



## OVERVIEW OF THE FEDERAL RECORDS ACT

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### CONTEXT

The Federal Records Act, first enacted in 1950, is designed to ensure that institutional **records** of vital historical, fiscal and legal value are identified and preserved by the government, providing the public with a historical record of federal; decision-making.

The Federal Records Act outlines how federal agency employees should determine whether information they create qualifies as a federal record and governs how federal records are to be collected, retained, and eventually either destroyed or provided to the National Archives and Records Administration for permanent archiving.

Unlike the Presidential Records Act, the FRA does not govern *access* to records. Access to federal records is governed by the Freedom of Information Act.

For more information, see NARA's overview and resources in [Documenting Your Public Service](#).

### SCOPE OF 'FEDERAL RECORDS'

**Federal records refer to all recorded information made or received by a federal agency under federal law or in connection with the transaction of public business.**

- The Code of Federal Regulations details particular records that are required to adequately document agency business. These include records that:
  - Memorialize the people, places, things or matters dealt with by the agency.
  - Facilitate action by agency officials and their successors in office.
  - Make possible a proper scrutiny by Congress or other duly authorized agencies of the government.
  - Protect the financial, legal and other rights of the government and of people directly affected by the government's actions.
  - Document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all substantive decisions and commitments reached orally (person-to-person, by telecommunications or in conference) or electronically.
  - Document important board, committee or staff meetings.
- Records are assessed for preservation by the content of the information itself, not the medium used (e.g., irrespective of whether it is an email, a brief, an audio recording, etc.).
- Federal agencies refer to executive agencies or any establishment in the legislative or judicial branches of the government except the Supreme Court, Senate, House of Representatives and Architect of the Capitol.
  - The only executive offices which do not create federal records for purposes of the Federal Records Act are specific offices within the Executive Office of the President, whose primary purpose is to advise the president. These offices create presidential records and are governed by the Presidential Records Act. EOP offices which create federal records include the Office of Management and Budget, the Office of Science and Technology Policy and the Office of the United States Trade Representative.

## ROLES AND RESPONSIBILITIES

**Each federal agency head is responsible for managing this important records process, which consists of:**

- Assigning records management responsibility to an authorized person and office within the agency.
- Issuing a directive to establish recordkeeping program objectives, responsibilities and authorities for the creation, maintenance and disposition of agency records. This requires:
  - Identifying and prescribing specific categories of records to be systematically created or received and maintained by agency personnel in the course of their official duties.
  - Distinguishing records from non-record materials and complying with all laws and requirements concerning records scheduling and disposition.
  - Creating procedures to ensure that departing officials and employees do not remove federal records from agency custody and only remove non-record materials in accordance with federal regulations.
- Integrating records management into the design, development and implementation of electronic information systems. This requires specifying:
  - The use of materials and recording techniques that ensure the preservation of records if they are needed by the government.
  - The way these materials must be maintained wherever held.
- Providing guidance and training to all agency personnel on records management responsibilities. This requires:
  - Defining the special recordkeeping responsibilities of program managers, information technology staff, systems administrators, and the general recordkeeping responsibilities of all agency employees.
- Developing records schedules (i.e., a timeline of disposing or transferring records) for all records created and received by the agency and obtaining NARA approval of the schedules prior to implementation. This requires:
  - Proposing how long records must be maintained for agency business through the scheduling process.
- Conducting formal evaluations of the effectiveness of their records management program.
- Disposing records or transferring them to NARA as appropriate.

**The National Archives and Records Administration's mission is to provide public access to federal government records. Its duties related to the FRA consist of:**

- Determining which federal records must be preserved in perpetuity.
  - NARA has broad authority to define what is considered a permanent record. The agency defines a *temporary* record to be any federal record that has been determined by NARA's archivist to have insufficient value.
- Approving agency records schedules.
  - A records schedule provides agencies a timeline for the eventual disposition of temporary records or transfer of permanent records to NARA.
  - These schedules can take three forms:
    - A General Records Schedule issued by NARA, which is a schedule that authorizes, after specified periods of time, the destruction of certain temporary records (or the transfer to NARA of permanent records) that are common to several or all agencies.

- A standardized form that has been approved by NARA to authorize the disposition of unique federal records.
- A published agency manual or directive containing records descriptions and disposition instructions approved by NARA.
- Initiating an investigation into unlawful removal or destruction of records.
  - If any agency head does not notify the archivist of an allegation or instance of unlawful removal, the FRA authorizes the archivist to initiate action with the attorney general for the possible recovery of such records.

#### RULES GOVERNING DISPOSAL OF RECORDS

**An agency may transfer inactive temporary or permanent records created in any format to an archival records center after two conditions are met:**

- The agency head determines it is economical or efficient.
- The archivist approves a records transfer (as per a records schedule, as described above).

NARA's regulations require that after 30 years, most agency records are to be disposed of or, if they have permanent value, transferred to NARA for permanent preservation.

#### SOURCE

<https://fas.org/sgp/crs/secretary/R43072.pdf>