

**Society of American Archivists
Council Meeting
May 20-22, 2019
Chicago, Illinois**

**Committee on Public Policy:
Proposed SAA Legislative Agenda 2019-2020
(Prepared by Committee on Public Policy)**

BACKGROUND

The SAA Council approved the organization's first [Legislative Agenda and Action Plan](#) in January 2018. Since then, a new Congress has convened in Washington, D.C., and several new governments have convened in state capitals across the country.

The proposed Legislative Agenda 2019-2020 is intended to guide SAA's efforts to influence legislation and regulations that have an impact on the archival mission. It covers the two-year period coinciding with the current Congressional term.

RECOMMENDATION

THAT the following SAA Legislative Agenda 2019-2020 be adopted.

SAA Legislative Agenda (2019-2020)

INTRODUCTION

The SAA Legislative Agenda lists objectives for legislative and regulatory action at the national level on issues that affect archives and archival programs in the United States. The Agenda identifies four high-priority issues for which legislative or regulatory action is already underway, has been scheduled to take place, or is anticipated to emerge during this legislative term. This is an organic document; the list may be amended or reprioritized as legislative and regulatory developments take place during the legislative term.

In addition to the priorities for advocacy, issues are identified for monitoring and potential action. First are national issues that will be monitored for unanticipated developments that may need immediate response. Second are state, regional, or municipal issues for which the most effective advocacy will be through actions by individual members, institutions, and regional archival organizations.

SAA, guided broadly by the 2019-2020 Public Policy Agenda [\[insert link\]](#), will advocate or take other action on the following public policy priorities, either separately or in collaboration with other organizations.

2019-2020 LEGISLATIVE PRIORITIES

Public Policy Priority:

Ensure robust federal funding for archives.

Public Policy Action: Advocate for robust federal funding for grant programs that benefit archival projects, including electronic records preservation initiatives and cultural heritage disaster recovery efforts. Support legislation reauthorizing the National Historical Publications and Records Commission (NHPRC), the National Endowment for the Humanities (NEH), and the Institute of Museum and Library Services (IMLS).

Advocate for adequate funding for the National Archives and Records Administration (NARA). Adequate funding ensures that NARA has the capacity to accomplish its mandated functions to guarantee the transfer and management of the permanently valuable records of the presidency and federal government. Further, funding is essential to support effective management of and access to federal electronic records.

Advocate for the following federal budget funding levels:

NHPRC:	\$10 million in appropriations
NEH:	\$167.5 million in appropriations
IMLS:	\$270.6 million in appropriations
NARA:	\$425 million in appropriations

Background: Federal funding for NHPRC, NEH, and IMLS must be sustained to ensure that the historical record of our collective human experience is preserved and accessible for use by the American public, including teachers and students, scholars, scientists, family historians, the business community, and governments themselves.

Federal funding for the National Archives must be increased, not simply maintained or reduced. The challenges of managing federal electronic records are substantial, from ensuring the comprehensive transfer of records to providing access to those securely preserved records years and decades after they were originally acquired. These challenges require focused staffing, robust technology, and implementation of new approaches to assure that the essential information created by all branches of the federal government is appropriately preserved and made accessible, and so that NARA meets its mandate to ensure the accountability and transparency of the federal government on behalf of the American people.

SAA Statements/Issue Briefs on This Topic:

- Archives, Public Policy, and You: [Federal Funding Programs for Archives and Historical Records](#) (2019)
- Issue Brief: [Federal Grant Funding for Archives](#) (2017)
- Background: [Funding for the National Historical Publications and Records Commission](#) (2017)

- Backgrounder: [Funding for the National Endowment for the Humanities](#) (2017)
- Issue Brief: [Strengthening of Federal Records Authority](#) (2015)
- Issue Brief: [Adequate Funding of Government Archives and Archival Programs](#) (2014)

Public Policy Priority:
Support network neutrality.

Public Policy Action: Support the maintenance of net neutrality in the United States and legislative proposals that would ensure that Internet providers are designated as common carriers under Title II of the Communications Act of 1934.

Background: Net neutrality is the principle that Internet service providers must treat all data on the Internet in the same way, and not discriminate or charge differently by user, content, website, platform, application, type of attached equipment, or method of communication.[1] Under these principles, Internet service providers are unable to intentionally block, slow down, or charge for specific websites and online content.

Access to essential documentation of our government and society is made available to a wide array of users through the Internet. Archival institutions use the Internet to provide access to finding aids, discovery tools, and digital collections. In this way, they are able to reach large audiences, including governments and policy researchers, K-12 teachers and students, college/university students and academic researchers, family historians, legal and medical researchers, and many other users. The principles of net neutrality are indispensable for the transparent and democratic distribution of information available online from thousands of archival repositories throughout the country.

Our nation—and the mission of our profession—are best served if government regulations ensure archives’ ability to provide equitable and unfettered access to our shared cultural heritage and support access for all users of archival information.

[1]Gilroy, Angele A. (March 11, 2011). Access to Broadband Networks: The Net Neutrality Debate (Report). DIANE Publishing. p. 1. [ISBN 978-1437984545](#).

SAA Statements/Issue Briefs on This Topic:

- Issue Brief: [Net Neutrality](#) (June 2018)
- [SAA Letter to the FCC Commissioner](#) (December 2017)

Public Policy Priority:
Address inadequacies in intellectual property law and regulations.

Public Policy Action: Oppose any legislation or regulatory actions related to intellectual property rights that reduce or impede the ability of archives and libraries to preserve and provide access to archival materials. Such actions include extending the duration of copyright or changes to Section 108 of the U.S. Copyright Act that are not made specifically to expand permitted uses by archives and libraries.

Background: Lengthy terms of copyright protection inhibit the growth of the public domain to the detriment of the public interest. Section 108 of the U.S. Copyright Act is one of several provisions in the law ensuring a balance between the important interests of rights holders and the equally important interests of the public—a balance critical to archives’ missions. By permitting archives to duplicate copyrighted material for preservation and access, Section 108 empowers archivists to carry out their core work. Although aspects of Section 108 might be updated, the statute is remarkably resilient and is used every day by practicing archivists. Combined with the Fair Use doctrine as codified in Section 107, Section 108 is an invaluable tool for archivists in conducting their collective mission to preserve the historical record.

SAA Statements/Issue Briefs on This Topic:

- [Archivists and the Term of Copyright](#) (2016)
- [Statement on Draft Revision of Section 108](#) (2016)
- Issue Brief: [Orphan Works](#) (2014)
- View a one-page [overview](#) of SAA's positions on copyright issues.

Public Policy Priority:

Support efforts to strengthen transparency and ensure access to open government data.

Public Policy Action: Monitor forthcoming or in-progress legislation that affects the ability of the public, researchers, and government agencies/officials to ensure open access to public records as provided for by law. Issues that will emerge cannot always be predicted or anticipated, hence the need for regular monitoring of ongoing government action and legislation that may require a quick response. Focus must be on supporting legislation to ensure access to public records and opposing legislation designed to limit such access unless there are compelling and demonstrable reasons.

Support efforts to develop open public information for all government agencies. Support legislation that enhances federal electronic records management, such as H.R.745, the Federal Records Modernization Act of 2017.

Background: SAA promotes the protection and accessibility of records found in governments, organizations, and archival repositories. Records ensure the protection of individuals’ rights, the accountability of governments and organizations, and the accessibility of historical information.

Government has long sought to achieve a balance between providing open access to public records and information and ensuring restrictions that respect concerns of privacy, intellectual property, and national security. In general, the public requires broad access to government records and information to ensure transparency and accountability. Some agencies and officials have found a balance that provides the public with a great deal of information, while others have tended to restrict information and access to public records, believing it necessary to protect their work and decision-making.

To ensure that federal records can serve the purposes of ensuring transparency and accountability, the National Archives and Records Administration should be granted the statutory authority that will allow it to carry out its crucial responsibility for the proper management of federal records.

Issues may arise relating to access and restrictions that are complex and/or difficult to anticipate. For example, the creation and use of ephemeral social media content by public officials and entities raise questions about what constitutes a public record. Additionally, the use and abuse by public officials and agencies of electronic mail and social media have led to growing questions about what requirements must be met to ensure that official records are created and can be managed and preserved. Finally, issues relating to classification/declassification of public records require constant consideration to balance the public's interest in having access to information with the desire of government officials and agencies to protect the information.

SAA firmly believes that the critical nature of information in a democracy places the burden to prove the need for confidentiality, or the legitimacy of excluding public access to information, on those asserting such claims. Therefore, SAA strongly opposes any effort by government officials to deny the public access to government information found in archives and records.

SAA Statements/Issue Briefs on This Topic:

- [Congressional Records as Public Records](#) (2018)
- Issue Brief: [Police Mobile Camera Footage as a Public Record](#). (2017)
- Issue Brief: [Federal Classified Information and Controlled Unclassified Information](#) (2017)
- [Statement on the Value and Importance of Transparency in Government](#) (2017)
- Issue Brief: [Declassification of Federal Records](#) (2017)
- [Statement on Conducting Public Business in Non-Government Email Accounts](#) (2015)
- Issue Brief: [Presidential Records Act of 1978](#) (2014)

NATIONAL ISSUES TO BE MONITORED IN 2019-2020

Public Policy Issue:

Address weaknesses in classification of federal records.

Public Policy Action: Collaborate with interested organizations to support efforts to improve classification and declassification and avoid over-classification of federal records. Actions to support include simplification of classification categories and provision of additional funding for training and technology to assist and improve the process.

Background: The core values of archivists as defined by the Society of American Archivists and the profession include accountability and access and use. To ensure a more open and transparent government, there is a demonstrated need to reform the federal classification process, reduce over-classification, and ensure that the Controlled Unclassified Information (CUI) system does not become yet another system of “classification.”[2] In particular, the federal government should strive for the greatest possible openness when declassifying national security information.

[2]”Controlled Unclassified Information (CUI) is information that requires safeguarding or dissemination controls pursuant to and consistent with applicable law, regulations, and government-wide policies but is not classified under Executive Order 13526 or the Atomic Energy Act, as amended.” For further information see “About Controlled Unclassified Information (CUI)” [link: <https://www.archives.gov/cui/about>]

SAA Statements/Issue Briefs on This Topic:

- Issue Brief: [Declassification of Federal Records](#) (2017)

- Issue Brief: [Federal Classified Information and Controlled Unclassified Information](#) (2017)

Public Policy Issue:

Promote effective management of federal records.

Public Policy Action: Monitor any developments with, and advocate as appropriate for, legislation and agency regulations that strengthen the records management authority of the National Archives and Records Administration, and support NARA in pursuit of these goals.

Background: The Congress should pass, and the President should sign, legislation that gives NARA the authority and resources to investigate violations of records management laws and policies. Such legislation should also set appropriate penalties – levied according to the degree of authority and responsibility granted to the offender – for noncompliance with existing records management laws and policies. Cases in which violation of records management law are suspected should be referred to the Department of Justice for adjudication.

NARA should be provided the necessary additional resources to carry out a system of robust, regular audits of the records management practices of federal agencies to determine their level of compliance with existing laws and regulations. While agencies currently conduct self-assessments, the inherent weaknesses of self-reporting require comprehensive audits at least once every five years for continued improvement and compliance.

SAA Statements/Issue Briefs on This Topic:

- Issue Brief: [Strengthening of Federal Records Authority](#) (2015)

Public Policy Issue:

Improve the Freedom of Information Act.

Public Policy Action: Support strengthening of FOIA implementation, especially through expansion to all federal agencies of the “Release Once Release to All” pilot project.

Background: Many agencies across the federal government have backlogs in responding to FOIA requests from citizens, and “the average processing times at many agencies are hundreds of days longer than the 20-day response time established by law.”[3].

[3] ["Feinstein, Grassley, Leahy, Cornyn Push for Better FOIA Compliance."](#) March 15, 2019

SAA Statements/Issue Briefs on This Topic:

- Issue Brief: [Freedom of Information Act](#) (2014, updated 2016)

STATE / REGIONAL / LOCAL POLICY ISSUES TO BE MONITORED IN 2019-2020

Public Policy Issue:

Support efforts to define police mobile camera footage as a public record.

Public Policy Action: Encourage members to advocate for and support efforts to define police mobile camera footage as a public record under existing public records laws according to local, state, and federal statutes; advocate for standardized practices and policies to ensure effective management, preservation, and access.

Background: Police mobile camera video—recorded in the course of operations and preserved as evidence—falls under the professionally accepted definition of public records, i.e., any documentary materials, regardless of physical form or characteristics, made or received by a government entity in the conduct of public business and preserved (or appropriate for preservation) as evidence of the entity's organization, functions, policies, decisions, procedures, operations, or other activities, or because of the information contained therein. However, state laws diverge widely on the treatment of body camera recordings as public or open records. Effective management of these records must be addressed, as well as the complex issues involved in balancing the public right to know versus personal privacy.

SAA Statements/Issue Briefs on This Topic:

- Issue Brief: [Police Mobile Camera Footage as a Public Record](#) (2017)

Public Policy Issue:

Promote improvements in state Freedom of Information laws.

Public Policy Action: Closely monitor state legislation pertaining to state records laws, work with other organizations that are interested in FOIA, and encourage members to advocate within their states for strengthening of state FOI laws.

Background: To ensure the public's right to equal and equitable access to government information found in archives, SAA supports state government efforts to examine all freedom of information laws and strengthen all pertinent legislation. All state records laws should include specific language to prevent restrictions and exemptions for records of public officials and other government employees, other than those that are explicitly required by law.

SAA Statements/Issue Briefs on This Topic:

- Issue Brief: [State Freedom of Information Laws](#) (2015)

Support Statement: The proposed SAA Legislative Agenda 2019-2020 is intended to be an organic document that provides SAA with the flexibility needed to address unforeseen legislative and regulatory developments, and that informs members and other prospective audiences about SAA's priorities related to legislation and regulations affecting archivists, archives, the archives profession, and the communities we serve. SAA will prioritize four public policy actions during the 2019-2020 legislative term:

- Ensuring robust federal funding for archives.
- Supporting network neutrality.
- Addressing inadequacies in intellectual property law and regulations.
- Supporting efforts to strengthen transparency and ensure access to open government data.

SAA will also monitor legislation and regulations at the national, state, and local levels that may have an impact on archivists, archives, the archives profession, and the communities we serve.

Impact on Strategic Priorities: Addresses Goal 1: Advocating for Archives and Archivists: 1.1. Provide leadership in promoting the value of archives and archivists to institutions, communities, and society; 1.2. Educate and influence decision makers about the importance of archives and archivists; 1.3. Provide leadership in ensuring the completeness, diversity, and accessibility of the historical record; and 1.4. Strengthen the ability of those who manage and use archival material to articulate the value of archives.

Fiscal Impact: Approval of the Legislative Agenda does not commit SAA to expend funds on any particular advocacy effort. However, robust advocacy efforts on any particular issue could involve expenditures related to any of the following: SAA staff time, outreach documents for agencies and government officials, outreach to SAA members for advocacy training (e.g., webcasts), and individual or group face-to-face meetings with government officials. The draft FY20 budget for Advocacy and Public Awareness (Program 107) includes \$9,130 for activities (2.a., 2.b., 2.c., and 2.e.) that will directly support the COPP work plan. In addition, staff time allocations reflect staff involvement in those activities.

Drafted by the SAA Committee on Public Policy and adopted by the SAA Council in May 2019.

Date of next planned revision: May 2021

To view previous versions, see:

[2018 Legislative Agenda and Action Plan](#)