

(d) Adjudicative guidelines**(1) Requirement to establish**

The President shall establish adjudicative guidelines for determining eligibility for access to classified information.

(2) Requirements related to mental health

The guidelines required by paragraph (1) shall—

(A) include procedures and standards under which a covered person is determined to be mentally incompetent and provide a means to appeal such a determination; and

(B) require that no negative inference concerning the standards in the guidelines may be raised solely on the basis of seeking mental health counseling.

(Pub. L. 108–458, title III, § 3002, as added Pub. L. 110–181, div. A, title X, § 1072(a), Jan. 28, 2008, 122 Stat. 328.)

REFERENCES IN TEXT

Executive Order 12958, referred to in subsec. (a)(4), which was formerly set out as a note under section 435 (now section 3161) of this title, was revoked by Ex. Ord. No. 13526, § 6.2(g), Dec. 29, 2009, 75 F.R. 731.

CODIFICATION

Section was formerly classified to section 435c of this title prior to editorial reclassification and renumbering as this section.

§ 3344. Classification training program**(a) In general**

The head of each Executive agency, in accordance with Executive Order 13526, shall require annual training for each employee who has original classification authority. For employees who perform derivative classification, or are responsible for analysis, dissemination, preparation, production, receipt, publication, or otherwise communication of classified information, training shall be provided at least every two years. Such training shall—

(1) educate the employee, as appropriate, regarding—

(A) the guidance established under subparagraph (G) of section 3024(g)(1) of this title, as added by section 5(a)(3),¹ regarding the formatting of finished intelligence products;

(B) the proper use of classification markings, including portion markings that indicate the classification of portions of information; and

(C) any incentives and penalties related to the proper classification of intelligence information; and

(2) ensure such training is a prerequisite, once completed successfully, as evidenced by an appropriate certificate or other record, for—

(A) obtaining original classification authority or derivatively classifying information; and

(B) maintaining such authority.

(b) Relationship to other programs

The head of each Executive agency shall ensure that the training required by subsection (a)

is conducted efficiently and in conjunction with any other required security, intelligence, or other training programs to reduce the costs and administrative burdens associated with carrying out the training required by subsection (a).

(Pub. L. 111–258, § 7, Oct. 7, 2010, 124 Stat. 2652.)

REFERENCES IN TEXT

Executive Order 13526, referred to in subsec. (a), is set out as a note under section 3161 of this title.

Section 5(a)(3), referred to in subsec. (a)(1)(A), probably means section 5(a)(3) of Pub. L. 111–258.

CODIFICATION

Section was formerly classified to section 435d of this title prior to editorial reclassification and renumbering as this section.

DEFINITIONS

Pub. L. 111–258, § 3, Oct. 7, 2010, 124 Stat. 2648, provided that: “In this Act [see Short Title of 2010 Amendment note set out under section 101 of Title 6, Domestic Security]:

“(1) DERIVATIVE CLASSIFICATION AND ORIGINAL CLASSIFICATION.—The terms ‘derivative classification’ and ‘original classification’ have the meanings given those terms in Executive Order No. 13526 [50 U.S.C. 3161 note].

“(2) EXECUTIVE AGENCY.—The term ‘Executive agency’ has the meaning given that term in section 105 of title 5, United States Code.

“(3) EXECUTIVE ORDER NO. 13526.—The term ‘Executive Order No. 13526’ means Executive Order No. 13526 (75 Fed. Reg. 707; relating to classified national security information) or any subsequent corresponding executive order.”

§ 3345. Limitation on handling, retention, and storage of certain classified materials by the Department of State**(a) Certification regarding full compliance with requirements**

The Director of Central Intelligence shall certify to the appropriate committees of Congress whether or not each covered element of the Department of State is in full compliance with all applicable directives of the Director of Central Intelligence relating to the handling, retention, or storage of covered classified material.

(b) Limitation on certification

The Director of Central Intelligence may not certify a covered element of the Department of State as being in full compliance with the directives referred to in subsection (a) of this section if the covered element is currently subject to a waiver of compliance with respect to any such directive.

(c) Report on noncompliance

Whenever the Director of Central Intelligence determines that a covered element of the Department of State is not in full compliance with any directive referred to in subsection (a) of this section, the Director shall promptly notify the appropriate committees of Congress of such determination.

(d) Effects of certification of non-full compliance

(1) Subject to subsection (e) of this section, effective as of January 1, 2001, a covered element of the Department of State may not retain or store covered classified material unless the Director has certified under subsection (a) of this

¹ See References in Text note below.

section as of such date that the covered element is in full compliance with the directives referred to in subsection (a) of this section.

(2) If the prohibition in paragraph (1) takes effect in accordance with that paragraph, the prohibition shall remain in effect until the date on which the Director certifies under subsection (a) of this section that the covered element involved is in full compliance with the directives referred to in that subsection.

(e) Waiver by Director of Central Intelligence

(1) The Director of Central Intelligence may waive the applicability of the prohibition in subsection (d) of this section to an element of the Department of State otherwise covered by such prohibition if the Director determines that the waiver is in the national security interests of the United States.

(2) The Director shall submit to appropriate committees of Congress a report on each exercise of the waiver authority in paragraph (1).

(3) Each report under paragraph (2) with respect to the exercise of authority under paragraph (1) shall set forth the following:

(A) The covered element of the Department of State addressed by the waiver.

(B) The reasons for the waiver.

(C) The actions that will be taken to bring such element into full compliance with the directives referred to in subsection (a) of this section, including a schedule for completion of such actions.

(D) The actions taken by the Director to protect any covered classified material to be handled, retained, or stored by such element pending achievement of full compliance of such element with such directives.

(f) Definitions

In this section:

(1) The term “appropriate committees of Congress” means the following:

(A) The Select Committee on Intelligence and the Committee on Foreign Relations of the Senate.

(B) The Permanent Select Committee on Intelligence and the Committee on International Relations of the House of Representatives.

(2) The term “covered classified material” means any material classified at the Sensitive Compartmented Information (SCI) level.

(3) The term “covered element of the Department of State” means each element of the Department of State that handles, retains, or stores covered classified material.

(4) The term “material” means any data, regardless of physical form or characteristic, including written or printed matter, automated information systems storage media, maps, charts, paintings, drawings, films, photographs, engravings, sketches, working notes, papers, reproductions of any such things by any means or process, and sound, voice, magnetic, or electronic recordings.

(5) The term “Sensitive Compartmented Information (SCI) level”, in the case of classified material, means a level of classification for information in such material concerning or derived from intelligence sources, methods, or

analytical processes that requires such information to be handled within formal access control systems established by the Director of Central Intelligence.

(Pub. L. 106-567, title III, § 309, Dec. 27, 2000, 114 Stat. 2840.)

CODIFICATION

Section was formerly classified to section 435a of this title prior to editorial reclassification and renumbering as this section.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of this title.

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 3346. Compilation and organization of previously declassified records

(a), (b) Omitted

(c) Compilation and organization of records

The Department of Defense may not be required, when conducting a special search, to compile or organize records that have already been declassified and placed into the public domain.

(d) Special searches

For the purpose of this section, the term “special search” means the response of the Department of Defense to any of the following:

(1) A statutory requirement to conduct a declassification review on a specified set of agency records.

(2) An Executive order to conduct a declassification review on a specified set of agency records.

(3) An order from the President or an official with delegated authority from the President to conduct a declassification review on a specified set of agency records.

(Pub. L. 106-398, § 1 [[div. A], title X, § 1075], Oct. 30, 2000, 114 Stat. 1654, 1654A-280.)

REFERENCES IN TEXT

This section, referred to in subsec. (d), is section 1075 of H.R. 5408 of the 106th Congress, as introduced on Oct. 6, 2000, and as enacted into law by section 1 of Pub. L. 106-398, Oct. 30, 2000, 114 Stat. 1654. See Codification note below.

CODIFICATION

Section was formerly classified as a note under section 435 of this title prior to editorial reclassification as this section.

Section is comprised of section 1075 of H.R. 5408 of the 106th Congress, as introduced on Oct. 6, 2000, and as enacted into law by section 1 of Pub. L. 106-398, Oct. 30, 2000, 114 Stat. 1654. Subsec. (a) of section 1075 amended former section 230 of Title 10, Armed Forces and subsec. (b) of section 1075 was not classified to the Code.