

pointed by the Director of Central Intelligence. The Secretary of State shall designate the Chairperson of the Board. Members of the Board who are not Federal officers or employees shall each be paid at a rate not to exceed the maximum rate of basic pay payable for level GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board. Members of the Board who are Federal officers or employees shall receive no additional pay by reason of such membership.

**(b) Facilities, services, supplies, and staff**

**(1) Supplied by Department of State**

A Board shall obtain facilities, services, and supplies through the Department of State. All expenses of the Board, including necessary costs of travel, shall be paid by the Department of State. Travel expenses authorized under this paragraph shall be paid in accordance with subchapter I of chapter 57 of title 5 or other applicable law.

**(2) Detail**

At the request of a Board, employees of the Department of State or other Federal agencies, members of the Foreign Service, or members of the uniformed services may be temporarily assigned, with or without reimbursement, to assist the Board.

**(3) Experts and consultants**

A Board may employ and compensate (in accordance with section 3109 of title 5) such experts and consultants as the Board considers necessary to carry out its functions. Experts and consultants so employed shall be responsible solely to the Board.

(Pub. L. 99-399, title III, § 302, Aug. 27, 1986, 100 Stat. 859.)

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

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 Title 50, War and National Defense.

**§ 4833. Procedures**

**(a) Evidence**

**(1) United States Government personnel and contractors**

(A) With respect to any individual described in subparagraph (B), a Board may—

- (i) administer oaths and affirmations;
- (ii) require that depositions be given and interrogatories answered; and
- (iii) require the attendance and presentation of testimony and evidence by such individual.

Failure of any such individual to comply with a request of the Board shall be grounds for disciplinary action by the head of the Federal agency in which such individual is employed or serves, or in the case of a contractor, debarment.

(B) The individuals referred to in subparagraph (A) are—

- (i) employees as defined by section 2105 of title 5 (including members of the Foreign Service);
- (ii) members of the uniformed services as defined by section 101(3) of title 37;
- (iii) employees of instrumentalities of the United States; and
- (iv) individuals employed by any person or entity under contract with agencies or instrumentalities of the United States Government to provide services, equipment, or personnel.

**(2) Other persons**

With respect to a person who is not described in paragraph (1)(B), a Board may administer oaths and affirmations and require that depositions be given and interrogatories answered.

**(3) Subpoenas**

(A) The Board may issue a subpoena for the attendance and testimony of any person (other than a person described in clause (i), (ii), or (iii) of paragraph (1)(B)) and the production of documentary or other evidence from any such person if the Board finds that such a subpoena is necessary in the interests of justice for the development of relevant evidence.

(B) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, a court of the United States within the jurisdiction of which a person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application of the Attorney General, issue to such person an order requiring such person to appear before the Board to give testimony or produce information as required by the subpoena.

(C) Subpoenaed witnesses shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

**(b) Confidentiality**

A Board shall adopt for administrative proceedings under this subchapter such procedures with respect to confidentiality as may be deemed necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence in camera, to ensure in particular the protection of classified information relating to national defense, foreign policy, or intelligence matters. The Director of Central Intelligence shall establish the level of protection required for intelligence information and for information relating to intelligence personnel, including standards for secure storage.

**(c) Records**

Records pertaining to administrative proceedings under this subchapter shall be separated from all other records of the Department of State and shall be maintained under appropriate safeguards to preserve confidentiality and classification of information. Such records shall be prohibited from disclosure to the public until such time as a Board completes its work and is dismissed. The Department of State shall turn over to the Director of Central Intelligence intelligence information and information relating to intelligence personnel which shall then become records of the Central Intelligence Agency. After that time, only such exemptions from disclosure under section 552(b) of title 5 (relating to freedom of information), as apply to other records of the Department of State, and to any information transmitted under section 4834(c) of this title to the head of a Federal agency or instrumentality, shall be available for the remaining records of the Board.

**(d) Status of Boards**

The provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) and section 552b of title 5 (relating to open meetings) shall not apply to any Board.

(Pub. L. 99-399, title III, §303, Aug. 27, 1986, 100 Stat. 859.)

## REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

## CHANGE OF NAME

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**§ 4834. Findings and recommendations by a Board****(a) Findings**

A Board convened in any case shall examine the facts and circumstances surrounding the serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be) and shall make written findings determining—

- (1) the extent to which the incident or incidents with respect to which the Board was convened was security related;
- (2) whether the security systems and security procedures at that mission were adequate;
- (3) whether the security systems and security procedures were properly implemented;
- (4) the impact of intelligence and information availability; and

(5) such other facts and circumstances which may be relevant to the appropriate security management of United States missions abroad.

**(b) Program recommendations**

A Board shall submit its findings (which may be classified to the extent deemed necessary by the Board) to the Secretary of State, together with recommendations as appropriate to improve the security and efficiency of any program or operation which the Board has reviewed.

**(c) Personnel recommendations**

Whenever a Board finds reasonable cause to believe that an individual described in section 4833(a)(1)(B) of this title has breached the duty of that individual, the Board shall—

- (1) notify the individual concerned,
- (2) transmit the finding of reasonable cause, together with all information relevant to such finding, to the head of the appropriate Federal agency or instrumentality, and
- (3) recommend that such agency or instrumentality initiate an appropriate investigatory or disciplinary action.

In determining whether an individual has breached a duty of that individual, the Board shall take into account any standard of conduct, law, rule, regulation, contract, or order which is pertinent to the performance of the duties of that individual.

**(d) Reports****(1) Program recommendations**

In any case in which a Board transmits recommendations to the Secretary of State under subsection (b), the Secretary shall, not later than 90 days after the receipt of such recommendations, submit a report to the Congress on each such recommendation and the action taken with respect to that recommendation.

**(2) Personnel recommendations**

In any case in which a Board transmits a finding of reasonable cause under subsection (c), the head of the Federal agency or instrumentality receiving the information shall review the evidence and recommendations and shall, not later than 30 days after the receipt of that finding, transmit to the Congress a report specifying—

- (A) the nature of the case and a summary of the evidence transmitted by the Board; and
- (B) the decision by the Federal agency or instrumentality to take disciplinary or other appropriate action against that individual or the reasons for deciding not to take disciplinary or other action with respect to that individual.

(Pub. L. 99-399, title III, §304, Aug. 27, 1986, 100 Stat. 861; Pub. L. 100-204, title I, §156(b), Dec. 22, 1987, 101 Stat. 1354.)

## AMENDMENTS

1987—Subsec. (a). Pub. L. 100-204 inserted “or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be)” after first reference to “mission abroad”.