

OHIO REV. CODE ANN. §1707.12(D) (Anderson 2001) (Documents open to inspection.)

Public records are to be kept so to facilitate public access.

Additional comments:

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

“Chief Information Officer (CIO)” Exec.Order 97-01V (Ohio), and Exec. Order 2000-09T (Ohio).

- 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?

Exec.Order 97-01V (Ohio), and Exec. Order 2000-09T (Ohio).

Additional comments:

The authority of the CIO stems from OHIO REV. CODE ANN. §125.01 & 125.02 (Anderson 2001) and Ohio Executive Orders 97-01V and 2000-09T, according to Ohio Department of Administrative Services, Authority to Publish Policy and Communications Regarding the Acquisition and Use of Computer and Telecommunication Products and Services, ITP A.1 (8/9/2001),

<http://www.state.oh.us/das/dcs/opp/OhioITPolicies.htm>, then click on ITP A.1

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:

See comments to 2 above. CIO has authority to create "Statewide IT policies," "Statewide IT policy bulletins," and "IT reports and best practices." Link to these documents:
<http://www.state.oh.us/das/dcs/opp/OhioITPolicies.htm>

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.

The CIO has authority to issue statewide IT policies, Ohio Department of Administrative Services, Authority to Publish Policy and Communications Regarding the Acquisition and Use of Computer and Telecommunication Products and Services, ITP A.1 (8/9/2001).

<http://www.state.oh.us/das/dcs/opp/OhioITPolicies.htm>, then click on ITP A.1

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?

It appears he only has responsibilities in regard to electronic government information. See comments under 3 & 4 above.

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.

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.

The Chief Information Officer has the authority to create the plan. His authority stems from OHIO REV. CODE ANN. §125.01 & 125.02 (Anderson 2001) and Executive orders 97-01V and 2000-09T, Ohio Department of Administrative Services, Authority to Publish Policy and Communications Regarding the Acquisition and Use of Computer and Telecommunication Products and Services, ITP A.1 (8/9/2001).

<http://www.state.oh.us/das/dcs/opp/OhioITPolicies.htm>, then click on ITP A.1

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

Ohio Department of Administrative Services, State of Ohio IT Policy: Information Technology Planning, ITP D.4 (3/14/2002).

http://www.state.oh.us/das/dcs/opp/pdfs_policy/ITPD.4.pdf

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

Additional comments:

2. The technology plan covers which branches?

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

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

OHIO REV. CODE ANN. §125.02(Anderson 2001). All state agencies except institutions administered by boards of trustees, the general assembly, the department of rehabilitation and correction, the capital square review and advisory board, the bureau of workers' compensation, and the military department.

Attachment 1 lists agencies required and those that may voluntarily submit IT Planning to the Department of Administrative Services, Ohio Department of Administrative Services, State of Ohio IT Policy: Information Technology Planning, ITP D.4 (3/14/2002).

http://www.state.oh.us/das/dcs/OPP/pdfs_policy/ITPD.4.pdf

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 state printing within the department of administrative services," OHIO REV. CODE ANN. §125.31 (B) (Anderson 2001).

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.

OHIO REV. CODE ANN. §125.31 et. seq. (Anderson 2001).

Additional comments:

Ohio Department of Administrative Services, RE: Public Printing, Directive 01-19 (7-01-01) summarizes for state agencies public printing.

<http://www.state.oh.us/das/direct2000/d19Page.htm>

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.

None.

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.

OHIO REV. CODE ANN. §125.31 et. seq. (Anderson 2001). Department of Administrative Services supervises all public printing except for the general assembly, the Ohio arts council, the capital square review and advisory board, the bureau of workers' compensation, and state-supported institutions of higher education.

Additional comments:

Mr. Tucker, State Printing Administrator, said that although the law indicates the courts should use his department they do not.

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

The division of state printing is responsible for the supervision of all public printing, except for the exceptions noted above. This includes printing the documents in-house or having them contracted out.

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

OHIO REV. CODE ANN. §125.31 et. seq. (Anderson 2001). Includes how the division of state printing is to contract out printing.

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

Mr. Tucker did not have an answer. His department either prints or jobs out for all state agencies except for the ones noted above. He noted that some agencies do some of their own printing, but there is no record of it.

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

The printer 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?

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 department shall not use its authority to curtail the release of public information by any elected state official.” OHIO REV. CODE ANN. §125.31(B) (Anderson 2001).

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.

"state archivist", OHIO REV. CODE ANN. §149.31(A) (Anderson 2001) (Archives administration).

- 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.

OHIO REV. CODE ANN. §149.31(A) (Anderson 2001) (Archives administration).

Additional comments:

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

Yes
 No

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

Additional comments:

The archivist is not a government position. However, the state archives has created procedures for itself in regard to records that have been transferred to its custody:

State Archives, Ohio Historical Society, [Procedures Governing Records of State Agencies Transferred to the State Archives of Ohio](http://www.ohiohistory.org/resource/statearc/transfer_procedures.html), http://www.ohiohistory.org/resource/statearc/transfer_procedures.html (last modified 5/24/01).

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.

OHIO REV. CODE ANN. §149.332 (Anderson 2001) (Record management programs in the legislative and judicial branches).

OHIO REV. CODE ANN. §149.34 (Anderson 2001) (Records management programs for all state agencies).

Political subdivisions & Schools and Educational Service Centers:

OHIO REV. CODE ANN. §149.38 et seq. (Anderson 2001) (Records Commissions). (Records management for counties, cities, schools & educational service centers, & townships).

Additional comments:

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

The function of the archivist is to preserve the government information that comes into his\her position, OHIO REV. CODE ANN. §149.31 (Anderson 2001)

Additional comments:

When I spoke with Charles Arp, State Archivist, he interprets “to preserve” to mean permanently keep government information.

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:

Ohio Department of Administrative Services, Electronic Records, ITP E.30, 5.7 (5/1/1999) (Maintaining and providing access to electronic records over time is a shared responsibility.)

http://www.state.oh.us/das/dcs/opp/pdfs_policy/ITPE.30.pdf

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.

OHIO REV. CODE ANN. §149.31 (Anderson 2001)

When I spoke with Charles Arp, State Archivist, he interprets “to preserve” to mean permanently keep government information.

Additional comments:

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

Yes

No

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

Additional comments:

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

Yes

No

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

When I spoke with Charles Arp, State Archivist, he interprets “to preserve” to mean permanently keep government information, OHIO REV. CODE ANN. §149.31 (Anderson 2001)

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.

An Ohio Electronic Records Committee has been established through the Ohio Historical Society, i.e. the State Archives. This committee drafted Ohio Department of Administrative Services,

Electronic Records, ITP E.30 (5/1/1999) and adopted Ohio Electronic Records Guidelines.
<http://www.ohiojunction.net/erc/RMGuide/ERGuidelines.htm>

Also, the State Archives was responsible for the attempt to set up a cooperative electronic records repository, see below J. Cooperative Arrangements.

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.

The State Library of Ohio, OHIO ADMIN. CODE §3375-1-01(I) (1999) (Rules and regulations for the operation of the state library board).

State Librarian, OHIO REV. CODE ANN. §3375.02 (Anderson 1999) (State librarian)

- 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.

OHIO REV. CODE ANN. §3375.02 (Anderson 1999) (State librarian)

Additional comments:

For additional powers/responsibilities see:

OHIO ADMIN. CODE §3375-1-01 (1999) (Rules and regulations for the operation of the state library board).

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:

The State library board has the power to promulgate administrative regulations:
OHIO REV. CODE ANN. §3375.01(K) (Anderson 1999) (State library board)

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.

OHIO REV. CODE ANN. §3375.02(B) & (F) (Anderson 1999) (State librarian):

“(B) Provide technical assistance and maintain a clearing house of information, data, and other materials in the field of library service, furnishing advice and assistance to the public libraries in the various subdivisions of the state, other libraries, state, local and regional agencies, planning groups and other appropriate agencies and organizations;

(F) Maintain a comprehensive collection of official documents and publications of this state and a library collection and reference service to meet the reference and information needs of officers, departments, agencies of state government, and other libraries;”

Additional comments:

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

The state librarian manages the state library, supports state public library's library services, collects information about Ohio libraries, maintains an official list of state publications, and maintains a collection to support state government.

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.

OHIO REV. CODE ANN. §3375.02 (F) (Anderson 1999) (State librarian).

One of the State Librarian's responsibilities is to "[m]aintain a comprehensive collection of official documents... When I spoke to Mr. Lucas, the State Librarian, he said that he interprets "maintain" as keep forever.

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:

OHIO REV. CODE ANN. §3375.02 (F) (Anderson 1999) (State librarian).

One of the State Librarian’s responsibilities is to “[m]aintain a comprehensive collection of official documents... When I spoke to Mr. Lucas, the State Librarian, he said that he interprets “maintain” as keep forever.

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

Yes
 No

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

The State Library has proposed changes to include electronic documents in the depository program. Link to proposed changes to ORC §149.11, which address concerns about electronic information <http://winslo.state.oh.us/govinfo/149intro.html>.

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.

OHIO REV. CODE ANN. §149.11 (Anderson 1999) (Distribution of publications intended for general public use; schedules of record retention or destruction).

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

Additional comments:

Web page listing Ohio Depository Libraries: <http://winslo.state.oh.us/>

- 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?

OHIO REV. CODE ANN. §149.11 (Anderson 1999) (Distribution of publications intended for general public use; schedules of record retention or destruction), does not include electronic documents.

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

The statutes/regulations have not been construed.

Additional comments:

There is a proposal out of the State Library of Ohio, the organization responsible for the depository program to expand the depository program to include electronic publications. Link to proposed changes to ORC §149.11, which address concerns about electronic information <http://winslo.state.oh.us/govinfo/149intro.html>

- 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:

0% Formerly distributed in print, now distributed exclusively in electronic format.

0% 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.

Additional comments:

There was an attempt that failed due to the states failure to fund it. It was called JERRI, Joint Electronic Records Repository Initiative. <http://www.ohiojunction.net/jerri/index.html>

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.

The State Library has proposed changes to include electronic documents in the depository program. Link to proposed changes to ORC §149.11, which address concerns about electronic information, Ohio State Library, [Proposed Changes to Section 149.11](#)

Of the Ohio Revised Code, <http://winslo.state.oh.us/govinfo/149intro.html> (last modified 11/00).

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

Additional comments:

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

There was an attempt that failed due to the states failure to fund it. It was called JERRI, Joint Electronic Records Repository Initiative. <http://www.ohiojunction.net/jerri/index.html>

State officials need to be made more aware of the difficulties in preserving electronic information and the importance of funding efforts like JERRI.

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)

Gregory S. Jackson
Assistant Director
State Chief Information Officer
Ohio Department of Administrative Services
30 East Broad Street, 39th floor
Columbus, OH 43215-3414
Telephone: (614) 466-6511
Fax: (614) 644-8151
E-mail: greg.jackson@das.state.oh.us

2. State Printer

Joseph M. Tucker
State Printing Administrator
General Services Division
Office of State Printing
4200 Surface Road
Columbus, OH 43228-1395
Telephone: (614) 466-8334
Fax: (614) 644-7982
E-mail: joe.tucker@das.state.oh.us

3. State Archivist

Charles Arp
State Archivist
Ohio Historical Society

1982 Velma Avenue
Columbus, OH 43211-2497
Telephone: (614) 297-2581
E-mail: carp@ohiohistory.org

4. State Librarian and/or State Law Librarian

Michael Lucas
State Librarian
274 East First Avenue
Columbus, OH 43201
Telephone: (614) 644-7061
Fax: (614) 466-3584
E-mail: mlucas@sloma.state.oh.us

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

There is no contact.

6. State Records Administrator

Dr. David Larson
State Records Administrator
Department of Administrative Services
4200 Surface Road
Columbus, OH 43228
Telephone: (614) 466-3064
E-mail: david.larson@das.state.oh.us

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page

<http://www.state.oh.us/>

2. State agency portal

<http://www.state.oh.us/Government/State/StateAgencyWebsites.htm>

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

No

3. Legislative website

<http://www.state.oh.us/Government/State/OhioLegislativeBranch.htm>

- a. Does the website cover the current year only?

Yes and no. For the 124th session, i.e. the current session, the site offers all bills, bill analysis, fiscal analysis, and bill tracking. For the 121st session through 123rd session offers session laws.

- b. Are services free or fee-based?

Free

4. Judicial websites

<http://www.state.oh.us/Government/State/OhioJudicialBranch.htm>

5. Regulatory agency websites

<http://www.state.oh.us/agencies.htm>

6. Freedom of Information Service Hotline

- 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?

No

