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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA-2020-0046]

Public Interest Declassification Board; Revised Bylaws

AGENCY: Information Security Oversight Office, National Archives and Records Administration.

ACTION: Notice of revised Public Interest Declassification Board Bylaws.

SUMMARY: We are announcing revisions to the Bylaws of the Public Interest Declassification Board (PIDB). The members of the PIDB approved these revised Bylaws and we are publishing them with this notice, in accordance with requirements in the Bylaws. You may also find the Bylaws on the PIDB website.

DATES: The revised Bylaws are effective as of June 1, 2020.

ADDRESSES: You can see these Bylaws, as well as additional information about the PIDB, at the PIDB website at <https://www.archives.gov/declassification/pidb>.

FOR FURTHER INFORMATION CONTACT: John C. Powers, Associate Director, Classification Management, at the Information Security Oversight Office, by phone at 202.357.5183 or by email at pidb@nara.gov.

SUPPLEMENTARY INFORMATION: The PIDB is an executive branch board that advises and makes recommendations to the President and other executive branch officials on matters related to classifying and declassifying national security information, as authorized by Public Law 106-567, as amended, 50 U.S.C.A. § 3355a (Public Law 116-92, December 20, 2019). The PIDB Bylaws were previously last revised on May 30, 2007, and published in the *Federal Register* on June 25, 2007. The Board's members approved the current revisions to the Bylaws

unanimously in a 5-0 vote with an effective date of June 1, 2020. The revisions include the following changes: adding the requirement that the Board meet at least quarterly in person, as provided in Public Law 116-92, unless otherwise prevented by public health or other emergencies; clarifying what constitutes a quorum for the Board to be authorized to meet; a provision concerning continuity of the Board in the event the Board has fewer than three members appointed; adjusting the decision-making process for declassification recommendations to the President to account for possible additional vacancies on the Board; clarifying a provision concerning the number of votes required to approve amendments to the Bylaws; and several minor administrative changes.

PIDB BYLAWS

(June 1, 2020)

Article I. Purpose

The purpose of the Public Interest Declassification Board (the Board) and these bylaws is to fulfill the functions assigned to the Board by statute.

Article II. Authority

Public Interest Declassification Act of 2000 (the Act, P.L. 106-567, December 27, 2000), as amended, 50 U.S.C.A. § 3355a (Pub. L. 116-92, December 20, 2019), and subsequent amendments or successor authorities.

Article III. Membership

A. *Membership.* Appointments under section 703(c) of the Act establish the membership of the Board.

B. *Chairperson.* As provided in section 703(d) of the Act, the President shall select the Chairperson from among the members.

C. *Vice Chairperson*. The members may elect from among the members a Vice Chairperson who shall:

1. Chair meetings that the Chairperson is unable to attend; and
2. Serve as Acting Chairperson during a vacancy in the Chairperson of the Board.

D. *Continuity*. During any period in which the Board has fewer than three current members appointed, the Executive Secretary shall continue the Board's operations, in coordination with current members, even though the Board may not convene formal meetings as described in Article IV below during such time. This may include responding to basic requests that do not require a vote under Articles V and VIII below, holding informal discussions with the members, and maintaining or generating records and reports.

Article IV. Meetings

A. *Purpose*. The primary purpose of Board meetings is to discuss and bring formal resolution to matters before the Board.

B. *Frequency*. The Board shall meet at the call of the Chairperson, who shall schedule meetings at least quarterly and in person, as provided in section 703(e) of the Act, as amended (unless otherwise prevented by public health or other emergencies), and as may be necessary for the Board to fulfill its functions in a timely manner. The Chairperson shall also convene the Board when requested by a majority of its members.

C. *Quorum*. Meetings of the Board may be held only when a quorum is present. As provided for in section 703(e) of the Act, a quorum requires the presence of at least a majority of the current members of the Board and shall not be fewer than three members. If there are fewer than three members currently appointed at any time, the Board may not convene a meeting, but may have informal discussions of administrative matters.

D. *Attendance.* To the greatest extent feasible, meetings of the board will be open to the public. In those instances where the Board finds it necessary to conduct business at a closed meeting, attendance at meetings of the Board shall be limited to those people necessary for the Board to fulfill its functions in a complete and timely manner, as determined by the Chairperson.

E. *Agenda.* The Chairperson shall establish the agenda for all meetings. Potential items for the agenda may be submitted to the Chairperson by any member or the Executive Secretary. Acting through the Executive Secretary, the Chairperson will distribute the agenda and supporting materials to the members as far in advance as possible before a scheduled meeting. The agendas shall be posted on the Board's website unless specified by the Chairperson and agreed to by a majority of the members.

F. *Summaries.* The Executive Secretary shall be responsible for preparing the summary of each meeting and distributing it to each member. The summaries will include a record of the members present at the meeting and the result of each vote. The summaries will be maintained among the records of the Board.

Article V. Voting

A. *Motions.* When the Board must make a decision or recommendation to resolve a matter before it, the Chairperson shall request or accept a motion for a vote. Any member, including the Chairperson, may make a motion for a vote. No second shall be required to bring any motion to a vote. A quorum must be present when a vote is taken.

B. *Eligibility.* Only the members, including the Chairperson, may vote on a motion before the Board.

C. *Voting procedures.* Votes shall ordinarily be taken and tabulated by a show of hands, or other similar method that can be used to record each member's vote.

D. *Passing a motion.* In response to a motion, members may vote affirmatively, negatively, or abstain from voting. Except as otherwise provided in these bylaws, a motion passes when a majority of the members present vote in the affirmative.

E. *Votes in a non-meeting context.* The Chairperson may call for a vote of the membership outside the context of a formal Board meeting. The Executive Secretary shall record and retain such votes in a documentary form and immediately report the results to the Chairperson and other members.

Article VI. Support Staff

As provided in section 703(d)(2) of the Act, the Director of the Information Security Oversight Office will serve as Executive Secretary to the Board, and, in accordance with section 703(j) of the Act, the staff of the Information Security Oversight Office will provide program and administrative support for the Board. The Executive Secretary will supervise the staff in this function pursuant to the direction of the Chairperson and Board. On an as needed basis and in accordance with section 703(f) of the Act, the Board may seek detailees from departments and agencies to augment the staff of the Information Security Oversight Office in support of the Board.

Article VII. Records

A. *Integrity of Board records.* The Executive Secretary shall maintain separately documentary materials, regardless of their physical form or characteristics, that are produced by or presented to the Board or its staff in the performance of the Board 's functions, consistent with applicable Federal law.

B. *Referrals.* Any Freedom of Information Act request or other access request for a record that originated within an agency other than the Board shall be referred to that agency for review.

Article VIII. Procedures for Handling Congressional Requests to Declassify Certain Records or Congressional Requests to Review Declinations to Declassify Specific Records and Making Recommendations to the President

A. *Purpose.* This Article sets forth the procedures for considering a proper request under the Act from a committee of jurisdiction in the Congress for the Board to make a recommendation to the President regarding the declassification of certain records.

B. *Narrowing requests.* To expedite the resolution of requests, and under the direction of the Chairperson, the Executive Secretary is authorized to consult with the requesting committee to narrow or prioritize the scope of the request.

C. *Standards for decision.* A recommendation to declassify a record in whole or in part requires that the Board determine, after careful consideration of the views of the original classifying authority, that declassification is in the public interest. A decision to recommend declassification in whole or in part requires that a majority of the members present vote in the affirmative, except when there are only three members present, in which case all three must vote in the affirmative.

D. *Resolving requests.* The Board may recommend that the President: (1) take no action pursuant to the request; (2) declassify the record(s) in whole or in part pursuant to action taken in accordance with paragraph C; or (3) remand the matter to the agency responsible for the record(s) for further consideration and a timely response to the Board.

E. *Notification.* The Chairperson shall promptly convey to the President, through the Assistant to the President for National Security Affairs, and to the agency head responsible for the record(s), the Board's recommendation, including a written justification for its recommendation.

F. *Protecting classified information.* Any classified information gathered to evaluate a request shall be handled and protected in accordance with Executive Order 13526, Classified National Security Information, or subsequent executive order. Information that is subject to a request for declassification under this section shall remain classified unless and until a final decision is made by the President, or by the agency head responsible for the record(s), to declassify it. Decisions to release declassified information rest with the responsible agency rather than the Board.

G. *Maintaining records.* The Executive Secretary shall maintain a file of each request among the records of the Board.

Article IX. Annual Reports to Congress

As provided in section 706(e) of the Act, pertinent information and data about the activities of the Board shall be included in the report to the appropriate congressional committees. The Chairperson, in coordination with the other members of the Board and the Executive Secretary, shall determine what information to include in each Report.

Article X. Approval, Amendment, and Publication of Bylaws

The approval and amendment of these bylaws shall require that a majority of the members present vote in the affirmative, except when there are only three members present, in which case all three must vote in the affirmative. The Executive Secretary shall submit the approved bylaws and their amendments for publication in the *Federal Register*.

Kimberly Keravuori,

NARA Federal Register Liaison.

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