

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.)

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.

EFFECTIVE DATE

Section 3 of Pub. L. 95-591 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

Section 4 of Pub. L. 95-591 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.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2108 of this title.

§ 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.)

§ 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 his constitutional, statutory, or other official or ceremonial duties are adequately documented and that such records are 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, his staff, or units or in-

dividuals in the Executive Office of the President the function of which is to advise and 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 his term of office, the President may dispose of those of his Presidential records 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 he 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 he 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 he 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)(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 Act.

(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) The Archivist is authorized to dispose of such Presidential records which he has appraised and determined to have insufficient administrative, historical, informational, or evidentiary value to warrant their continued preservation. Notice of such disposal shall be pub-

lished 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.)

REFERENCES IN TEXT

This Act, referred to in subsec. (f)(1), probably means Pub. L. 95-591, Nov. 4, 1978, 92 Stat. 2523, known as the Presidential Records Act of 1978, which enacted this chapter, amended sections 2107 and 2108 of this title, and enacted provisions set out as notes under section 2201 of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 101 of this title and Tables.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-186 substituted “House Oversight” for “House Administration”.

CHANGE OF NAME

Committee on House Oversight of House of Representatives changed to Committee on House Administration of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

Committee on Government Operations of House of Representatives treated as referring to Committee on Government Reform and Oversight of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

CLASSIFIED NATIONAL SECURITY INFORMATION

For provisions authorizing Archivist to review, downgrade, and declassify information of former Presidents under control of Archivist pursuant to this section, see Ex. Ord. No. 12958, §3.6(b)(4), Apr. 17, 1995, 60 F.R. 19835, set out as a note under section 435 of Title 50, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2105, 2204, 2206 of this title.

§ 2204. Restrictions on access to Presidential records

(a) Prior to the conclusion of his term of office or last consecutive term of office, as the case may be, the President shall specify durations, not to exceed 12 years, for which access shall be restricted with respect to information, in a Presidential record, within one or more of the following categories:

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

(2) relating to appointments to Federal office;

(3) specifically exempted from disclosure by statute (other than sections 552 and 552b of title 5, United States Code), provided that such statute (A) requires that the material be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or

refers to particular types of material to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) confidential communications requesting or submitting advice, between the President and his advisers, or between such advisers; or

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(b)(1) Any Presidential record or reasonably segregable portion thereof containing information within a category restricted by the President under subsection (a) shall be so designated by the Archivist and access thereto shall be restricted until the earlier of—

(A)(i) the date on which the former President waives the restriction on disclosure of such record, or

(ii) the expiration of the duration specified under subsection (a) for the category of information on the basis of which access to such record has been restricted; or

(B) upon a determination by the Archivist that such record or reasonably segregable portion thereof, or of any significant element or aspect of the information contained in such record or reasonably segregable portion thereof, has been placed in the public domain through publication by the former President, or his agents.

(2) Any such record which does not contain information within a category restricted by the President under subsection (a), or contains information within such a category for which the duration of restricted access has expired, shall be exempt from the provisions of subsection (c) until the earlier of—

(A) the date which is 5 years after the date on which the Archivist obtains custody of such record pursuant to section 2203(d)(1); or

(B) the date on which the Archivist completes the processing and organization of such records or integral file segment thereof.

(3) During the period of restricted access specified pursuant to subsection (b)(1), the determination whether access to a Presidential record or reasonably segregable portion thereof shall be restricted shall be made by the Archivist, in his discretion, after consultation with the former President, and, during such period, such determinations shall not be subject to judicial review, except as provided in subsection (e) of this section. The Archivist shall establish procedures whereby any person denied access to a Presidential record because such record is restricted pursuant to a determination made under this paragraph, may file an administrative appeal of such determination. Such procedures shall provide for a written determination by the Archivist or his designee, within 30 working days after receipt of such an appeal, setting forth the basis for such determination.

(c)(1) Subject to the limitations on access imposed pursuant to subsections (a) and (b), Presidential records shall be administered in accordance with section 552 of title 5, United States Code, except that paragraph (b)(5) of that sec-