

tion 710(b) of the Public Interest Declassification Act of 2000 (Pub. L. 106-567, title VII), referred to in the introductory provisions of section 6741(c) of Pub. L. 116-92, set out above, provided that: “The provisions of this title shall expire on December 31, 2018.” Section 710 of the Act was formerly set out in a note under section 3161 of this title, and was editorially transferred and is now set out as an Effective Date note above.]

### § 3355a. Public Interest Declassification Board

#### (a) Establishment

(1) There is established within the executive branch of the United States a board to be known as the “Public Interest Declassification Board” (in this subchapter referred to as the “Board”).

(2) The Board shall report directly to the President or, upon designation by the President, the Vice President, the Attorney General, or other designee of the President. The other designee of the President under this paragraph may not be an agency head or official authorized to classify information under Executive Order 12958<sup>1</sup>, or any successor order.

#### (b) Purposes

The purposes of the Board are as follows:

(1) To advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and such other executive branch officials as the Board considers appropriate on the systematic, thorough, coordinated, and comprehensive identification, collection, review for declassification, and release to Congress, interested agencies, and the public of declassified records and materials (including donated historical materials) that are of archival value, including records and materials of extraordinary public interest.

(2) To promote the fullest possible public access to a thorough, accurate, and reliable documentary record of significant United States national security decisions and significant United States national security activities in order to—

(A) support the oversight and legislative functions of Congress;

(B) support the policymaking role of the executive branch;

(C) respond to the interest of the public in national security matters; and

(D) promote reliable historical analysis and new avenues of historical study in national security matters.

(3) To provide recommendations to the President for the identification, collection, and review for declassification of information of extraordinary public interest that does not undermine the national security of the United States, to be undertaken in accordance with a declassification program that has been established or may be established by the President by Executive order.

(4) To advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and such other executive branch officials as the Board considers appropriate on policies deriving from the issuance by the

President of Executive orders regarding the classification and declassification of national security information.

(5) To review and make recommendations to the President in a timely manner with respect to any congressional request, made by the committee of jurisdiction or by a member of the committee of jurisdiction, to declassify certain records, to evaluate the proper classification of certain records, or to reconsider a declination to declassify specific records.

#### (c) Membership

(1) The Board shall be composed of nine individuals appointed from among citizens of the United States who are preeminent in the fields of history, national security, foreign policy, intelligence policy, social science, law, or archives, including individuals who have served in Congress or otherwise in the Federal Government or have otherwise engaged in research, scholarship, or publication in such fields on matters relating to the national security of the United States, of whom—

(A) five shall be appointed by the President;

(B) one shall be appointed by the Speaker of the House of Representatives;

(C) one shall be appointed by the majority leader of the Senate;

(D) one shall be appointed by the minority leader of the Senate; and

(E) one shall be appointed by the minority leader of the House of Representatives.

(2)(A) Of the members initially appointed to the Board by the President—

(i) three shall be appointed for a term of 4 years;

(ii) one shall be appointed for a term of 3 years; and

(iii) one shall be appointed for a term of 2 years.

(B) The members initially appointed to the Board by the Speaker of the House of Representatives or by the majority leader of the Senate shall be appointed for a term of 3 years.

(C) The members initially appointed to the Board by the minority leader of the House of Representatives or the Senate shall be appointed for a term of 2 years.

(D) Any subsequent appointment to the Board shall be for a term of 3 years from the date of the appointment.

(3) A vacancy in the Board shall be filled in the same manner as the original appointment.

(4) A member of the Board may be appointed to a new term on the Board upon the expiration of the member’s term on the Board, except that no member may serve more than three full terms on the Board.

#### (d) Chairperson; Executive Secretary

(1)(A) The President shall designate one of the members of the Board as the Chairperson of the Board.

(B) The term of service as Chairperson of the Board shall be 2 years.

(C) A member serving as Chairperson of the Board may be redesignated as Chairperson of the Board upon the expiration of the member’s term as Chairperson of the Board, except that no member shall serve as Chairperson of the Board for more than 6 years.

<sup>1</sup> See References in Text note below.

(2) The Director of the Information Security Oversight Office shall serve as the Executive Secretary of the Board.

**(e) Meetings**

The Board shall meet as needed to accomplish its mission, consistent with the availability of funds, but shall meet in person not less frequently than on a quarterly basis. A majority of the members of the Board shall constitute a quorum.

**(f) Staff**

Any employee of the Federal Government may be detailed to the Board, with the agreement of and without reimbursement to the detailing agency, and such detail shall be without interruption or loss of civil, military, or foreign service status or privilege.

**(g) Security**

(1) The members and staff of the Board shall, as a condition of appointment to or employment with the Board, hold appropriate security clearances for access to the classified records and materials to be reviewed by the Board or its staff, and shall follow the guidance and practices on security under applicable Executive orders and Presidential or agency directives.

(2) The head of an agency shall, as a condition of granting access to a member of the Board, the Executive Secretary of the Board, or a member of the staff of the Board to classified records or materials of the agency under this subchapter, require the member, the Executive Secretary, or the member of the staff, as the case may be, to—

(A) execute an agreement regarding the security of such records or materials that is approved by the head of the agency; and

(B) hold an appropriate security clearance granted or recognized under the standard procedures and eligibility criteria of the agency, including any special access approval required for access to such records or materials.

(3) The members of the Board, the Executive Secretary of the Board, and the members of the staff of the Board may not use any information acquired in the course of their official activities on the Board for nonofficial purposes.

(4) For purposes of any law or regulation governing access to classified information that pertains to the national security of the United States, and subject to any limitations on access arising under section 3355d(b) of this title, and to facilitate the advisory functions of the Board under this subchapter, a member of the Board seeking access to a record or material under this subchapter shall be deemed for purposes of this subsection to have a need to know the contents of the record or material.

**(h) Compensation**

(1) Each member of the Board shall receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay payable for positions at ES-1 of the Senior Executive Service under section 5382 of title 5 for each day such member is engaged in the actual performance of duties of the Board.

(2) Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of

agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of the duties of the Board.

**(i) Guidance; annual budget**

(1) On behalf of the President, the Assistant to the President for National Security Affairs shall provide guidance on policy to the Board.

(2) The Executive Secretary of the Board, under the direction of the Chairperson of the Board and the Board, and acting in consultation with the Archivist of the United States, the Assistant to the President for National Security Affairs, and the Director of the Office of Management and Budget, shall prepare the annual budget of the Board.

**(j) Support**

The Information Security Oversight Office may support the activities of the Board under this subchapter. Such support shall be provided on a reimbursable basis.

**(k) Public availability of records and reports**

(1) The Board shall make available for public inspection records of its proceedings and reports prepared in the course of its activities under this subchapter to the extent such records and reports are not classified and would not be exempt from release under the provisions of section 552 of title 5.

(2) In making records and reports available under paragraph (1), the Board shall coordinate the release of such records and reports with appropriate officials from agencies with expertise in classified information in order to ensure that such records and reports do not inadvertently contain classified information.

**(l) Applicability of certain administrative laws**

The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Board under this subchapter. However, the records of the Board shall be governed by the provisions of the Federal Records Act of 1950.

(Pub. L. 106-567, title VII, §703, Dec. 27, 2000, 114 Stat. 2856; Pub. L. 108-458, title I, §1102(a), (b), Dec. 17, 2004, 118 Stat. 3699; Pub. L. 111-259, title III, §365, Oct. 7, 2010, 124 Stat. 2702; Pub. L. 112-235, §2(a), (b), Dec. 28, 2012, 126 Stat. 1626; Pub. L. 116-92, div. E, title LXVII, §6741(a), Dec. 20, 2019, 133 Stat. 2239.)

REFERENCES IN TEXT

Executive Order 12958, referred to in subsec. (a)(2), which was formerly set out as a note under section 3161 of this title, was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731.

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

The Federal Records Act of 1950, referred to in subsec. (l), was title V of act June 30, 1949, ch. 288, as added Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583, which was classified generally to sections 392 to 396 and 397 to 401 of former Title 44, Public Printing and Documents. Section 6(d) of act Sept. 5, 1950, was repealed by Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1238, the first section of which enacted Title 44, Public Printing and Documents. For disposition of sections of former Title 44, see Table at the beginning of Title 44. Title V of act June 30, 1949,

was repealed by Pub. L. 107-217, §4, Aug. 21, 2002, 116 Stat. 1303.

#### CODIFICATION

Section was formerly set out in a note under section 3161 of this title.

#### AMENDMENTS

2019—Subsec. (e). Pub. L. 116-92 substituted “funds, but shall meet in person not less frequently than on a quarterly basis.” for “funds.”

2012—Subsec. (c)(2)(D). Pub. L. 112-235, §2(a), substituted “from the date of the appointment.” for period at end.

Subsec. (c)(3). Pub. L. 112-235, §2(b), struck out at end “A member of the Board appointed to fill a vacancy before the expiration of a term shall serve for the remainder of the term.”

2010—Subsec. (b)(5). Pub. L. 111-259 substituted “jurisdiction or by a member of the committee of jurisdiction,” for “jurisdiction,” and inserted “, to evaluate the proper classification of certain records,” after “certain records”.

2004—Subsec. (a). Pub. L. 108-458, §1102(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(5). Pub. L. 108-458, §1102(b), added par. (5).

### **§ 3355b. Identification, collection, and review for declassification of information of archival value or extraordinary public interest**

#### **(a) Briefings on agency declassification programs**

(1) As requested by the Board, or by the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives, the head of any agency with the authority under an Executive order to classify information shall provide to the Board, the Select Committee on Intelligence of the Senate, or the Permanent Select Committee on Intelligence of the House of Representatives, on an annual basis, a summary briefing and report on such agency’s progress and plans in the declassification of national security information. Such briefing shall cover the declassification goals set by statute, regulation, or policy, the agency’s progress with respect to such goals, and the agency’s planned goals and priorities for its declassification activities over the next 2 fiscal years. Agency briefings and reports shall give particular attention to progress on the declassification of records and materials that are of archival value or extraordinary public interest to the people of the United States.

(2)(A) The annual briefing and report under paragraph (1) for agencies within the Department of Defense, including the military departments and the elements of the intelligence community, shall be provided on a consolidated basis.

(B) In this paragraph, the term “elements of the intelligence community” means the elements of the intelligence community specified or designated under section 3003(4) of this title.

#### **(b) Recommendations on agency declassification programs**

(1) Upon reviewing and discussing declassification plans and progress with an agency, the Board shall provide to the head of the agency the written recommendations of the Board as to how the agency’s declassification program could be improved. A copy of each recommendation

shall also be submitted to the Assistant to the President for National Security Affairs and the Director of the Office of Management and Budget.

(2) Consistent with the provisions of section 3355a(k) of this title, the Board’s recommendations to the head of an agency under paragraph (1) shall become public 60 days after such recommendations are sent to the head of the agency under that paragraph.

#### **(c) Recommendations on special searches for records of extraordinary public interest**

(1) The Board shall also make recommendations to the President regarding proposed initiatives to identify, collect, and review for declassification classified records and materials of extraordinary public interest.

(2) In making recommendations under paragraph (1), the Board shall consider the following:

(A) The opinions and requests of Members of Congress, including opinions and requests expressed or embodied in letters or legislative proposals, and also including specific requests for the declassification of certain records or for the reconsideration of declinations to declassify specific records.

(B) The opinions and requests of the National Security Council, the Director of National Intelligence, and the heads of other agencies.

(C) The opinions of United States citizens.

(D) The opinions of members of the Board.

(E) The impact of special searches on systematic and all other on-going declassification programs.

(F) The costs (including budgetary costs) and the impact that complying with the recommendations would have on agency budgets, programs, and operations.

(G) The benefits of the recommendations.

(H) The impact of compliance with the recommendations on the national security of the United States.

#### **(d) President’s declassification priorities**

(1) Concurrent with the submission to Congress of the budget of the President each fiscal year under section 1105 of title 31, the Director of the Office of Management and Budget shall publish a description of the President’s declassification program and priorities, together with a listing of the funds requested to implement that program.

(2) Nothing in this subchapter shall be construed to substitute or supersede, or establish a funding process for, any declassification program that has been established or may be established by the President by Executive order.

#### **(e) Declassification reviews**

##### **(1) In general**

If requested by the President, the Board shall review in a timely manner certain records or declinations to declassify specific records, the declassification of which has been the subject of specific congressional request described in section 3355a(b)(5) of this title.

##### **(2) Authority of board**

Upon receiving a congressional request described in section 3355a(b)(5) of this title, the