

Not Releasable

Certain material may never be removed – but may be accessible by the Official after his/her departure:

Official Records: Paper, digital copies and other materials, including emails, used to document official actions, decisions, or events, including any subject matter identified in the OSD Records Schedules. Original records represent the evidence of agency decision making. **Original records may not be removed by departing officials;** however, in accordance with AI 50 they may make a request to view this material after their departure.

Classified Material: Materials (including copies & emails) that have been classified under Executive Order (E.O.) 13526 (and any processor orders) to protect national security **may not leave OSD custody.** Officials may request access to such material pursuant to AI-50:

Access: After departure, AI 50 allows officials to access classified materials they originated, reviewed, signed, or received while serving in an official capacity www.dtic.mil/whs/directives/corres/pdf/a050p.pdf. They may also request a mandatory declassification review of any classified records under E.O. 13526.

Non-Disclosure Agreements (NDA): Cabinet-level officials granted authorization to remove copies of unclassified information or materials not previously released to the public or with clearly identified restrictions (after review as stated above) must sign a NDA.

- ◆ NDA applies to the departing official and any heirs of the departing official.
- ◆ The former official (and their heirs) must agree not to release or publish.



References

- ◆ 44 U.S.C. Chapter 31, Records Management by Federal Agencies
- ◆ 36 CFR Part 1222, Creation and Maintenance of Federal Records
- ◆ Executive Order 13526, Classified National Security Information
- ◆ Administrative Instruction 15 (AI 15), OSD Records and Information Management Program
- ◆ Administrative Instruction 50 (AI 50), Historical Research in the Files of the Office of the Secretary of Defense

We are ready to help you with the review of your materials, and will assist you in complying with the appropriate rules and regulations. Please contact Ms. Luz D. Ortiz at the contact information below.

Records, Privacy & Declassification Division (RPD2)

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Guidance for Departing Senior Officials on Removing Records

Purpose

This guidance will assist departing OSD officials in distinguishing what materials may be taken when they leave government service. Record information falls into one of three groups: Removable Without Review, Removable After Review, and Not Removable.

Records, Privacy & Declassification Division (RPD2) Support

RPD2 provides records management support and advice to all departing Senior Officials including, but not limited to, the Secretary of Defense, the Deputy Secretary of Defense, Presidentially Appointed (PA) officials, Presidentially appointed, Senate-confirmed Officials (PAS), Schedule C, and Detailed Officials, and Non-career SES officials. RPD2 reviews materials Senior Officials wish to take with them, and will remove and assist in archiving their records.



Find it ... Protect it ... Declassify it



Deed of Gift / Donation

Only Cabinet-level officials may donate unclassified non-record material to one of NARA's presidential libraries, the Library of Congress, or a private institution (college, library, historical society, etc.). Any such transfer must be documented in writing with a deed of gift or other form of legal conveyance.

The written instrument must clearly explain the terms under which the institution accepts the papers and the protection they will be afforded while in its care. The instrument will include mandatory restrictions to access and release of the following:

- ◆ Potential violations of personal privacy
- ◆ Protection of national security information
- ◆ Statements made by or to the donor in confidence; materials or information that might prove prejudicial to the conduct of the foreign relations of the United States
- ◆ Material relating to law enforcement investigations
- ◆ Internal personnel rules and practices
- ◆ Information specifically exempted by other statutes, including trade secrets, and commercial or financial information
- ◆ Privileged inter or intra-agency memoranda or letters

Any such conveyance must be reviewed by the GC, DoD, and the OSD Records Administrator before the donor signs it. It is the responsibility of the donor and his or her immediate staff to ensure donated material is screened to contain no official agency record copies or other material that cannot be removed from the government's control. The donor is responsible for compliance with all security regulations governing classified information and ensuring that such information is removed and maintained by the office of record.

Releasable Without Review

Personal Papers: Materials belonging to the Official that were not used to conduct OSD business (either related solely to the official's own affairs or used exclusively for his/her convenience). Examples include:

- ◆ Personal calendars that reflect family, medical or social events not related to official duties
- ◆ Private correspondence – thank you letters, invitations to non-official events, letters of congratulations, letters forwarding resumes of individuals for general consideration, etc.
- ◆ Material created by the official before entering government service

Professional Papers: Materials documenting professional activities and outside business or political pursuits. Examples include:

- ◆ Political materials, including speeches made before a political body that are NOT related to the official's duties within OSD/DoD
- ◆ Volunteer and community service materials

Previously Released: Unclassified information previously released to the public. Examples include:

- ◆ Press releases, briefings, speeches, pictures, and announcements
- ◆ Material on the OSD or DoD **PUBLIC** websites (Directives, Pictures, Instructions, Forms, etc.)
- ◆ Vendor catalogs

*Note: Unclassified **does not** equal public use.. Unclassified non-record materials requested for removal by a departing official or employee for the purpose of personal use **must be cleared for public release prior to removal** by the WHS Serviced Component's Records Manager and Security Manager, as well as coordinated with the GC, DoD, and approved by the OSD Records Administrator. Upon request by a Cabinet-level official, the DoD will perform a public release review of the information, which could result in denial or redaction of the information. The Director of Administration (DCMO/DA) serves as the appellate authority to any denials or redactions.*

Releasable after Review

The following unclassified non-record material is releasable after review.

Reference: Unclassified materials used solely for reference. May include:

- ◆ Technical journals
- ◆ Copies of unclassified briefings obtained by official's attendance at conferences, training, or public events (even if they contain notes or other annotations)

Non-Records: Extra copies of documents kept only for convenience; reference stocks of publications; templates or form letters; documents that do not contain unique information or were not circulated for formal approval, comment, or action; or documents that provide no evidence of agency functions and activities. Non-records may exist in all formats and media. They are still government-owned and must be protected from unlawful removal; therefore, they must go through a public release review prior to removal. Examples of non-record copies often kept by officials:

- ◆ Official calendars and/or schedules
- ◆ Memos, correspondence, taskers, or CHRON files signed by or on behalf of the official
- ◆ Selected briefings, emails, reports, or studies pertaining to an event or topic of interest to the official
- ◆ Travel files depicting official trips
- ◆ Material on OSD or DoD **INTRANET** sites that has not been released to the public
- ◆ Working papers: drafts without substantive revisions/comments, rough notes, calculations, worksheets, or other data used in the development of a final record

Manuscripts: Manuscripts and drafts for articles and books related to the official's duties within OSD/DoD.

Emails: Emails must be reviewed prior to release. They are not considered personal files, although they may contain personal information and non-record materials as part of its general use.

Note: Email collections will not be released in their entirety; the departing official must specify which emails he/she wishes to remove.