

(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 gov-

erned 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 Board may conduct the review and make the recommendations described in that section, regardless of whether such a review is requested by the President.

(3) Reporting

Any recommendations submitted to the President by the Board under section 3355a(b)(5) of this title,¹ shall be submitted to the chairman and ranking minority member of the committee of Congress that made the request relating to such recommendations.

(Pub. L. 106-567, title VII, § 704, Dec. 27, 2000, 114 Stat. 2859; Pub. L. 108-458, title I, § 1102(c), (d), Dec. 17, 2004, 118 Stat. 3699; Pub. L. 110-53, title VI, § 602(1), (2), Aug. 3, 2007, 121 Stat. 335.)

CODIFICATION

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

AMENDMENTS

2007—Subsec. (c)(2)(B). Pub. L. 110-53, § 602(1), substituted "Director of National Intelligence" for "Director of Central Intelligence".

Subsec. (e). Pub. L. 110-53, § 602(2), designated existing provisions as par. (1), inserted par. (1) heading, and added pars. (2) and (3).

2004—Subsec. (c)(2)(A). Pub. L. 108-458, § 1102(c), inserted before period at end "and also including specific requests for the declassification of certain records or for the reconsideration of declinations to declassify specific records".

Subsec. (e). Pub. L. 108-458, § 1102(d), added subsec. (e).

§ 3355c. Protection of national security information and other information

(a) In general

Nothing in this subchapter shall be construed to limit the authority of the head of an agency to classify information or to continue the classification of information previously classified by that agency.

¹ So in original.