ment corporation, and an independent establish-
ment.

HISTORICAL AND REVISION NOTES
The section is supplied to avoid the necessity for de-
fining “Executive agency” each time it is used in this title.

CHAPTER 3—POWERS

§ 301. Departmental regulations
The head of an Executive department or mili-
tary department may prescribe regulations for the
government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the avail-
ability of records to the public.

AMENDMENTS

ADDING ITEM 306
306. Strategic plans.

§ 301. Departmental regulations

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tary department may prescribe regulations for the
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HISTORICAL AND REVISION NOTES

Derivation

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The words “Executive department” are substituted for “department” as the definition of “department” applicable to this section is coextensive with the definition of “Executive department” in section 101. The words “not inconsistent with law” are omitted as surplusage as a regulation which is inconsistent with law is invalid.

The words “or military department” are inserted to preserve the application of the source law. Before en-
actment of the National Security Act Amendments of 1949 (63 Stat. 579), the Department of the Army, the De-
partment of the Navy, and the Department of the Air Force were Executive departments. The National Secu-
rity Act Amendments of 1949 established the Depart-
ment of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the mili-
tary departments by virtue of section 12(g) of the Na-
tional Security Act Amendments of 1949 (63 Stat. 591), which provided:

“All laws, orders, regulations, and other actions re-
ating to the National Military Establishment, the De-
partments of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment or such departments, shall, except to the extent inconsistent with the provisions of this Act, have the same effect as if this Act had not been enacted; but, after the effective date of this Act, any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be deemed to have vested such function in or re-
late to the officer, or department, executive or mil-
tary, succeeding the officer, department, or establish-
ment in which such function was vested. For purposes of this subsection the Department of Defense shall be deemed the department succeeding the National Mili-
tary Establishment, and the military departments of Army, Navy, and Air Force shall be deemed the depart-
ments succeeding the Executive Departments of Army, Navy, and Air Force.”

This section was part of title IV of the Revised Stat-
utes. The Act of July 26, 1947, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171–1), which provides “Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applica-
tible to the Department of Defense” is omitted from this title but is not repealed.

Standard changes are made to conform with the defi-
nitions applicable and the style of this title as outlined in the preface to the report.

SUPPORT FOR YOUTH ORGANIZATIONS

Pub. L. 109–163, div. A, title X, § 1058(a), (b), Jan. 6, 2006, 119 Stat. 3442, provided that:

“(a) YOUTH ORGANIZATION DEFINED.—In this section, the term ‘youth organization’ means—

“(1) the Boy Scouts of America;

“(2) the Girl Scouts of the United States of Amer-

ica;

“(3) the Boys Clubs of America;

“(4) the Girls Clubs of America;

“(5) the Young Men’s Christian Association;

“(6) the Young Women’s Christian Association;

“(7) the Civil Air Patrol;

“(8) the United States Olympic Committee;

“(9) the Special Olympics;

“(10) Campfire USA;

“(11) the Young Marines;

“(12) the Naval Sea Cadets Corps;

“(13) 4–H Clubs;

“(14) the Police Athletic League;

“(15) Big Brothers—Big Sisters of America;

“(16) National Guard Challenge Program; and

“(17) any other organization designated by the President as an organization that is primarily in-
tended to—

“(A) serve individuals under the age of 21 years; 

“(B) provide training in citizenship, leadership, physical fitness, service to community, and team-

work; and

“(C) promote the development of character and ethical and moral values.

“(b) SUPPORT FOR YOUTH ORGANIZATIONS.—

“(1) CONTINUATION OF SUPPORT.—No Federal law (in-
cluding any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America) that would result in that Federal agency providing less support to that youth organization (or any similar organization chartered under the chapter of title 36, United States Code, re-
ating to that youth organization) than was provided during the preceding fiscal year to that youth organi-

zation. This paragraph shall be subject to the avail-
ability of appropriations.

“(2) YOUTH ORGANIZATIONS THAT CEASE TO EXIST.—

Paragraph (1) shall not apply to any youth organiza-
tion that ceases to exist.

“(3) WAIVERS.—The head of a Federal agency may wa-
ive the application of paragraph (1) to a youth or-

ganization with respect to each conviction or inves-
tigation described under subparagraph (A) or (B) for a period of not more than two fiscal years if—

“(A) any senior officer (including any member of the board of directors) of the youth organization is convicted of a criminal offense relating to the offi-
cial duties of that officer or the youth organization is convicted of a criminal offense; or

HISTORICAL AND EVOLUTIONARY}


“(B) the youth organization is the subject of a criminal investigation relating to fraudulent use or waste of Federal funds.

“(4) "Types of support."—Support described in paragraph (1) includes—

“(A) authorizing a youth organization to hold meetings, camping events, or other activities on Federal property;

“(B) hosting any official event of a youth organization;

“(C) loaning equipment for the use of a youth organization;

“(D) providing personnel services and logistical support for a youth organization.


“(a) DEFINITION.—In this section (enacting this note and repealing provisions set out as a note below), the term ‘birth certificate’ means a certificate of birth—

“(1) for an individual (regardless of where born)—

“(A) who is a citizen or national of the United States at birth; and

“(B) whose birth is registered in the United States; and

“(2) that—

“(A) is issued by a Federal, State, or local government agency or authorized custodian of record and produced from birth records maintained by such agency or custodian of record; or

“(B) is an authenticated copy, issued by a Federal, State, or local government agency or authorized custodian of record, of an original certificate of birth issued by such agency or custodian of record.


(b) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

“(1) IN GENERAL.—Beginning 2 years after the promulgation of minimum standards under paragraph (3), no Federal agency may accept a birth certificate for any official purpose unless the certificate conforms to such standards.

“(2) STATE CERTIFICATION.—

“(A) IN GENERAL.—Each State shall certify to the Secretary of Health and Human Services that the State is in compliance with the requirements of this section.

“(B) FREQUENCY.—Certifications under subparagraph (A) shall be made at such intervals and in such a manner as the Secretary of Health and Human Services, with the concurrence of the Secretary of Homeland Security and the Commissioner of Social Security, may prescribe by regulation.

“(C) COMPLIANCE.—Each State shall ensure that units of local government and other authorized custodians of records in the State comply with this section.

“(D) AUDITS.—The Secretary of Health and Human Services may conduct periodic audits of each State’s compliance with the requirements of this section.

“(3) MINIMUM STANDARDS.—Not later than 1 year after the date of enactment of this Act [Dec. 17, 2004], the Secretary of Health and Human Services shall by regulation establish minimum standards for birth certificates for use by Federal agencies for official purposes that—

“(A) at a minimum, shall require certification of the birth certificate by the State or local government custodian of record that issued the certificate, and shall require the use of safety paper or an alternative, equally secure means of identity verification; and other features designed to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes;

“(B) shall establish requirements for proof and verification of identity as a condition of issuance of a birth certificate, with additional security measures for the issuance of a birth certificate for a person who is not the applicant;

“(C) shall establish standards for the processing of birth certificate applications to prevent fraud;

“(D) may not require a single design to which birth certificates issued by all States must conform; and

“(E) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

“(4) CONSULTATION WITH GOVERNMENT AGENCIES.—In promulgating the standards required under paragraph (3), the Secretary of Health and Human Services shall consult with—

“(A) the Secretary of Homeland Security;

“(B) the Commissioner of Social Security;

“(C) State vital statistics offices; and

“(D) other appropriate Federal agencies.

“(5) EXTENSION OF EFFECTIVE DATE.—The Secretary of Health and Human Services may extend the date specified under paragraph (1) for up to 2 years for any reason, including the following:

“(A) If the Secretary determines that the State made reasonable efforts to comply with the date under paragraph (1) but was unable to do so.

“(B) If the Secretary determines that the State is not in compliance with the requirements of this section.

“(6) MINIMUM ALLOCATION.—Beginning on the date a final regulation is promulgated under subsection (b)(3), the Secretary of Health and Human Services shall award grants to States to assist them in conforming to the minimum standards for birth certificates set forth in the regulation.

“(7) ALLOCATION OF GRANTS.—Each State shall ensure that units of local government and other authorized custodians of records in the State comply with this section.

“(A) IN GENERAL.—The Secretary of Health and Human Services, in coordination with the Commissioner of Social Security and other appropriate Federal agencies, shall award grants to States, under criteria established by the Secretary, to assist States in—

“(i) computerizing their birth and death records;

“(ii) developing the capability to match birth and death records within each State and among the States; and

“(iii) noting the fact of death on the birth certificates of deceased persons.

“(B) ALLOCATION OF GRANTS.—The Secretary shall award grants to qualifying States under this paragraph based on the proportion that the estimated average annual number of birth certificates issued by each State applying for a grant bears to the estimated annual number of birth certificates issued by all States.

“(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

“(D) IN GENERAL.—Beginning on the date a final regulation is promulgated under subsection (b)(3), the Secretary shall award grants to States, under criteria established by the Secretary, to assist States in—

“(i) computerizing their birth and death records;

“(ii) developing the capability to match birth and death records within each State and among the States; and

“(iii) noting the fact of death on the birth certificates of deceased persons.

“(E) ALLOCATION OF GRANTS.—The Secretary shall award grants to qualifying States under this paragraph on the proportion that the estimated average annual number of birth and death records created by a State applying for a grant bears to the estimated average annual number of birth and death records originated by all States.

“(F) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

“(G) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this section.”
Title 5—Government Organization and Employees

Implements in Identification-Related Documents

(a) An employee of an Executive department lawfully assigned to investigate frauds on or attempts to defraud the United States, or irregularity or misconduct of an employee or agent of the United States, may administer an oath to a witness attending to testify or depose in the course of the investigation.

(b) An employee of the Department of Defense lawfully assigned to investigative duties may administer oaths to witnesses in connection with an official investigation.

(Historical and Revision Notes)

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<td>(a)</td>
<td>§ 304.</td>
<td>R.S. § 1184.</td>
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The word “employee” is substituted for “officer or clerk” in view of the definition in section 2101. The words “Executive department” are substituted for “departments” as the definition of “department” applicable to this section is coextensive with the definition of “Executive department” in section 101. So much as related to the Armed Forces is omitted as superseded by section 638 of title 14 and section 936(b) of title 10.

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (formerly 5 U.S.C. 171–1), which provides “Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense” is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1976—Pub. L. 94–213 designated existing provisions as subsec. (a) and added subsec. (b).

§ 304. Subpenas

(a) The head of an Executive department or military department or bureau thereof in which a claim against the United States is pending may apply to a judge or clerk of a court of the United States to issue a subpena for a witness within the jurisdiction of the court to appear at a time and place stated in the subpena before an individual authorized to take depositions to be used in the courts of the United States, to give full and true answers to such written interrogatories and cross-interrogatories as may be submitted with the application, or to be orally examined and cross-examined on the subject of the claim.

(b) If a witness, after being served with a subpena, neglects or refuses to appear, or appearing, refuses to testify, the judge of the district in which the subpena issued may proceed, on proper process, to enforce obedience to the subpena, or to punish for disobedience, in the same manner as a court of the United States may in case of process of subpoena ad testificandum issued by the court.

(Historical and Revision Notes)

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(1) by law to take final action on matters pertaining to the employment, direction, and general administration of personnel under his agency; and

(2) by section 3702 of title 44 to authorize the publication of advertisements, notices, or proposals.


Historical and Revision Notes

Clause (2) of former section 22a is omitted because of the repeal of R.S. § 3883 (31 U.S.C. 675) by the Act of Sept. 12, 1950, ch. 946, § 93, 64 Stat. 843.

The word “agency” is substituted for “department” and defined to conform to the definition of “department” in section 101 of the Act of Aug. 2, 1946, ch. 744, § 12, 60 Stat. 809.

In subsection (b), the words “in addition to the authority to delegate conferred by other law,” are added for clarity and in recognition of the various reorganization plans which generally have transferred all functions of the departments and agencies to the heads thereof and have authorized them to delegate the functions to subordinates.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments


§ 303. Oaths to witnesses

(a) An employee of an Executive department lawfully assigned to investigate frauds on or attempts to defraud the United States, or irregularity or misconduct of an employee or agent of