

“(a) **POLICY REQUIRED.**—Not later than 180 days after the date of the enactment of this Act [Mar. 15, 2022], the Director of National Intelligence shall issue a policy for measuring the total time it takes to transfer personnel with security clearances and eligibility for access to information commonly referred to as ‘sensitive compartmented information’ from one element of the intelligence community to another, or from one contract to another in the case of a contractor.

“(b) **REQUIREMENTS.**—The policy issued under subsection (a) shall—

“(1) to the degree practicable, cover all personnel who are moving to positions that require a security clearance and access to sensitive compartmented information;

“(2) cover the period from the first time an element of the intelligence community or company submits a request to an element of the intelligence community for the transfer of the employment of an individual with a clearance access or eligibility determination to another element of the intelligence community, to the time the individual is authorized by that receiving element to start to work in the new position; and

“(3) include analysis of all appropriate phases of the process, including polygraph, suitability determination, fitness determination, human resources review, transfer of the sensitive compartmented information access, and contract actions.

“(c) **UPDATED POLICIES.**—

“(1) **MODIFICATIONS.**—Not later than 1 year after the date on which the Director issues the policy under subsection (a), the Director shall issue modifications to such policies as the Director determines were issued before the issuance of the policy under such subsection and are relevant to such updated policy, as the Director considers appropriate.

“(2) **RECOMMENDATIONS.**—Not later than 1 year after the date on which the Director issues the policy under subsection (a), the Director shall submit to the appropriate congressional committees recommendations for legislative action to update metrics specified elsewhere in statute to measure parts of the process that support transfers described in subsection (a).

“(d) **ANNUAL REPORTS.**—Not later than 180 days after issuing the policy required by subsection (a) and not less frequently than once each year thereafter until the date that is 3 years after the date of such issuance, the Director shall submit to the appropriate congressional committees a report on the implementation of such policy. Such report shall address performance by department or agency and by clearance type in meeting such policy.

“(e) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term ‘appropriate congressional committees’ means—

“(1) the congressional intelligence committees; and

“(2) the Subcommittees on Commerce, Justice, Science, and Related Agencies of the Committees on Appropriations of the House of Representatives and the Senate.”

[For definitions of “congressional intelligence committees” and “intelligence community” as used in section 311 of div. X of Pub. L. 117–103, set out above, see section 2 of div. X of Pub. L. 117–103, set out as a note under section 3003 of this title.]

REQUIRED ELEMENTS OF POLICIES AND PROCEDURES

Pub. L. 113–126, title VI, §602(a)(2), July 7, 2014, 128 Stat. 1416, provided that: “The policies and procedures for appeal developed under paragraph (7) of section 3001(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 [50 U.S.C. 3341(b)(7)], as added by subsection (a), shall provide for the Inspector General of the Intelligence Community, or the inspector general of the employing agency, to conduct fact-finding and report to the agency head or the designee of the agency head within 180 days unless the employee and the agency agree to an extension or the investigating inspector general determines in writing that a greater

period of time is required. To the fullest extent possible, such fact-finding shall include an opportunity for the employee to present relevant evidence such as witness testimony.”

EXISTING RIGHTS PRESERVED

Pub. L. 113–126, title VI, §602(d), July 7, 2014, 128 Stat. 1419, provided that: “Nothing in this section [amending this section and enacting provisions set out as notes under this section] or the amendments made by this section shall be construed to preempt, preclude, or otherwise prevent an individual from exercising rights, remedies, or avenues of redress currently provided under any other law, regulation, or rule.”

STRATEGY FOR SECURITY CLEARANCE RECIPROCITY

Pub. L. 112–277, title III, §306, Jan. 14, 2013, 126 Stat. 2472, provided that:

“(a) **STRATEGY.**—The President shall develop a strategy and a schedule for carrying out the requirements of section 3001(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b(d)) [now 50 U.S.C. 3341(d)]. Such strategy and schedule shall include—

“(1) a process for accomplishing the reciprocity required under such section for a security clearance issued by a department or agency of the Federal Government, including reciprocity for security clearances that are issued to both persons who are and who are not employees of the Federal Government; and

“(2) a description of the specific circumstances under which a department or agency of the Federal Government may not recognize a security clearance issued by another department or agency of the Federal Government.

“(b) **CONGRESSIONAL NOTIFICATION.**—Not later than 180 days after the date of the enactment of this Act [Jan. 14, 2013], the President shall inform Congress of the strategy and schedule developed under subsection (a).”

§ 3342. Security clearances for transition team members

(1) Definition

In this section, the term “eligible candidate” has the meaning given such term by section 3(h)(4) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note).

(2) In general

Each eligible candidate for President may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect’s transition team.

(3) Completion date

Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general election.

(Pub. L. 108–458, title VII, §7601(c), Dec. 17, 2004, 118 Stat. 3857; Pub. L. 111–283, §2(c)(1), Oct. 15, 2010, 124 Stat. 3048.)

Editorial Notes

REFERENCES IN TEXT

This section, referred to in par. (1), is section 7601 of Pub. L. 108–458. See Codification note below.

Section 3(h)(4) of the Presidential Transition Act of 1963, referred to in par. (1), is section 3(h)(4) of Pub. L.

88-277, which is set out in a note under section 102 of Title 3, The President.

CODIFICATION

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

Section is comprised of subsec. (c) of section 7601 of Pub. L. 108-458. Subsec. (a) of section 7601 amended provisions set out as a note under section 102 of Title 3, The President, subsec. (b) of section 7601 is not classified to the Code, and subsec. (d) of section 7601 is set out as a note under section 102 of Title 3.

AMENDMENTS

2010—Par. (1). Pub. L. 111-283, §2(c)(1)(A), added par. (1) and struck out former par. (1) which read as follows: “In this section, the term ‘major party’ shall have the meaning given under section 9002(6) of title 26.”

Par. (2). Pub. L. 111-283, §2(c)(1)(B), substituted “eligible candidate” for “major party candidate”.

§ 3343. Security clearances; limitations

(a) Definitions

In this section:

(1) Controlled substance

The term “controlled substance” has the meaning given that term in section 802 of title 21.

(2) Covered person

The term “covered person” means—

(A) an officer or employee of a Federal agency;

(B) a member of the Army, Navy, Air Force, or Marine Corps who is on active duty or is in an active status; and

(C) an officer or employee of a contractor of a Federal agency.

(3) Restricted Data

The term “Restricted Data” has the meaning given that term in section 2014 of title 42.

(4) Special access program

The term “special access program” has the meaning given that term in section 4.1 of Executive Order No. 12958 (60 Fed. Reg. 19825).

(b) Prohibition

After January 1, 2008, the head of a Federal agency may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict (as defined in section 802(1) of title 21).

(c) Disqualification

(1) In general

After January 1, 2008, absent an express written waiver granted in accordance with paragraph (2), the head of a Federal agency may not grant or renew a security clearance described in paragraph (3) for a covered person who—

(A) has been convicted in any court of the United States of a crime, was sentenced to imprisonment for a term exceeding 1 year, and was incarcerated as a result of that sentence for not less than 1 year;

(B) has been discharged or dismissed from the Armed Forces under dishonorable conditions; or

(C) is mentally incompetent, as determined by an adjudicating authority, based

on an evaluation by a duly qualified mental health professional employed by, or acceptable to and approved by, the United States Government and in accordance with the adjudicative guidelines required by subsection (d).

(2) Waiver authority

In a meritorious case, an exception to the disqualification in this subsection may be authorized if there are mitigating factors. Any such waiver may be authorized only in accordance with—

(A) standards and procedures prescribed by, or under the authority of, an Executive order or other guidance issued by the President; or

(B) the adjudicative guidelines required by subsection (d).

(3) Covered security clearances

This subsection applies to security clearances that provide for access to—

(A) special access programs;

(B) Restricted Data; or

(C) any other information commonly referred to as “sensitive compartmented information”.

(4) Annual report

(A) Requirement for report

Not later than February 1 of each year, the head of a Federal agency shall submit a report to the appropriate committees of Congress if such agency employs or employed a person for whom a waiver was granted in accordance with paragraph (2) during the preceding year. Such annual report shall not reveal the identity of such person, but shall include for each waiver issued the disqualifying factor under paragraph (1) and the reasons for the waiver of the disqualifying factor.

(B) Definitions

In this paragraph:

(i) Appropriate committees of Congress

The term “appropriate committees of Congress” means, with respect to a report submitted under subparagraph (A) by the head of a Federal agency—

(I) the congressional defense committees;

(II) the congressional intelligence committees;

(III) the Committee on Homeland Security and Governmental Affairs of the Senate;

(IV) the Committee on Oversight and Government Reform of the House of Representatives; and

(V) each Committee of the Senate or the House of Representatives with oversight authority over such Federal agency.

(ii) Congressional defense committees

The term “congressional defense committees” has the meaning given that term in section 101(a)(16) of title 10.

(iii) Congressional intelligence committees

The term “congressional intelligence committees” has the meaning given that term in section 3003 of this title.