



NATIONAL  
ARCHIVES  
Office of the Chief  
Records Officer for the  
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# Agency Records under FOIA

**Michelle Bradley**

Records Management Training Program  
Office of the Chief Records Officer  
National Archives and Records Administration

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## **Records Management 101:**

### **Federal Government Records.....**

Where do they go?  
What happens to them?  
How do I get to see them?

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## **Federal Records Act (44 U.S.C. Chapter 31)**

### **§ 3101. Records management by agency heads; general duties**

The head of each Federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

### **§ 3102. Establishment of program of management**

The head of each Federal agency shall establish and maintain an active, continuing program for the economical and efficient management of the records of the agency. The program, among other things, shall provide for

- (1) effective controls over the creation and over the maintenance and use of records in the conduct of current business;
- (2) procedures for identifying records of general interest or use to the public that are appropriate for public disclosure, and for posting such records in a publicly accessible electronic format;
- (3) cooperation with the Archivist in applying standards, procedures, and techniques designed to improve the management of records, promote the maintenance and security of records deemed appropriate for preservation, and facilitate the segregation and disposal of records of temporary value; and
- (4) compliance with sections 2101-2117, 2501-2507, 2901-2909, and 3101-3107, of this title and the regulations issued under them.

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## What is a record?



### 44 U.S. Code § 3301 - Definition of records

- a) RECORDS DEFINED.—(1) IN GENERAL.**—As used in this chapter, the term “records”—**(A)** includes all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them; and
- (B)** does not include—**(i)** library and museum material made or acquired and preserved solely for reference or exhibition purposes; or
- (ii)** duplicate copies of records preserved only for convenience.

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## What that really means.....



Whatever you create or receive in the process of doing the work of the US Government is a record.

Federal records are a subset of FOIAble records.



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## Lifecycle of a Records



**Creation or Receipt**



**Maintenance and Use**



**Permanent  
Records: NARA**



**Disposition**



**Temporary  
or Non  
Records:  
Destruction**

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## Temporary vs Permanent vs Non Records



**Permanent:** Historical documents



**Temporary:** Records not needed after a specific time period

**Non Records:** Extra copies, reference materials

Biweekly Employee Time Sheet

[Company Name]

Employee Name: \_\_\_\_\_

Manager Name: \_\_\_\_\_

Week Ending: 11/22/2018

Employee	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total	Rate	Gross Pay	FICA	Medi	Ret	Total Ded	Net Pay	
Mon 11/19	8.00	8.00	8.00	8.00	8.00	8.00	8.00	56.00	15.00	840.00	112.00	168.00	168.00	458.00	840.00	
Tue 11/20	8.00	8.00	8.00	8.00	8.00	8.00	8.00	56.00	15.00	840.00	112.00	168.00	168.00	458.00	840.00	
Wed 11/21	8.00	8.00	8.00	8.00	8.00	8.00	8.00	56.00	15.00	840.00	112.00	168.00	168.00	458.00	840.00	
Thu 11/22	8.00	8.00	8.00	8.00	8.00	8.00	8.00	56.00	15.00	840.00	112.00	168.00	168.00	458.00	840.00	
Fri 11/23	8.00	8.00	8.00	8.00	8.00	8.00	8.00	56.00	15.00	840.00	112.00	168.00	168.00	458.00	840.00	
Sat 11/24	8.00	8.00	8.00	8.00	8.00	8.00	8.00	56.00	15.00	840.00	112.00	168.00	168.00	458.00	840.00	
Sun 11/25	8.00	8.00	8.00	8.00	8.00	8.00	8.00	56.00	15.00	840.00	112.00	168.00	168.00	458.00	840.00	
<b>Total</b>	<b>56.00</b>	<b>56.00</b>	<b>56.00</b>	<b>56.00</b>	<b>56.00</b>	<b>56.00</b>	<b>56.00</b>	<b>392.00</b>	<b>105.00</b>	<b>2464.00</b>	<b>324.80</b>	<b>504.00</b>	<b>504.00</b>	<b>1353.60</b>	<b>2464.00</b>	
<b>Hourly Rate</b>											<b>15.00</b>					
<b>Total Pay</b>											<b>2464.00</b>					
<b>Gross Pay</b>											<b>2464.00</b>					
<b>Total Ded</b>											<b>324.80</b>					
<b>Net Pay</b>											<b>2139.20</b>					

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Manager Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Gross Total Pay: 2464.00**

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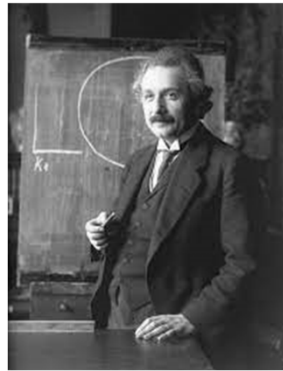
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## Example: Permanent Records vs Temporary

### How does this relate to FOIA?



Michelle Bradley		Form for Sign In/Out		Telework In	Office In	Sign Out
Name	michelle.bradley@nara.gov					
Pay Period	13					
Year	2023					
Local Time Zone	Eastern					
Date (Local)	Time (Local)	Status	Location	SUM of Duration		
Fri, 6/9	4:29 PM	Signed OUT		3:31		
6/9/2023 Total				5:23		
Mon, 6/12	8:06 AM	Signed IN Total		0:00		
Mon, 6/12	5:40 PM	Signed OUT		9:34		
6/12/2023 Total				9:34		
Tue, 6/13	8:05 AM	Signed IN Total		0:00		
Tue, 6/13	2:42 PM	Signed OUT		6:37		
6/13/2023 Total				6:37		
Wed, 6/14	8:31 AM	Signed IN Total		0:00		
Wed, 6/14	5:45 PM	Signed OUT	Telework	9:14		
Wed, 6/14	7:55 PM	Signed IN Total		0:00		
Wed, 6/14	10:04 PM	Signed OUT		2:09		
6/14/2023 Total				11:23		
Thu, 6/15	9:00 AM	Signed IN Total		0:00		
6/15/2023 Total				0:00		
<b>Grand Total</b>				<b>47:26</b>		



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## How does NARA keep track of all those records?

### Record Groups

Permanent federal records held by NARA are organized into numbered Record Groups comprising the records of a major government entity, usually a bureau or an independent agency.

Examples:

RG 21: District Courts of the United States

RG 60: Department of Justice

RG 218: Joint Chiefs of Staff

<https://www.archives.gov/findingaid/record-group-explorer#:~:text=About%20Record%20Groups,bureau%20or%20an%20independent%20agency.>

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## How do we figure out if a record is permanent or temporary?

### Records Schedule

A document that lists all records that your organization generated and how long you can keep them.

This is also where any special handling such as FOIA restrictions or classification is noted.

<https://www.archives.gov/records-mgmt/rcs/schedules/index.html>

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### National Archives & Records Administration Listing of Active NARA Records Schedule Items *(Includes files that refer to the GRS)*

Record Category / Series # / Title / File #	Series Description / Item Description	Disposition Type / Authority / Disposition Instructions
<b>Chapter 1, Mission and Organization Policies and Procedures</b>	Organizational charts and reorganization studies. Records and graphics that provide a detailed description and illustration of the arrangement, administrative structure, and geographic boundaries of the functional units of NARA. Reorganization studies may include final recommendations, proposals, and staff evaluations. Reorganization case files are maintained by the Policy and Planning Staff (NPOL) in the directives case files, file no. 104-1.  Records maintained by NPOL.	Permanent  N01-0064-1990-0001 Item 101-1  PERMANENT. Transfer to NARA in 5- year blocks when 10 years old. (N1-064-90- 1)
101 Organizational Files 101-1		
101 Organizational Files 101-2	Organizational charts and reorganization studies. Records and graphics that provide a detailed description and illustration of the arrangement, administrative structure, and geographic boundaries of the functional units of NARA. Reorganization studies may include final recommendations, proposals, and staff evaluations. Reorganization case files are maintained by the Policy and Planning Staff (NPOL) in the directives case files, file no. 104-1.  Working files maintained by NPOL staff members.	Temporary  N01-0064-2000-0008 Item 1  Destroy when no longer needed for reference. (N1-64-00-8, item 1)
102 NARA Regulations Case Files 102-1	Case files containing a copy of proposed or final regulations and related records; comments from internal NARA stakeholders, other agencies, and members of the public; and a copy of the published regulation.  Official case file maintained by the Strategy and Performance Division (MP). Arranged by regulation.	Permanent  N01-0064-1996-0002 Item 1  PERMANENT. Cut off when final rule is published OR rulemaking is ended. Transfer to NARA in 10- year blocks when 20 years old. (N1-64-96-2, item 1)
102 NARA Regulations Case Files 102-2	Case files containing a copy of proposed or final regulations and related records; comments from internal NARA stakeholders, other agencies, and members of the public; and a copy of the published regulation.  Case files (maintained by MP) on regulatory reviews that do not result in new or revised regulations.	Temporary  N01-0064-1993-0002 Item 1  Cut off upon completion of review. Destroy at end of next review cycle. (N1-64-93-2, item 1)

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## “Just in case” is NOT a retention schedule



If you have it, you  
MUST produce it for  
a FOIA request even  
if it is past the  
retention date.



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## Digitization Regulations

<https://www.archives.gov/records-mgmt/policy/digitization>

### Digitization of Federal Records

Federal agencies are moving toward an electronic government. A digitization program will be part of many agencies' efforts to transition towards fully electronic government. This webpage is a resource for agencies that provides quick access to digitization resources.

Contact [rmstandards@nara.gov](mailto:rmstandards@nara.gov) with any questions about this page and NARA's digitization guidance.

#### Digitizing Temporary Records

36 CFR 1236 Subpart D, Regulations on Digitizing Temporary Records

#### Digitizing Permanent Records

36 CFR 1236 Subpart E Regulations for Digitizing Permanent Records

#### Digitization Resources

FADGI 2022 Guidelines [\[2\]](#)  
OpenDICE

#### Transfer of Electronic Records

Format Table  
Accessioning Guidance and Policy  
Finding Aid Requirements  
NARA File Analyzer and Metadata Harvester

#### Digitization Services

NARA's Federal Records Centers Digitization Services  
GSA's Document Conversion Services Special Item Number (SIN)

#### Federal Records Management Council Resources

Digitization Cost Estimate Tools (2019):  
• FRMC Digitization Cost Benefit Analysis White Paper [\[2\]](#)  
• FRMC Sample Digitization Pricing [\[2\]](#)  
• FRMC Sample Digitization Formula [\[2\]](#)  
• FRMC Digitization Services Sample Pricing Table [\[2\]](#)

These regulations will assist you if you want to:

- Digitize the permanent records and destroy the original source record to save space
- Digitize the permanent records to send to NARA and destroy the original source records

**These regulations are not meant to be the standard by which all records are digitized.**

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***If you digitize a paper record and hold onto the paper copy, you **MUST** provide the paper copy for a FOIA request.***

“Public Law 113–187 amended the Federal Records Act at 44 U.S.C. 3302 to require NARA to issue standards for reproducing records digitally “with a view to the disposal of the original records.”

<https://www.federalregister.gov/documents/2023/05/04/2023-09050/federal-records-management-digitizing-permanent-records-and-reviewing-records-schedules>

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## FRCs vs NARA

### Federal Records Centers

- Holds temporary records
- Holds the records until they meet their retention period
- Agency still has legal custody of the records
- Then transfers them to NARA OR destroys them

### National Archives

- Holds permanent records
- Transferred to NARA when no longer needed, met their retention period.
- Agency transferred legal custody to NARA
- NARA is responsible for all FOIAs

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## NARA's Annual Move



- Yearly event
- Permanent records held in the Federal Record Centers are moved to NARA's Archival Units
- Legal custody transfers from the Agency to NARA.

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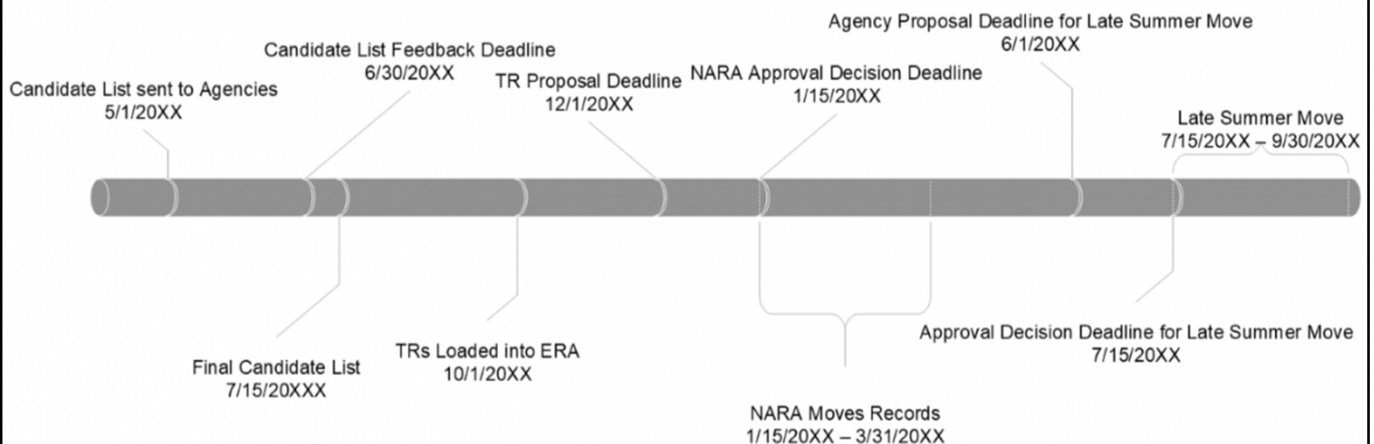
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## NARA's Annual Move

<https://www.archives.gov/era/records-mgmt/annual-move-timeline>



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## Michelle's Handling of Records 101



### What is it?

Is it a record?

Temporary or Permanent?

### Where is it?

Is it at NARA?

Is it at an FRC?

Is it in another repository?

Has it met its disposition date?

Have we destroyed it?

### Do we own it?

Is it even a record? Is it our record?

Is it in our legal custody or NARA?

Is there PII? Classification Issues?

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## FOIA and Federal Agency Records



- If the record is in the legal custody of the agency- the agency must complete the FOIA request.
- If the record is in the legal custody of NARA – NARA must complete the FOIA request.

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# Questions?

[Michelle.Bradley@nara.gov](mailto:Michelle.Bradley@nara.gov)

[RMT1@nara.gov](mailto:RMT1@nara.gov)

<https://www.archives.gov/records-mgmt/training>

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