

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.
- 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.

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

Additional comments:

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:

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

Yes
 No

- a. If “Yes,” cite to and briefly summarize the retention provisions
- 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.
- c. 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
- b. Additional comments

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

Yes
 No

- a. If “Yes,” cite to applicable statutes/regulations and identify the responsible officer/government entity
- 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:

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:

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.

H. B. 2100, 2001 Sess. (Pa. 2002) will take effect January 1, 2003. The statutory codification will appear at PA. STAT. ANN. tit 65, § 66.1 et seq. This new act amends the act of June 21, 1957 (1957 Pa. Laws 390, No. 212). This is the first significant amendment to Pennsylvania's Right to Know Laws since 1957. The new law does not amend the meaning of "public record," which is quite narrowly defined. The new law defines record as "any document maintained by an agency, in any form, whether public or not". The intent is to be sure documents in electronic form are included.

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

Additional comments:

Freedom of Information refers you to the "Right to Know Act" which addresses public records.

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.

PA. STAT. ANN. tit. 65, § 66.1 (2003) defines "Agency" to include offices, departments, boards or commissions of the executive branch as well as other organizations "created by or pursuant to a statute which declares in substance that such organizations performs or has for its purpose the performance of an essential governmental function." The State System of Higher Education, and state or municipal authorities are expressly included. Commonwealth Agencies and Non Commonwealth agencies as defined in § 66.1 are also covered by this act.

Additional comments:

Neither the legislature nor the judiciary are covered by this act.

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

PA. STAT. ANN. tit. 65, § 66.1 (2003)

Additional comments:

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

Yes

No

a. If "Yes," discuss whether the freedom of information act statutes/regulations had been amended at any time to cover electronic records; cite to and provide amending language.

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

Additional comments:

PA. STAT. ANN. tit. 65, § 66.1 defines "Record" to be any document maintained by an agency, in any form, whether public or not.

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:

The previous as well as the newly passed Act both state that : Nothing in this Act is intended to modify, rescind or supersede any record retention and disposition schedule established pursuant to law. The Pennsylvania Administrative Code addresses retention of records. 71 P.S. 204 is entitled Disposition of useless records and gives procedures on how to submit such records for approval to be eliminated. 1960 Attorney General Opinion 221 interpreted this to mean that documents, **other than public records**, may be disposed of by a proper administrator under this section. Act 100. There are a series of Management Directives , which emanate from the Governor's Office, and which establish policy for records retention. Management Directive 210.5

Amended, issued June 1, 1999, addresses records retention for agency records, regardless of format. Management Directive 210.10 Amended, dated April 23, 2001, establishes policy, responsibilities and procedures for the management of electronic records. Management Directive 210.13 dated April 27, 2001, establishes policy, responsibilities for the retention and disposition of records created on electronic mail systems. Under Executive Order 1992-1, Records Management responsibility for implementing the records management programs is under the Pennsylvania Historical and Museum Commission (PHMC).

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:

There are no legislative findings in the recently passed Act. A Senate version of Open Records Legislation did contain legislative findings, which would have acknowledged a citizen's right to access but this version failed. S.B. 701, 2001 Sess. (Pa.). Exec. Order No. 1992-1 (Pa.) entitled "Records Management" recognized that "records are vital to current government operations and of immeasurable value for their contributions to the archival heritage of this Commonwealth..." but recognize that "the volume of records produced by government agencies and the costs incurred for maintenance and storage dictate that they be retained only as long as needed."

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.

Pennsylvania narrowly defines “public record.” Even with the new legislation, the definition of public record was not substantially changed from the 1957 Right to Know law. PA. STAT. ANN. Tit. 65, §66.1 et seq. (2000). The PHMC, is working closely with state agencies and local municipalities to preserve and archive records, but many of these records are not considered “public,” and so, whether permanently maintained or not, they will not be accessible to the public.

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.

b. If “No,” skip this whole section.

Additional comments:

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

Executive

Legislative

Judicial

Administrative (applying to all agencies, no matter what branch of government)

Other

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

Additional comments:

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

Additional comments:

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.

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.

Office for Information Technology. This office is under the Office of Administration, reporting to the Governor's Office. It was created in 1996, when the Governor reorganized the Office of Administration.

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?

Additional comments:

N/A

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:

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

N/A

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

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

Additional comments:

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

- Yes
- No

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

Additional comments:

This office does not have defined responsibility for government information, either electronic or print.

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:

While they have not undertaken any special initiatives or projects; they are working with the Archives to assist in identifying means to preserve electronic records. An Information Technology Bulletin issued on July 24, 2001 and updated on October 26, 2001 entitled Web Site Records Retention, addressed web pages/documents and subsequent revisions to pages which issue or change policies procedures, guidelines and/or rules that exist only on the web. This bulletin stated that these records must be added to the agency-specific records schedule. It specifically addressed web snapshots and inventories of an entire site and stated that web page/system snapshots are not required to be retained, unless a web site has a "high" risk of being part of litigation

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 Office of Information Technology is responsible for creating the plan. OIT does not do formal yearly planning, or five year planning, but owing to the rapid changes in technology has devised Policy Guidelines & Principles which they use as a basis to come up with technology initiatives. The OIT is on a three month cycle for planning based on these policy guidelines & principles.

b. If "Yes," also provide complete bibliographic information about the plan; when was it published? The guiding principles were published on March 17, 1998 in a document entitled: *APPLYING INFORMATION TECHNOLOGY TO PRODUCE A MORE COMPETITIVE PENNSYLVANIA A NEW APPROACH FOR THE 21ST CENTURY*. The policies are available from the Office for Information Technology.

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

Additional comments:

2. The technology plan covers which branches? N/A

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

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

Additional comments:

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

Yes
 No

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

Additional comments:

One of the OIT principles is to improve public access to government information and services, using the Pennsylvania homepage as a way to do this.

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

OIT and the CIO have as their mission to promote developing and promulgating statewide policies and standards governing the management and use of the Commonwealth's information technology (IT) investments. These are more enterprise or business applications, as opposed to records applications.

F. STATE PRINTING OFFICE AND STATE PRINTER

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

- Yes
- No

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

Additional comments:

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

Additional comments:

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

- Yes
- No

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

Additional comments:

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

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

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

Additional comments:

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

G. STATE ARCHIVES AND STATE ARCHIVIST

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

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

Yes
 No

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

The Pennsylvania Historical and Museum Commission, is the executive agency under which the Archives are located. 37 PA.CON.S. STAT. § 301 et seq. (1998) lays out the powers and duties of the Commission. Section 305 specifically addresses documents.

- 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. 37 PA.CON.S. STAT.§ 305 gives the commission power and duty over documents.

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 Historical Commission has the power to promulgate administrative regulations, but the archivist does not.

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.

37 PA.CON.S. STAT. §305(2) allows for preservation of all public records from Commonwealth agencies. The PHMC has mandated archival responsibilities towards local entities.

Additional comments:

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

The Archivist is responsible for providing mandated archival and records management services to the Unified Judicial System, and local entities, as well as archival appraisal services to agencies of state government. The services to governmental agencies relate primarily to the identification, storage, preservation or destruction of public records in accordance with the Administrative Code, the History Code, the County and Municipal Records Acts, the Judicial Code, the Public School Code, and responsibilities assigned by Executive Order.

Additional comments:

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

Yes

No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

In conjunction with Management Directive 210.5, dated June 1, 1999 and 210.10, dated April 23, 2001, the Archives is working with state agencies to conduct an inventory. The project is the Electronic Inventory, Analysis and Scheduling of Agency Electronic Records for all agencies under the Governor's jurisdiction. The purpose is to inventory all agency specific electronic and server based records and to ensure that electronic records maintained by the Commonwealth are

properly managed. Records cannot be legally disposed of until agencies go through this process. The Archives will review all electronic records to determine if they have permanent archival value and should be transferred to the State Archives.

Additional Comments:

The Archives are currently working with the executive branch to archive The Pennsylvania State web page.

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

Yes

No

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

Additional comments:

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

H. STATE LIBRARY AND STATE LIBRARIAN

This section addresses your state's official library and state librarian. There is no separate section that addresses the official law library and state law librarian, if any. If your state has an official library *and* an official law library (and/or official librarian *and* official law librarian), it may be appropriate to address those government entities and/or persons separately.

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

Yes

No

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

State Library of Pennsylvania; PA. STAT. ANN. tit. 24, §4201(1) (West Supp. 2002).

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

Additional comments:

The State Library of Pennsylvania is under the Office of Commonwealth Libraries, which is under the State Department of Education. The State Librarian is also Deputy Director for the Office of Commonwealth Libraries.

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

PA. STAT. ANN. tit. 24, §4201 et seq. (West Supp. 2002).

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.
22 PA. CODE §131.1 et seq. (1997)

Additional comments:

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

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

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

22 PA. CODE §137.1(1) (1997) defines the purpose of the State Library as making available all library materials of the State Library for use by libraries, agencies of State and local government and to the public generally.

Additional comments:

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

The state librarian oversees the Commonwealth Libraries. He is responsible for receiving copies of all agency publications and for distribution. He coordinates a state wide system of local libraries, including setting regulations for receipt of library state aid. He is basically responsible for all aspects of libraries in the state.

Additional comments:

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

- Yes
- No

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

Additional comments:

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

Yes
 No

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

Additional comments:

PA. STAT. ANN. tit. 24, §4201(4) (West Supp. 2002) states that the Dept. of Education (under which the State Librarian derives his power) has the duty to: receive copies of all publications of all agencies of the Commonwealth in order to maintain a definitive, organized collection of all such publications by the State Library...

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.

While it does not specifically spell out the word permanent, PA. STAT. ANN. tit. 24, §4201(4) (West Supp. 2002) the law provides that the State Library receive copies of all publications of all agencies of the Commonwealth in order to maintain a "definitive, organized collection."

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes

No

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

Additional comments:

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

I. STATE DEPOSITORY LIBRARY LAWS

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

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

Yes

No

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

Statute: PA. STAT. ANN. tit. 24, §4201(4) (West Supp. 2002). Regulations: 22 PA CODE § 143.1 et seq. (1997).

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?

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

The definition of publication in the regulations specifically address "print, or otherwise reproduced item." The statute has not been construed to mean electronic forms of government information. However, with the passage of the new definition of Records, to include "any format", the regulations may be changed to be in sync with the new statutory definition.

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:

The Librarian responsible for Pennsylvania documents does not feel that this figure can be determined.

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

The Depository Library Program, has not been effective in its dealing with agencies to secure dissemination and preservation of electronic government information. The State Depository

Regulations do not address electronic formats. The regulations requiring agencies to provide copies of documents to the State Library for dissemination through the depository program lack enforcement provisions and agencies are slow to provide such documents. In particular, agencies have been extremely remiss in providing copies of electronic publications to the State Library for cataloging and dissemination. The present regulations have no enforcement mechanism so fugitive state documents are a major concern. The Documents Librarian, is interested in working with other librarians to work toward achieving the goal of maintaining permanent access to electronic documents.

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:

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 Depository Library Sections, located at PA. STAT. ANN. tit. 24, §4201(4) (West Supp. 2002) could be amended to be "publications of all agencies of the Commonwealth, *in all formats*."

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

The Governor’s Administrative Office, has issued several management directives relating to records management. Since they are already dealing with retention and indexing of electronic records to provide access, this would seem to be an appropriate place for an additional management directive which would set out a directive regarding permanent public access to government information. The guiding principles from OIT would be another place to address permanent public access. Objective 5: Improve Public Access to Government Information and Services deals with the Internet Homepage and making information available but does not include any provisions for permanent public access to information.

Additional comments:

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

Additional comments:

L. DIRECTORY

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

Provide official contact information for:

1. State Chief Information Officer (or equivalent)
Charles F. Gerhards,
Deputy Secretary for Information Technology,
209 Finance Bldg.
Harrisburg PA 17120
Telephone: (717) 787-5440
Fax: (717) 787-4523.
E-Mail: cgerhard@state.pa.us

2. State Printer N/A
3. State Archivist
Frank Suran,
Director & State Archivist
A-26 Archives Building
350 North Street
Harrisburg, PA 17120-0090
Telephone: (717) 787-3051
Fax: (717) 787-4822
E-mail: fsuran@state.pa.us
4. State Librarian and/or State Law Librarian
Gary D. Wolfe,
Deputy Secretary of Education
State Librarian
Forum Building
Harrisburg, PA 17126-0333
Telephone: (717) 787-2646
Fax: (717) 772-3265
E-mail: gwolfe@state.pa.us
5. State Attorney General (on freedom of information act issues, etc.)
Mike Fisher,
Attorney General
Office of Attorney General
Strawberry Square
Harrisburg, PA 17120
Telephone: (717) 787-3391
Fax: (717) 783-1107
E-mail: info@attorneygeneral.gov

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page
www.state.pa.us
2. State agency portal
The State web page is set up as a portal entitled PaPowerPort

a. Does the portal have a searching capability similar to FirstGov?
You can search the portal by keyword or subject search. You can also customize the page to be your PaPowerPort

3. Legislative website

<http://www.legis.state.pa.us/>

a. Does the website cover the current year only?
No legislative information back to the 1981-1982 session.

b. Are services free or fee-based?
Free

4. Judicial websites

www.aopc.org

(this is the major Pennsylvania web site for information on the State Courts).

5. Regulatory agency websites

www.state.pa.us

You get to agency websites by clicking on Government in PA for a complete listing.

6. Freedom of Information Service Hotline

N/A

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, There is no Pennsylvania government official responsible for denial of access to records. If you are denied access you must file a court proceeding.