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Editorial Notes

AMENDMENTS

2014—Pub. L. 113–187, §2(a)(3), (e)(2), Nov. 26, 2014, 128 Stat. 2005, 2007, added items 2208 and 2209.

§ 2201. Definitions

As used in this chapter—

(1) The term “documentary material” means all books, correspondence, memoranda, documents, papers, pamphlets, works of art, models, pictures, photographs, plats, maps, films, and motion pictures, including, but not limited to, audio and visual records, or other electronic or mechanical recordings, whether in analog, digital, or any other form.

(2) The term “Presidential records” means documentary materials, or any reasonably segregable portion thereof, created or received by the President, the President’s immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise or assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. Such term—

(A) includes any documentary materials relating to the political activities of the President or members of the President’s staff, but only if such activities relate to or have a direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President; but

(B) does not include any documentary materials that are (i) official records of an agency (as defined in section 552(e)¹ of title 5, United States Code); (ii) personal records; (iii) stocks of publications and stationery; or (iv) extra copies of documents produced only for convenience of reference, when such copies are clearly so identified.

(3) The term “personal records” means all documentary materials, or any reasonably segregable portion thereof,² of a purely private or nonpublic character which do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. Such term includes—

(A) diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal which are not prepared or

utilized for, or circulated or communicated in the course of, transacting Government business;

(B) materials relating to private political associations, and having no relation to or direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President; and

(C) materials relating exclusively to the President’s own election to the office of the Presidency; and materials directly relating to the election of a particular individual or individuals to Federal, State, or local office, which have no relation to or direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President.

(4) The term “Archivist” means the Archivist of the United States.

(5) The term “former President”, when used with respect to Presidential records, means the former President during whose term or terms of office such Presidential records were created.

(Added Pub. L. 95–591, §2(a), Nov. 4, 1978, 92 Stat. 2523; amended Pub. L. 113–187, §§2(b), 8(2), Nov. 26, 2014, 128 Stat. 2005, 2011.)

Editorial Notes

REFERENCES IN TEXT

Section 552(e) of title 5, referred to in par. (2)(B)(i), was redesignated section 552(f) of title 5 by section 1802(b) of Pub. L. 99–570.

AMENDMENTS

2014—Par. (1). Pub. L. 113–187, §2(b)(1), substituted “memoranda” for “memorandums” and “audio and visual records” for “audio, audiovisual” and inserted “, whether in analog, digital, or any other form” after “mechanical recordings”.

Par. (2). Pub. L. 113–187, §8(2), substituted “the President’s” for “his” in introductory provisions and in subpar. (A).

Pub. L. 113–187, §2(b)(2), substituted “advise or assist” for “advise and assist” in introductory provisions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 95–591, §3, Nov. 4, 1978, 92 Stat. 2528, provided that: “The amendments made by this Act [enacting this chapter, amending sections 2111 and 2112 of this title, and enacting provisions set out as notes under this section] shall be effective with respect to any Presidential records (as defined in section 2201(2) of title 44, as amended by section 2 of this Act) created during a term of office of the President beginning on or after January 20, 1981.”

SHORT TITLE OF 1978 AMENDMENT

For short title of Pub. L. 95–591, which enacted this chapter, as the “Presidential Records Act of 1978”, see section 1 of Pub. L. 95–591, set out as a note under section 101 of this title.

SEPARABILITY

Pub. L. 95–591, §4, Nov. 4, 1978, 92 Stat. 2528, provided that: “If any provision of this Act [enacting this chapter, amending sections 2107 and 2108 of this title and enacting provisions set out as notes under this section] is held invalid for any reason by any court, the validity and legal effect of the remaining provisions shall not be affected thereby.”

¹ So in original. Does not conform to section catchline.

¹ See References in Text note below.

² So in original. Probably should be “thereof.”

§ 2202. Ownership of Presidential records

The United States shall reserve and retain complete ownership, possession, and control of Presidential records; and such records shall be administered in accordance with the provisions of this chapter.

(Added Pub. L. 95-591, §2(a), Nov. 4, 1978, 92 Stat. 2524.)

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective with respect to Presidential records created during a term of office of President beginning on or after Jan. 20, 1981, see section 3 of Pub. L. 95-591, set out as a note under section 2201 of this title.

§ 2203. Management and custody of Presidential records

(a) Through the implementation of records management controls and other necessary actions, the President shall take all such steps as may be necessary to assure that the activities, deliberations, decisions, and policies that reflect the performance of the President's constitutional, statutory, or other official or ceremonial duties are adequately documented and that such records are preserved and maintained as Presidential records pursuant to the requirements of this section and other provisions of law.

(b) Documentary materials produced or received by the President, the President's staff, or units or individuals in the Executive Office of the President the function of which is to advise or assist the President, shall, to the extent practicable, be categorized as Presidential records or personal records upon their creation or receipt and be filed separately.

(c) During the President's term of office, the President may dispose of those Presidential records of such President that no longer have administrative, historical, informational, or evidentiary value if—

(1) the President obtains the views, in writing, of the Archivist concerning the proposed disposal of such Presidential records; and

(2) the Archivist states that the Archivist does not intend to take any action under subsection (e) of this section.

(d) In the event the Archivist notifies the President under subsection (c) that the Archivist does intend to take action under subsection (e), the President may dispose of such Presidential records if copies of the disposal schedule are submitted to the appropriate Congressional Committees at least 60 calendar days of continuous session of Congress in advance of the proposed disposal date. For the purpose of this section, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the days in which Congress is in continuous session.

(e) The Archivist shall request the advice of the Committee on Rules and Administration and the Committee on Governmental Affairs of the Senate and the Committee on House Oversight and the Committee on Government Operations

of the House of Representatives with respect to any proposed disposal of Presidential records whenever the Archivist considers that—

(1) these particular records may be of special interest to the Congress; or

(2) consultation with the Congress regarding the disposal of these particular records is in the public interest.

(f) During a President's term of office, the Archivist may maintain and preserve Presidential records on behalf of the President, including records in digital or electronic form. The President shall remain exclusively responsible for custody, control, and access to such Presidential records. The Archivist may not disclose any such records, except under direction of the President, until the conclusion of a President's term of office, if a President serves consecutive terms upon the conclusion of the last term, or such other period provided for under section 2204 of this title.

(g)(1) Upon the conclusion of a President's term of office, or if a President serves consecutive terms upon the conclusion of the last term, the Archivist of the United States shall assume responsibility for the custody, control, and preservation of, and access to, the Presidential records of that President. The Archivist shall have an affirmative duty to make such records available to the public as rapidly and completely as possible consistent with the provisions of this chapter.

(2) The Archivist shall deposit all such Presidential records in a Presidential archival depository or another archival facility operated by the United States. The Archivist is authorized to designate, after consultation with the former President, a director at each depository or facility, who shall be responsible for the care and preservation of such records.

(3) When the President considers it practicable and in the public interest, the President shall include in the President's budget transmitted to Congress, for each fiscal year in which the term of office of the President will expire, such funds as may be necessary for carrying out the authorities of this subsection.

(4) The Archivist is authorized to dispose of such Presidential records which the Archivist has appraised and determined to have insufficient administrative, historical, informational, or evidentiary value to warrant their continued preservation. Notice of such disposal shall be published in the Federal Register at least 60 days in advance of the proposed disposal date. Publication of such notice shall constitute a final agency action for purposes of review under chapter 7 of title 5, United States Code.

(Added Pub. L. 95-591, §2(a), Nov. 4, 1978, 92 Stat. 2524; amended Pub. L. 104-186, title II, §223(9), Aug. 20, 1996, 110 Stat. 1752; Pub. L. 113-187, §§2(c), 8(3), Nov. 26, 2014, 128 Stat. 2006, 2011; Pub. L. 114-136, §3, Mar. 18, 2016, 130 Stat. 305.)

Editorial Notes**AMENDMENTS**

2016—Subsec. (g)(3), (4). Pub. L. 114-136 added par. (3) and redesignated former par. (3) as (4).

2014—Subsec. (a). Pub. L. 113-187, §8(3)(A), substituted “the President's” for “his”.