

or (iii) of subparagraph (A) shall identify to the head of the authorized investigative agency or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request.

**(c) Judicial review**

**(1) In general**

A request under subsection (a) or a non-disclosure requirement imposed in connection with such request under subsection (b) shall be subject to judicial review under section 3511 of title 18.

**(2) Notice**

A request under subsection (a) shall include notice of the availability of judicial review described in paragraph (1).

**(d) Records or information; inspection or copying**

(1) Notwithstanding any other provision of law (other than section 6103 of title 26), an entity receiving a request for records or information under subsection (a) shall, if the request satisfies the requirements of this section, make available such records or information within 30 days for inspection or copying, as may be appropriate, by the agency requesting such records or information.

(2) Any entity (including any officer, employee, or agent thereof) that discloses records or information for inspection or copying pursuant to this section in good faith reliance upon the certifications made by an agency pursuant to this section shall not be liable for any such disclosure to any person under this subchapter, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

**(e) Reimbursement of costs**

Any agency requesting records or information under this section may, subject to the availability of appropriations, reimburse a private entity for any cost reasonably incurred by such entity in responding to such request, including the cost of identifying, reproducing, or transporting records or other data.

**(f) Dissemination of records or information received**

An agency receiving records or information pursuant to a request under this section may disseminate the records or information obtained pursuant to such request outside the agency only—

(1) to the agency employing the employee who is the subject of the records or information;

(2) to the Department of Justice for law enforcement or counterintelligence purposes; or

(3) with respect to dissemination to an agency of the United States, if such information is clearly relevant to the authorized responsibilities of such agency.

**(g) Construction of section**

Nothing in this section may be construed to affect the authority of an investigative agency to obtain information pursuant to the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or

the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

(July 26, 1947, ch. 343, title VIII, § 802, as added Pub. L. 103-359, title VIII, § 802(a), Oct. 14, 1994, 108 Stat. 3436; amended Pub. L. 109-177, title I, § 116(f), Mar. 9, 2006, 120 Stat. 216; Pub. L. 109-178, § 4(e), Mar. 9, 2006, 120 Stat. 281; Pub. L. 114-23, title V, §§ 502(e), 503(e), June 2, 2015, 129 Stat. 287, 290.)

**Editorial Notes**

REFERENCES IN TEXT

The Right to Financial Privacy Act, referred to in subsec. (g), probably means the Right to Financial Privacy Act of 1978, which is title XI of Pub. L. 95-630, Nov. 10, 1978, 92 Stat. 3697, and is classified generally to chapter 35 (§ 3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

The Fair Credit Reporting Act, referred to in subsec. (g), is title VI of Pub. L. 90-321, as added by Pub. L. 91-508, title VI, § 601, Oct. 26, 1970, 84 Stat. 1127, which is classified generally to subchapter III (§ 1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1601 of Title 15 and Tables.

CODIFICATION

Section was formerly classified to section 436 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114-23, § 502(e), added subsec. (b) and struck out former subsec. (b) which related to prohibition of certain disclosure.

Subsecs. (c) to (g). Pub. L. 114-23, § 503(e), added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

2006—Subsec. (b). Pub. L. 109-177 amended subsec. (b) generally. Prior to amendment, text read as follows: “Notwithstanding any other provision of law, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person, other than those officers, employees, or agents of such entity necessary to satisfy a request made under this section, that such entity has received or satisfied a request made by an authorized investigative agency under this section.”

Subsec. (b)(4). Pub. L. 109-178 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “At the request of the authorized investigative agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized investigative agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform such official that the person intends to consult an attorney to obtain legal advice or legal assistance.”

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective 180 days after Oct. 14, 1994, see section 802(c) of Pub. L. 103-359, set out as a note under section 3161 of this title.

**§ 3162a. Security Executive Agent**

**(a) In general**

The Director of National Intelligence, or such other officer of the United States as the Presi-

dent may designate, shall serve as the Security Executive Agent for all departments and agencies of the United States.

**(b) Duties**

The duties of the Security Executive Agent are as follows:

(1) To direct the oversight of investigations, reinvestigations, adjudications, and, as applicable, polygraphs for eligibility for access to classified information or eligibility to hold a sensitive position made by any Federal agency.

(2) To review the national security background investigation and adjudication programs of Federal agencies to determine whether such programs are being implemented in accordance with this section.

(3) To develop and issue uniform and consistent policies and procedures to ensure the effective, efficient, timely, and secure completion of investigations, polygraphs, and adjudications relating to determinations of eligibility for access to classified information or eligibility to hold a sensitive position.

(4) Unless otherwise designated by law, to serve as the final authority to designate a Federal agency or agencies to conduct investigations of persons who are proposed for access to classified information or for eligibility to hold a sensitive position to ascertain whether such persons satisfy the criteria for obtaining and retaining access to classified information or eligibility to hold a sensitive position, as applicable.

(5) Unless otherwise designated by law, to serve as the final authority to designate a Federal agency or agencies to determine eligibility for access to classified information or eligibility to hold a sensitive position in accordance with Executive Order No. 12968 (50 U.S.C. 3161 note; relating to access to classified information).

(6) To review and approve the policies of the Federal agencies that ensure reciprocal recognition of eligibility for access to classified information or eligibility to hold a sensitive position among Federal agencies, and to act as the final authority to arbitrate and resolve disputes among such agencies involving the reciprocity of investigations and adjudications of eligibility.

(7) To execute all other duties assigned to the Security Executive Agent by law.

**(c) Authorities**

The Security Executive Agent shall—

(1) issue guidelines and instructions to the heads of Federal agencies to ensure appropriate uniformity, centralization, efficiency, effectiveness, timeliness, and security in processes relating to determinations by such agencies of eligibility for access to classified information or eligibility to hold a sensitive position, including such matters as investigations, polygraphs, adjudications, and reciprocity;

(2) have the authority to grant exceptions to, or waivers of, national security investigative requirements, including issuing implementing or clarifying guidance, as necessary;

(3) have the authority to assign, in whole or in part, to the head of any Federal agency

(solely or jointly) any of the duties of the Security Executive Agent described in subsection (b) or the authorities described in paragraphs (1) and (2), provided that the exercise of such assigned duties or authorities is subject to the oversight of the Security Executive Agent, including such terms and conditions (including approval by the Security Executive Agent) as the Security Executive Agent determines appropriate;

(4) define and set standards for continuous vetting for continued access to classified information and for eligibility to hold a sensitive position; and

(5) issue guidelines and instructions to the heads of Federal agencies to ensure that any individual who was appointed by the President to a position in an element of the intelligence community but is no longer employed by the Federal Government shall maintain a security clearance only in accordance with Executive Order 12968 (50 U.S.C. 3161 note; relating to access to classified information), or successor order.

(July 26, 1947, ch. 343, title VIII, §803, as added Pub. L. 116-92, div. E, title LXVI, §6605(a)(2), Dec. 20, 2019, 133 Stat. 2213; amended Pub. L. 118-159, div. F, title LXVI, §6601(a), Dec. 23, 2024, 138 Stat. 2500.)

**Editorial Notes**

REFERENCES IN TEXT

Executive Order No. 12968, referred to in subsecs. (b)(5) and (c)(5), is Ex. Ord. No. 12968, Aug. 2, 1995, 60 F.R. 40245, which is set out as a note under section 3161 of this title.

PRIOR PROVISIONS

A prior section 803 of act July 26, 1947, ch. 343, was renumbered section 804 and is classified to section 3163 of this title.

AMENDMENTS

2024—Subsec. (c)(5). Pub. L. 118-159 added par. (5).

**Statutory Notes and Related Subsidiaries**

SUBMITTAL OF GUIDELINES AND INSTRUCTIONS TO CONGRESS REQUIRED

Pub. L. 118-159, div. F, title LXVI, §6601(b), Dec. 23, 2024, 138 Stat. 2501, provided that: “Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Director of National Intelligence, or such other officer of the United States acting as the Security Executive Agent pursuant to subsection (a) of section 803 of the National Security Act of 1947 (50 U.S.C. 3162a), shall submit to the congressional intelligence committees [Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives] and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the guidelines and instructions required by subsection (c)(5) of such section, as added by subsection (a) of this section.”

TIMELINESS IN THE ADMINISTRATION OF POLYGRAPHS

Pub. L. 117-263, div. F, title LXVI, §6604, Dec. 23, 2022, 136 Stat. 3558, provided that:

“(a) STANDARDS REQUIRED.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Director of National Intelligence shall, in the Direc-

tor's capacity as the Security Executive Agent pursuant to section 803(a) of the National Security Act of 1947 (50 U.S.C. 3162a(a)), issue standards for timeliness for Federal agencies to administer polygraphs conducted for the purpose of—

“(A) adjudicating decisions regarding eligibility for access to classified information (as defined in the procedures established pursuant to section 801(a) of the National Security Act of 1947 (50 U.S.C. 3161(a))); and

“(B) granting reciprocity pursuant to Security Executive Agent Directive 2, or successor directive. “(2) PUBLICATION.—The Director shall publish the standards issued under paragraph (1) in the Federal Register or such other venue as the Director considers appropriate.

“(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Director shall submit to Congress a report on how Federal agencies will comply with the standards issued under subsection (a). Such plan shall specify the resources required by Federal agencies to comply with such standards and the timeline for doing so.”

#### POLICY ON SUBMITTAL OF APPLICATIONS FOR ACCESS TO CLASSIFIED INFORMATION FOR CERTAIN PERSONNEL

Pub. L. 117–263, div. F, title LXVI, § 6605, Dec. 23, 2022, 136 Stat. 3559, provided that: “Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Director of National Intelligence shall, in the Director's capacity as the Security Executive Agent pursuant to section 803(a) of the National Security Act of 1947 (50 U.S.C. 3162a(a)), issue a policy that allows a private person to submit a certain number or proportion of applications, on a nonreimbursable basis, for employee access to classified information for personnel who perform key management and oversight functions who may not merit an application due to their work under any one contract.”

#### § 3163. Exceptions

Except as otherwise specifically provided, the provisions of this subchapter shall not apply to the President and Vice President, Members of the Congress, Justices of the Supreme Court, and Federal judges appointed by the President.

(July 26, 1947, ch. 343, title VIII, § 804, formerly § 803, as added Pub. L. 103–359, title VIII, § 802(a), Oct. 14, 1994, 108 Stat. 3437; renumbered § 804, Pub. L. 116–92, div. E, title LXVI, § 6605(a)(1), Dec. 20, 2019, 133 Stat. 2213.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 437 of this title prior to editorial reclassification and renumbering as this section.

##### PRIOR PROVISIONS

A prior section 804 of act July 26, 1947, ch. 343, was renumbered section 805 and is classified to section 3164 of this title.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective 180 days after Oct. 14, 1994, see section 802(c) of Pub. L. 103–359, set out as a note under section 3161 of this title.

#### § 3164. Definitions

For purposes of this subchapter—

(1) the term “authorized investigative agency” means an agency authorized by law or reg-

ulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information;

(2) the term “classified information” means any information that has been determined pursuant to Executive Order No. 12356 of April 2, 1982, or successor orders, or the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], to require protection against unauthorized disclosure and that is so designated;

(3) the term “consumer reporting agency” has the meaning given such term in section 1681a of title 15;

(4) the term “employee” includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government or an employee thereof, is an unpaid consultant of the United States Government, or otherwise acts for or on behalf of the United States Government, except as otherwise determined by the President;

(5) the terms “financial agency” and “financial institution” have the meanings given to such terms in section 5312(a) of title 31 and the term “holding company” has the meaning given to such term in section 3401(6) of title 12;

(6) the terms “foreign power” and “agent of a foreign power” have the same meanings as set forth in subsections (a) and (b) of section 1801, respectively, of this title;

(7) the term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and any other possession of the United States; and

(8) the term “computer” means any electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device and any data or other information stored or contained in such device.

(July 26, 1947, ch. 343, title VIII, § 805, formerly § 804, as added Pub. L. 103–359, title VIII, § 802(a), Oct. 14, 1994, 108 Stat. 3438; amended Pub. L. 106–120, title III, § 305(b), Dec. 3, 1999, 113 Stat. 1611; renumbered § 805, Pub. L. 116–92, div. E, title LXVI, § 6605(a)(1), Dec. 20, 2019, 133 Stat. 2213; Pub. L. 118–31, div. G, title IX, § 7901(a)(3), Dec. 22, 2023, 137 Stat. 1106.)

#### Editorial Notes

##### REFERENCES IN TEXT

Executive Order No. 12356, referred to in par. (2), which was formerly set out as a note under section 435 (now section 3161) of this title, was revoked by Ex. Ord. No. 12958, § 6.1(d), Apr. 17, 1995, 60 F.R. 19843.

The Atomic Energy Act of 1954, referred to in par. (2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 919, which is classified principally