

MAJORITY MEMBERS:

ROBERT C. "BOBBY" SCOTT, VIRGINIA,  
*Chairman*

SUSAN A. DAVIS, CALIFORNIA  
RAÚL M. GRIJALVA, ARIZONA  
JOE COURTNEY, CONNECTICUT  
MARCIA L. FUDGE, OHIO  
GREGORIO KILILI CAMACHO SABLÁN,  
NORTHERN MARIANA ISLANDS  
FREDERICA S. WILSON, FLORIDA  
SUZANNE BONAMICI, OREGON  
MARK TAKANO, CALIFORNIA  
ALMA S. ADAMS, NORTH CAROLINA  
MARK DESAULNIER, CALIFORNIA  
DONALD NORCROSS, NEW JERSEY  
PRAMILA JAYAPAL, WASHINGTON  
JOSEPH D. MORELLE, NEW YORK  
SUSAN WILD, PENNSYLVANIA  
JOSH HARDER, CALIFORNIA  
LUCY MCBATH, GEORGIA  
KIM SCHRIER, WASHINGTON  
LAUREN UNDERWOOD, ILLINOIS  
JAHANA HAYES, CONNECTICUT  
DONNA E. SHALALA, FLORIDA  
ANDY LEVIN, MICHIGAN  
ILHAN OMAR, MINNESOTA  
DAVID J. TRONE, MARYLAND  
HALEY M. STEVENS, MICHIGAN  
SUSIE LEE, NEVADA  
LORI TRAHAN, MASSACHUSETTS  
JOAQUIN CASTRO, TEXAS



COMMITTEE ON  
EDUCATION AND LABOR  
U.S. HOUSE OF REPRESENTATIVES  
2176 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6100

MINORITY MEMBERS:

VIRGINIA FOXX, NORTH CAROLINA,  
*Ranking Member*  
DAVID P. ROE, TENNESSEE  
GLENN THOMPSON, PENNSYLVANIA  
TIM WALBERG, MICHIGAN  
BRETT GUTHRIE, KENTUCKY  
BRADLEY BYRNE, ALABAMA  
GLENN GROTHMAN, WISCONSIN  
ELISE M. STEFANIK, NEW YORK  
RICK W. ALLEN, GEORGIA  
LLOYD SMUCKER, PENNSYLVANIA  
JIM BANKS, INDIANA  
MARK WALKER, NORTH CAROLINA  
JAMES COMER, KENTUCKY  
BEN CLINE, VIRGINIA  
RUSS FULCHER, IDAHO  
RON WRIGHT, TEXAS  
DANIEL MEUSER, PENNSYLVANIA  
DUSTY JOHNSON, SOUTH DAKOTA  
FRED KELLER, PENNSYLVANIA  
GREGORY F. MURPHY, NORTH CAROLINA  
JEFFERSON VAN DREW, NEW JERSEY

November 9, 2020

The Honorable Alex M. Azar II  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

Dear Secretary Azar:

With the upcoming transition of presidential administrations, the House Committee on Education and Labor (Committee) respectfully reminds you of the critical importance of records management and preservation under the Federal Records Act (FRA). As you are aware, the FRA requires all departments and agencies in the Executive Branch to collect, retain, and preserve records that document “the transaction of public business” or contain “informational value”.<sup>1</sup> This information sharing and records management is important to ensuring that the President-elect is prepared to lead the country immediately upon assuming office.

The FRA requires the head of each Federal agency to “make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency...”.<sup>2</sup> These protections extend to all types of information, whether stored physically, digitally, or electronically.<sup>3</sup> Further, these requirements apply to all subagencies, offices, departments, and other organizational components under the U.S. Department of Health and Human Services’ (Department’s) purview, as well as to all Department personnel.

Federal officials and employees who violate the FRA are subject to criminal penalties. Any agency employee who “willfully and unlawfully” conceals, removes, mutilates, obliterates, destroys, or attempts any such action against a federal record, is subject to fine and/or imprisonment for up to three years.<sup>4</sup> In addition, any federal office holder convicted of violating

---

<sup>1</sup> 44 U.S.C. § 3301(a)(1)(A).

<sup>2</sup> 44 U.S.C. § 3101.

<sup>3</sup> See 44 U.S.C. § 3301(a)(2).

<sup>4</sup> See 18 U.S.C. § 2071(b).

The Honorable Alex M. Azar II

November 9, 2020

Page 2

the FRA can lose his/her position and can be disqualified from holding future federal office.<sup>5</sup> Moreover, as the head of an agency governed by the FRA, you have a responsibility to notify the Archivist of any actual, impending, or threatened unlawful action against records at your agency.<sup>6</sup>

The Committee seeks assurances, in writing, that records, documents, data, or information have not been and will not be destroyed, modified, removed, transferred, or otherwise rendered inaccessible during the transition. Further, the Committee requests that the Department provide FRA compliance guidance to all politically appointed officials to ensure they observe appropriate record keeping practices.

Since the FRA's enactment in 1950, there have been a dozen presidential transitions, and it is the Committee's expectation that your agency will fully comply with the requirements of the FRA to ensure a smooth transition of agency operations.

The Committee appreciates your cooperation and attention to this matter.

Sincerely,



---

**ROBERT C. "BOBBY" SCOTT**  
Chairman

---

Cc: The Honorable Virginia Foxx, Ranking Member, Committee on Education and Labor

---

<sup>5</sup> *Id.*

<sup>6</sup> *See* 44 U.S.C. § 3106(b).