

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.

A. PUBLIC RECORDS STATUTES

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

Yes
 No

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

Public Records Act, WASH. REV. CODE § 40.14

Promulgation of WASH. REV. CODE § 40.14, WASH. ADMIN. CODE § 434-600

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.

WASH. REV. CODE § 40.14 broadly covers all agencies and entities in the state.

Additional comments:

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

WASH. REV. CODE § 40.14.010(1)

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?

WASH. REV. CODE § 40.14.010 states “...the terms “public records” shall include any paper correspondence, completed form, bound record book, form photograph, film, sound recording, map drawing, machine readable material, compact disc meeting current industry ISO specifications, or other documents, *regardless of physical form or characteristics* (emphasis added), that have been made by or received by any agency of the state of Washington in connection with the transaction of public business, and legislative records as described in WASH. REV. CODE § 40.14.100.”

Additional comments:

The state is committed to treating electronic documents as any other kind of document. This is prevalent throughout government.

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

Yes
 No

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

WASH. REV. CODE § 40.14.070 (2)(a) states “...Official public records shall not be destroyed unless: (i) The records are six or more years old.” Unless the state can show it is unnecessary to keep them that long. Otherwise, the agency or the local records committee will set up a retention schedule, which is kept on file with the state Archives.

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.

WASH. ADMIN. CODE § 434-663-600 *Retention* states “Destruction of, or changes to the retention period of any public records due to conversion to or the use of a new media requires legal approval of the state and local records committee of the state of Washington under ch. 40.14 RCW, ch. 434-635 WASH. ADMIN. CODE, and other applicable state laws.

Additional comments:

The state is committed to treating electronic documents exactly the same as print ones.

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.

When the 1957 Records Act was written, one section stated "All public records not required in the current operation of the office...shall be transferred to the state archives so that the valuable historical records of the state may be centralized, made more widely available and insured permanent preservation." 1957 Wash. Laws ch. 246, § 3.

The concept of centralizing documents at the state archives and thereby making them "more widely available" hints at the public access issue. In 1992, in the Public Disclosure Act, under the public records section added a more specific statement of intent, see WASH. REV. CODE § 42.17.251 and Item C.7 below.

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.

WASH. REV. CODE § 40.14.040 "Each department or agency shall designate a records officer..."

WASH. REV. CODE § 40.14.050 "Records Committee... [shall consist of the] archivist, and appointees from the state auditor, attorney general, and division of financial management."

- 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.

"The Records Committee created in § 40.14.050 has authority to approve retention schedule for agency records which permits agency not to retain a record for any time at all beyond the time necessary to generate the record; or the committee may choose to require that such records be kept for such period as the committee deems appropriate. 1997 Op. Wash. Att'y. Gen. No. 2" Notes of decisions, Wash Rev. Code Ann. § 40.14.050, note 1.

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,

Not as such. Sometimes the Public Disclosure Act, WASH. REV. CODE § 42.17.010, is referred to as the Washington FOIA. PDA clearly falls under the definition of “Public Access” and will be discussed there.

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

Additional comments:

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

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

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

Additional comments:

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

Additional comments:

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

- Yes
- No

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

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

Additional comments:

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

- Yes
- No

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

Additional comments:

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

- Yes
- No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

C. PUBLIC ACCESS LAWS

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

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

Yes
 No

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

WASH. REV. CODE § 42.17.260 Public Disclosure Act

WASH. ADMIN. CODE § 390.14 Access to Public Records of the Public Disclosure Commission

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

Additional comments:

Interestingly, this act was an initiative introduced by the citizens of the state of Washington, instead of legislation introduced into the House or Senate.

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.

PDA covers all public records including:

Final opinions of cases
Statements of policy
Administrative staff manuals
Planning policies
Factual staff reports and studies
Correspondence relating to regulatory, supervisory or enforcement responsibilities.
Indexes of these kinds of material must be maintained by state agencies. Local agencies must make available all indexes maintained for agency use.

Additional comments:

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

- Yes
- No

Electronic documents are included in the definition of public records. WASH. REV. CODE § 40.14.010.

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.

WASH. REV. CODE § 42.17.260(1) “Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of WASH. REV. CODE § 42.17.315...”

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.

WASH. REV. CODE § 42.17.251 “The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. The public records subdivision of this chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy.”

Additional comments:

According to the state archivist, these laws are taken very seriously by government officials in Washington. Each agency works with the archives through the Records Committee (WASH. REV. CODE § 40.14.050) to set their retention policy. Documents of important historical significance are entrusted to the archives for safe keeping. A destruction schedule is also set. Agencies can not function if they keep every last piece of paper, as some have done in the past, nor can the PDA be followed if documents are capriciously destroyed. Agencies take their document retention duties seriously and are well aided by the archivist.

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?

Electronic documents are treated the same as any other format. WASH. REV. CODE § 40.14.010. The State Library and the State Archives do not treat them any differently. That said, an Electronic Archives Data Facility is being built to better house electronic documents and to ensure permanent access to them. Captured web sites will be included in the new data archives. There is no legislation to cite to, except the language in § 40.14.010 which states “regardless of physical form or characteristics”.

- 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.

Department of Information Services
Stuart McKee, Director

WASH. REV. CODE §§ 43.105 et seq.

- 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?

WASH. REV. CODE § 43.105.047 Department of information services created--Director—Appointment—Salary—Duties (1987)

Additional comments:

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

Yes
 No

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

WASH. ADMIN. CODE § 143-06-010 Information Services, Department of Practice and Procedure of Agency – Public Records

Additional comments:

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

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

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

The legislature established the DIS, but now exempts themselves from DIS control. This information comes from the DIS deputy director.

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?

WASH. REV. CODE § 43.105.250 -290

Access to government information is set out very carefully in these sections, not lumped together under “documents, all formats.” In the legislative history, and included in the statute, “[e]lectronic methods for locating and transferring information can improve linkages between and among citizens, organizations, businesses, and governments. Information must be managed with great care to meet the objectives of citizens and their governments.” (WASH. REV. CODE § 43.105.25). Anything an agency in Washington can do to make their documents available is encouraged. DIS has created a wonderful tool for residents to access information in Washington. It is an internet portal called *Access Washington* (<http://access.wa.gov>). It is an award winning site offering one stop shopping for Washington State information and services.

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:

In talking to DIS it was pointed out that the agencies in Washington have control over the retention of documents. DIS is the organization which makes those agency documents available. They are very committed to making them available to the widest number of people, and to making them easy to access. They have broad support from the governor for their work, and take their jobs very seriously, but they consider the agencies in the state the source for “permanent public access of government information.”

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:

Again, the DIS does not feel it is their duty to make information permanently available, but that is the individual agency’s duty. They provide the tools to store the information. Currently electronic data is stored on CD’s to permanently maintain it.

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.

Because of DIS's commitment to permanent storage, they are in the process of building, in partnership with the state archives, an Electronic Archives Data Facility. This will house electronic data from state agencies and allow permanent access to the information regardless of format or technology. Captured web sites will be included in the new data archives.

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.

See Item 8.a.

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.

Forbes magazine, in a 2001 article, touted the then new *Access Washington* and its creator, then Director Steve Kolodney. The article highlighted how easy *Access Washington* is to use, and how helpful and efficient it is to residents. The article goes on to reveal that the agency is completely self-supporting. "DIS supports itself and its roughly 430 staffers by selling computers and electronic equipment to schools, nonprofits and government agencies, and by offering an array of tech services, including Web hosting and server management. By aggregating demand, Kolodney's group is able to offer discounts of about 16%...DIS grossed \$130 million last year [2000] and netted \$7.9 million. The profits are channeled into developing new services, like the Web portal." (Forbes, May 21, 2001 *Red Tape Buster*).

The article also points out the high regard in which the Governor holds DIS, making the director a member of his cabinet, giving them more clout, and prestige. This is a very impressive agency.

E. STATE TECHNOLOGY PLANS

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

Yes
 No

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

Information Services Board, staffed by DIS. See WASH. REV. CODE § 43.105.041 for powers and duties of the board.

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

Information Technology Act of 1992, codified at WASH. REV. CODE § 43.105.041

- 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.

Higher education is also included under the plan. They only support administrative functions though, not academic or research.

Additional comments:

The board has policy and oversight duties for all aspects of information services in Washington.

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.

WASH. REV. CODE § 43.105.041 “In planning these standards, the Board (Information Services Board) is encouraged to include the state library, state archives and appropriate representatives of state and local government.”

This implies that the same retention and preservation standards the archives and state library currently use will be used here. DIS confirmed that this is true.

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.

Washington State Department of Printing, “The Public Printer”
WASH. REV. CODE § 43.78.010

- 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.

WASH. REV. CODE § 43.78.030 Duties—Exceptions

Additional comments:

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

Yes
 No

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

Additional comments:

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

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

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

The printer took issue with expression “jurisdiction over.” The printer has no authority of any kind and serves at the pleasure of the agencies.

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.

About 50% of the agencies use the public printer, for various reasons, but mostly because the printer felt the agencies were not aware of the quality and value of their services.

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

Almost exactly 50% of the documents were printed with the public printer.

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

None. The only electronic document is the service request form, which can be filled out on the internet at the printer’s web site.

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.

The printer's funding comes from the revolving fund, not the general fund. They are run like a business, charging a fee, set by statute, for their services. They are expected to break even, and not to make a profit. They are not an agency involved in the collection or maintenance of government information. Simply, they are always looking for ways to save taxpayer dollars by providing reasonable prices for copy services.

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.

Washington State Archives
WASH. REV. CODE § 40.14.020

- 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.

WASH. REV. CODE § 40.14.020

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.

WASH. ADMIN. CODE § 434-620 Powers and Duties of the State Archivist

Additional comments:

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

Executive
 Legislative
 Judicial

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

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

The state superior courts are required to keep their own files permanently.

Additional comments:

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

At first glance the statute seems quite vague, but the archivists construe the statute broadly. They collect material from nearly every agency, keeping historic documents all the way back to their inception in 1909. The archivist also works with agencies to create retention schedules and other document management mechanisms.

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?

The archives treats all formats with the same consideration, but understands there are some special situations for electronic documents. The state archives, along with DIS, is building the Electronic Archives Data Facility to store electronic documents in perpetuity. Captured web sites will be included in the new data archives.

Additional comments:

This answers question Items 6 & 10

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.

All of WASH. REV. CODE § 40.14 sets out the duty of permanent public access. It is part of the goal in everything they do, and they take the job very, very seriously. That is why they are

building the Electronic Archives Data Facility. They are also very interested in preserving print materials.

Additional comments:

Also answers Items 8 & 9.

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.

See Item 6, above.

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:

In 1957 the Records Management Act was passed, which is now the Public Records Act. There was no litigation to prompt it, but many felt it was only a matter of time. Agencies were either keeping too much information or not enough, and no one was able to find what they needed. The legislature stepped in and proposed legislation to prevent any further problems.

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

Washington state is a young state, going back only to the 1850's. It has an extensive collection of environmental documents in the archives, and it was the first state to have a Department of Ecology. It realized early on it did not want to cut down all its trees.

In Washington all public papers belong to the state, not to the office or official who created them, so the collection of Governors' papers goes all the way back to the beginning, which is very unique.

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.

Washington State Library
WASH. REV. CODE § 27.04.010

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.

WASH. REV. CODE § 27.04.045, 050

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.

WASH. ADMIN. CODE Title 304 - Library Commission

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.

All the entities are set out in WASH. REV. CODE § 27.04.045

Additional comments:

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

The librarian manages the library, advises the library commission, acquires library materials, hires and fires staff, negotiates contracts and licenses, maintains a depository for all state newspapers, promotes electronic access to public information, collects and distributes all state publications, creates and maintains an electronic catalog and loans books.

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?

They are specifically set out in WASH. REV. CODE § 27.04.045(9) "Promot[e] and facilitat[e] electronic access to public information and services, including providing, or providing for, a service that identifies, describes, and provides location information for government information through electronic means, and that assists government agencies in making their information more readily available to the public."

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.

WASH. REV. CODE § 27.04.045(10) “Collect[] and distribut[e] copies of state publications, as defined in WASH. REV. CODE § 40.06.010, prepared by any state agency for distribution. The state library shall maintain the state publication distribution center, as provided in chapter 40.06 RCW...”

Additional comments:

The state library does not have a retention policy for state government documents because they never discard any of them. They keep them all forever, unlike the state archives who collects materials discriminately.

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.

No statute or a regulation was found that set out the retention policy at the state library.

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.

The state library takes the job of permanent maintenance very, very seriously. They have always collected everything they could. The library was established while the state was still a territory, so they had an early start.

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.

There has been no need to.

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.

The library wants to start digitizing their historic collections, making them more widely available. They are aware of the effect the limit of their location has on the state's residents. Time and money are their obstacles, but they feel it is a priority to make the material available.

The Washington State Library was nearly shut down due to budget cuts. In 2002, the Governor targeted the state library for closure. The state librarian and the local chapter of the American Library Association advocated to save the library and in the end it was transferred under the control of the Secretary of State, a strong advocate for libraries .

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.

WASH. REV. CODE §§ 40.06.010, .020, .030 The State Publications Distribution Center is set up under the state library.

WASH. ADMIN. CODE §§ 304-16-010, -020, Documents Depository Library System

- 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?

Additional comments:

Despite the fact that electronic format is never mentioned, the concept of material regardless of format prevails. The Assistant Director reported the library is trying to get a handle on the amount of electronic resources being produced in Washington and she was quick to add that it did not really matter. They treat all materials the same.

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.

Collecting all materials is part and parcel of their mission, so they enthusiastically make electronic documents as available to patrons as print ones.

Additional comments:

What is interesting is that they do not make them *more* available. There are no links to electronic documents in the catalog, for instance. All the electronic documents are housed at the library and treated like print materials.

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.

WASH. REV. CODE § 40.06.020 “The center [state publications distribution center] shall utilize the depository library system to permit citizens economical and convenient access to state publications.”

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.

The documents librarians said there is no special project in the works. The library is not working with the state archives yet on the Electronic Archives Data Facility.

Additional comments:

The parent organization for both the State Library and the State Archives is the Secretary of State, so one can imagine they will be working together on this project in the future.

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

No one can answer this question at the state library. There isn’t enough information available to even make an educated guess.

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

Never before distributed, now distributed in electronic format.

Additional comments:

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

The library feels they excel in preserving and providing information. The dissemination is a little bit more challenging, given the restrictions of location and budget. The library is working hard to improve the dissemination of all 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:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

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

- a. If possible, cite to and discuss one or two specific places in statutes or other sources of law where the state legislature or a responsible agency might naturally insert basic reform language.
- b. If specific places to insert reform language are not obvious, very briefly discuss what state agency or other government entity might naturally be made responsible for "permanent public access."

Additional comments:

Permanent public access is not being neglected in the state of Washington. If any advocacy is needed, it is in lobbying for funding for the state library and the depository program. Though the library distributes government material to the depository libraries in the state, they do not have the staff or budget to create collection development tools for smaller libraries who serve as partial depositories.

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)

Department of Information Services

Director Stuart McKee

1110 Jefferson St SE

PO Box 42445

Olympia, WA 98504

Telephone: (360) 902-3470

E-Mail: stuartm@dis.wa.gov

2. State Printer

Washington State Department of Printing

George Morton

PO Box 798, MS 4-7100

Olympia, WA 98504

Telephone: (360)753-6820

E-Mail: george@prt.wa.gov

3. State Archivist

Washington State Archives

David Hastings, Chief

520 Union St

Olympia, WA 98504

Telephone: (360)753-1801

E-Mail: dhastings@secstate.wa.gov

4. State Librarian and/or State Law Librarian

Washington State Library

Jan Walsh, Director

Point Plaza East Bldg 1

6880 Capital Blvd South

PO Box 42460

Olympia, WA 98504

Telephone: (360)704-5200

E-Mail: jwalsh@statelib.wa.gov

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

Washington State Attorney General

Christine O. Gregoire, Attorney General

1125 Washington St. SE

PO Box 40100
Olympia, WA 98504
Telephone: (360)753-6200
E-Mail: emailago@atg.wa.gov

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page

The official state home page has become the portal page

2. State agency portal

<<http://www.access.wa.gov>>

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

Access Washington has an easy to use, very powerful search engine

3. Legislative website

<<http://www.leg.wa.gov/wsladm/default.htm>>

a. Does the website cover the current year only?

It covers 1997 to the present

b. Are services free or fee-based?

All services are free.

4. Judicial websites

<www.wa.courts.gov>

5. Regulatory agency websites

<<http://access.wa.gov/government/awstate.asp>>

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?

It does not seem so. They offer a desk book, which though helpful, is in no way an invitation to contact the AG's office with FOIA questions. The desk book is available at

<<http://www.wa.gov/ago/records/>>