

Proposed Amendment: Revise the Directive as follows:

4. APPLICABILITY. This Directive applies to all Agency employees, including Board Members and contractors, involved in handling CUI.

Justification: This change makes clear that Board Members are considered Agency employees in this Directive and are required to comply with the specified requirements that serve to protect the Board's deliberative process.

AFFIRMATION OF BOARD VOTING RECORD

SUBJECT: Amendment by Board Member Roberson to YELLOW FOLDER Doc#2017-300-066, CUI Marking

Doc Control#2017-300-066B

The Board, with Board Member(s) Jessie H. Roberson, Daniel J. Santos, Joyce L. Connery *approving*, Board Member(s) Sean Sullivan, Bruce Hamilton *disapproving*, Board Member(s) none *abstaining*, and Board Member(s) none *not participating*, have voted to approve the above document on September 21, 2017.

The votes were recorded as:

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING*	COMMENT	DATE
Sean Sullivan	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	09/21/17
Bruce Hamilton	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	09/21/17
Jessie H. Roberson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	09/21/17
Daniel J. Santos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	09/21/17
Joyce L. Connery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	09/21/17

*Reason for Not Participating:

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Board Members.


Assistant Executive Secretary to the Board

Attachments:

1. Voting Summary
2. Board Member Vote Sheets

cc: Board Members
OGC
OGM Records Officer
OTD

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Sean Sullivan

SUBJECT: Amendment by Board Member Roberson to YELLOW FOLDER Doc#2017-300-066, CUI Marking

Doc Control#2017-300-066B

Approved _____ Disapproved X _____ Abstain _____

Recusal – Not Participating _____

COMMENTS: Below X Attached _____ None _____

The proposed amendment would add to the proposed Directive in the ‘applicability’ paragraph the words “including all Board Members” immediately following the existing phrase “all Agency employees.”

Used in this context, the words “including all Board Members” are superfluous. If they were not so, then other Directives that lack the additional words must be read as *not applicable* to Board Members. That, however, would be problematic. The better approach is to assume without so stating that Board Members are employees and thus covered unless exempted.

The amendment potentially confuses our Directives system. It would result in this Directive applicable to “all Agency employees, including Board Members,” whilst others apply to all Board employees except Board Members (see, for example, the Hours of Duty Directive), but most simply say “all Agency employees” with no separate mention of Board Members.

I disfavor confusion. Therefore, I disapprove.



Sean Sullivan

9/21/17

Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Bruce Hamilton

SUBJECT: Amendment by Board Member Roberson to YELLOW FOLDER Doc#2017-300-066, CUI Marking

Doc Control#2017-300-066B

Approved _____ Disapproved X Abstain _____

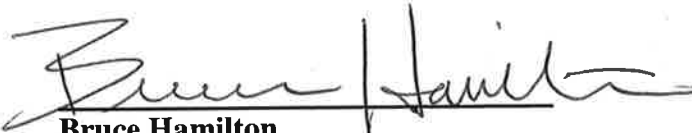
Recusal – Not Participating _____

COMMENTS: Below X Attached _____ None _____

This amendment proposes to restrict Board Members to the same limits of CUI as the other employees of the Agency. When taken by itself, it is superfluous. It is a tautology that Board Members must treat CUI appropriately, whether the Directive states so or not.

When taken in the context of an accompanying Amendment (#2017-300-066E), however, it serves to underscore an overly restrictive situation. The accompanying Amendment restricts CUI well beyond that specified in 42 U.S.C. § 2286d. (b). Board Members are appointed by the President of the United States, and as such, they serve in a *political* capacity. They are obliged to speak openly on unclassified issues of policy which they believe need to be addressed. They cannot be restrained from carrying out this obligation by an Agency Directive, even when that Directive is approved by a majority of Board Members. To do so would result in the outrageous state of affairs where a majority of Board Members could choose to suppress the voice of the minority.

I therefore disapprove.


Bruce Hamilton

21 SEPT 2017
Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

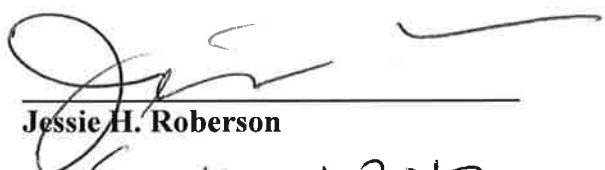
FROM: Jessie H. Roberson

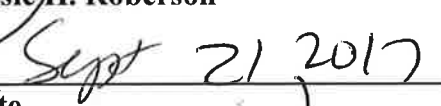
SUBJECT: Amendment by Board Member Roberson to YELLOW FOLDER Doc#2017-300-066, CUI Marking

Doc Control#2017-300-066B

Approved **Disapproved** _____ **Abstain** _____
Recusal – Not Participating _____

COMMENTS: **Below** _____ **Attached** _____ **None**



Jessie H. Roberson


Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Daniel J. Santos

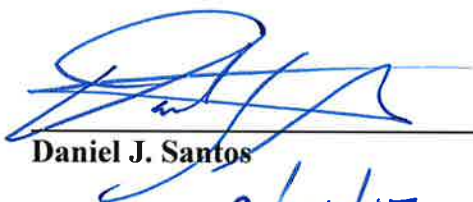
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Doc Control#2017-300-066B

Approved Disapproved _____ Abstain _____

Recusal – Not Participating _____

COMMENTS: Below _____ Attached _____ None



Daniel J. Santos
9/21/17

Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

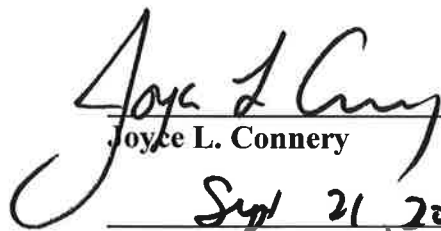
FROM: Joyce L. Connery

SUBJECT: Amendment by Board Member Roberson to YELLOW FOLDER Doc#2017-300-066, CUI Marking

Doc Control #2017-300-066B

Approved Disapproved Abstain
Recusal – Not Participating

COMMENTS: Below Attached None



Joyce L. Connery

Date Sept 21, 2017