

§ 2116. Legal status of reproductions; official seal; fees for copies and reproductions

(a) When records that are required by statute to be retained indefinitely have been reproduced by photographic, microphotographic, digital, or other processes, in accordance with standards established by the Archivist the indefinite retention by the photographic, microphotographic, digital, or other reproductions constitutes compliance with the statutory requirement for the indefinite retention of the original records. The reproductions, as well as reproductions made under regulations to carry out chapter 21, 29, 31, and 33 of this title, shall have the same legal status as the originals.

(b) There shall be an official seal for the National Archives of the United States which shall be judicially noticed. When a copy or reproduction, furnished under this section, is authenticated by the official seal and certified by the Archivist, the copy or reproduction shall be admitted in evidence equally with the original from which it was made.

(c) The Archivist may charge a fee set to recover the costs for making or authenticating copies or reproductions of materials transferred to the Archivist's custody. Such fee shall be fixed by the Archivist at a level which will recover, so far as practicable, all elements of such costs, and may, in the Archivist's discretion, include increments for the estimated replacement cost of equipment. Such fees shall be paid into, administered, and expended as a part of the National Archives Trust Fund. The Archivist may not charge for making or authenticating copies or reproductions of materials for official use by the United States Government unless appropriations available to the Archivist for this purpose are insufficient to cover the cost of performing the work.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1291, §2112; Pub. L. 94-575, §4(b), Oct. 21, 1976, 90 Stat. 2727; renumbered §2116 and amended Pub. L. 98-497, title I, §§102(a)(1), 107(a)(9), title II, §201, Oct. 19, 1984, 98 Stat. 2280, 2286, 2292; Pub. L. 113-187, §§3(d), 8(1), Nov. 26, 2014, 128 Stat. 2008, 2011.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §399 (June 30, 1949, ch. 288, title V, §509, as added Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583).

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-187, §3(d), inserted “digital,” after “microphotographic,” in two places.

Subsec. (c). Pub. L. 113-187, §8(1), substituted “the Archivist’s custody” for “his custody”.

1984—Subsec. (a). Pub. L. 98-497, §107(a)(9)(A), substituted “Archivist” for “Administrator of General Services”.

Subsec. (b). Pub. L. 98-497, §107(a)(9)(B), substituted “Archivist” for “Administrator”.

Subsec. (c). Pub. L. 98-497, §201, substituted provisions transferring functions from Administrator of General Services to Archivist of the United States, further substituted provisions relating to permissible fee charges for former provisions which set a fee not in excess of 10 percent above costs and expenses for making copies, inserted “unless appropriations available to the Archivist for this purpose are insufficient to cover the cost of performing the work”, and struck out provision that reimbursement may be accepted to cover cost of

furnishing copies or reproductions that could not otherwise be furnished.

1976—Subsec. (a). Pub. L. 94-575 inserted reference to chapter 33 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

§ 2117. Limitation on liability

When letters and other intellectual productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Archivist, the United States or its agents are not liable for infringement of copyright or analogous rights arising out of use of the materials for display, inspection, research, reproduction, or other purposes.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1291, §2113; Pub. L. 94-553, §105(b), Oct. 19, 1976, 90 Stat. 2599; renumbered §2117 and amended Pub. L. 98-497, title I, §§102(a)(1), 107(a)(7), Oct. 19, 1984, 98 Stat. 2280, 2286.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §400 (June 30, 1949, ch. 288, title V, §510, as added Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583).

AMENDMENTS

1984—Pub. L. 98-497, §107(a)(7), substituted “Archivist” for “Administrator of General Services”.

1976—Pub. L. 94-553 substituted “productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of copyright or analogous rights” for “productions, exclusive of material copyrighted or patented, come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of literary property rights or analogous rights”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553, set out as an Effective Date note preceding section 101 of Title 17, Copyrights.

§ 2118. Records of Congress

The Secretary of the Senate and the Clerk of the House of Representatives, acting jointly, shall obtain at the close of each Congress all the noncurrent records of the Congress and of each congressional committee and transfer them to the National Archives and Records Administration for preservation, subject to the orders of the Senate or the House of Representatives, respectively.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1291, §2114; renumbered §2118 and amended Pub. L. 98-497, title I, §§102(a)(1), 107(a)(10), Oct. 19, 1984, 98 Stat. 2280, 2286.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §402 (Aug. 2, 1946, ch. 753, title I, §140, 60 Stat. 833).

AMENDMENTS

1984—Pub. L. 98-497, §107(a)(10), substituted “National Archives and Records Administration” for “General Services Administration”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

§ 2119. Cooperative agreements

(a) **AUTHORITY.**—The Archivist may enter into cooperative agreements pursuant to section 6305 of title 31 that involve the transfer of funds from the National Archives and Records Administration to State and local governments, other public entities, educational institutions, or private nonprofit organizations (including foundations or institutes organized to support the National Archives and Records Administration or the Presidential archival depositories operated by it) for the public purpose of carrying out programs of the National Archives and Records Administration.

(b) **LIMITATIONS.**—Not more than \$25,000 may be transferred under a cooperative agreement entered into as authorized by subsection (a). Not more than a total of \$75,000 may be transferred under such agreements in any fiscal year.

(c) **REPORT.**—Not later than December 31st of each year, the Archivist shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the provisions, amount, and duration of each cooperative agreement entered into as authorized by subsection (a) during the preceding fiscal year.

(Added Pub. L. 108-383, §5(a), Oct. 30, 2004, 118 Stat. 2219.)

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

§ 2120. Online access of founding fathers documents

The Archivist may enter into a cooperative agreement to provide online access to the published volumes of the papers of—

- (1) George Washington;
- (2) Alexander Hamilton;
- (3) Thomas Jefferson;
- (4) Benjamin Franklin;
- (5) John Adams;
- (6) James Madison; and

(7) other prominent historical figures, as determined appropriate by the Archivist of the United States.

(Added Pub. L. 110-404, §4(a), Oct. 13, 2008, 122 Stat. 4283.)

TRANSFER OF FUNDS

Pub. L. 110-404, §4(b), Oct. 13, 2008, 122 Stat. 4283, provided that:

“(1) **IN GENERAL.**—The Archivist of the United States, in the role as chairman of the National Historical Publications and Records Commission may enter into cooperative agreements pursuant to section 6305 of title 31, United States Code, that involve the transfer of funds from the National Historical Publications and Records Commission to State and local governments, tribal governments, other public entities, educational institutions, or private nonprofit organizations for the public purpose of carrying out section 2120 of title 44, United States Codes [sic].

“(2) **REPORT.**—Not later than December 31st of each year, the Archivist of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform [now Committee on Oversight and Reform] of the House of Representatives a report on the provisions, amount, and duration of each cooperative agreement entered into as authorized by paragraph (1) during the preceding fiscal year.”

CHAPTER 22—PRESIDENTIAL RECORDS

Sec. 2201. 2202. 2203. 2204. 2205. 2206. 2207. 2208. 2209.	Definitions. Ownership of Presidential records. Management and custody of Presidential records. Restrictions on access to Presidential records. Exceptions to restriction on access. ¹ Regulations. Vice-Presidential records. Claims of constitutionally based privilege against disclosure. Disclosure requirement for official business conducted using non-official electronic messaging accounts.
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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

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