

REQUEST FOR BOARD ACTION BY A BOARD MEMBER

Requester: Daniel J. Santos June 28, 2018

Brief description of Requested Action:

The Board approves and issues the attached changes to the Board Procedures. These changes become effective immediately following approval of this action.

Attachments (init) 1 (included clean version of any proposed document or modified document)

Summarize any time sensitive considerations:

Requestor signature signature on file June 28, 2018

Executive secretary signature on file June 28, 2018

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING	COMMENT	DATE
Bruce Hamilton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Jessie H. Roberson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Daniel J. Santos	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Joyce L. Connery	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Final Disposition Summary						

Executive Secretary signature _____ Click here to enter a date.

finalized, the basis for this decision must be summarized on a Request for Board Action form and provided to the Board's Executive Secretary. The Executive Secretary shall distribute the Request for Board Action to all Board Members. The document shall be withdrawn unless a Board Member objects within three (3) days. The completed Request for Board Action shall be forwarded by the Executive Secretary to the Records Manager for maintenance in accordance with the requirements in Board Directive AD 19-1, *Records Management Program*.

- 7) If the staff is unable to accommodate a Board Member's comment, the applicable Office Director or designee shall explain the staff rationale to the Board Member.
 - 8) After the document originator is satisfied that all Board Member comments and changes are disposed, the final staff document will be provided to the Board's Executive Secretary and the General Counsel. The Executive Secretary shall proceed to Yellow Folder after the General Counsel reviews the revised document.
- C. Yellow Folder routing. The Yellow Folder provides the opportunity for Board Members to initiate amendments to the final staff document.
- 1) The Board's Executive Secretary will simultaneously distribute to all Board Members the complete final staff document and any attachments. At the discretion of each Board Member, distribution shall be by a paper copy in a Yellow Folder and/or an electronic copy labeled "Yellow Folder."
 - 2) Amendments. Within one (1) day any Board Member may indicate to the Executive Secretary an intention to propose one or more amendments to the final staff document. The amendment process below is written for the straight-forward case where amendments are appropriately submitted and voted on without revision or conflict. Many potential complications could arise, (e.g., Board Members submit conflicting amendments, or one Member seeks a friendly amendment to another Member's amendment). Such complications shall be addressed on a case-by-case basis by the Member or Members involved and the path forward resolved through unanimous consent. The straight-forward case shall be as follows:
 - a) The Executive Secretary shall notify all Board Members and Office Directors of the Member's intent to propose one or more amendments;
 - b) The notational vote on the final staff document shall be stayed until after voting on all proposed amendments has occurred;

- c) The Board Member proposing amendments shall submit the text of all proposed amendments to the Executive Secretary by no later than 5:00 PM Eastern time on the day following the day the Member made the notification of intent to submit amendments. The text of the proposed amendments may be accompanied by a brief explanation of their purpose;
- d) The Executive Secretary shall immediately provide the amendments to all Board Members and Office Directors;
- e) As soon as practicable, the Board Members should receive input from the Office Directors as to whether any technical, legal, or administrative issue is raised by the amendment. The Office Directors should not comment on the writing style or tone of the amendment text. An Office Director may comment on the underlying policy issues or staff impact issues raised by the amendment if the Office Director or his designee did not have the opportunity to do so during Orange Folder routing. If an Office Director makes any comment on the amendment, any Board Member may rebut the Office Director prior to proceeding to notational vote. The Executive Secretary shall proceed expeditiously to notational voting in accordance with the next step unless a Member has indicated an intent to provide a rebuttal, in which case the Member shall be provided one (1) day to do so;
- f) One (1) day after distributing the amendments, the Executive Secretary shall distribute a notational vote sheet for each amendment;
- g) Notational votes on all proposed amendments shall occur within one (1) day and prior to voting on the final document.
- h) The Executive Secretary shall amend the final staff document to reflect any approved amendments and shall distribute the revised document per paragraph D below;
- i) If no amendments were approved, the Executive Secretary shall immediately cause a notational vote on the final staff document to occur;

j) Post-voting administration of amendments:

1. The Executive Secretary shall initiate action to post to the internet in accordance with the applicable staff operating procedure after the Board completes all actions in the final document.

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a. The Affirmation of Board Voting Record and Board Member vote sheets will be automatically posted to the Board's public website unless redactions are being considered by the Board.

b. The amendment language including any justification or supporting information will not be posted to the Board's public website. Any Board Member may propose a separate Board Action to post to the Board's public website.

D. Blue Folder process. The Blue Folder process provides for final voting. The Blue Folder process shall begin at the completion of the amendment process or, if no Member indicated intent to submit amendments, one (1) day after distribution of the Yellow Folder.

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- 1) The Board's Executive Secretary will simultaneously distribute to all Board Members the complete final staff document or, if applicable, the final amended document, plus any attachments. At the discretion of each Board Member, distribution shall be by a paper copy in a Blue Folder and/or an electronic copy labeled "Blue Folder."
- 2) Each Board Member will have three (3) days to evaluate the proposed final action and complete their voting form.
- 3) All original documents, including notational voting sheets, will be returned directly to the Board's Executive Secretary by each Board Member.
- 4) The Board's Executive Secretary will complete the Affirmation of Board Voting Record form (Appendix 6).

E. Post-voting administration.

- 1) The Board's Executive Secretary shall notify the Office Director responsible for the document of the voting results, and if the document was approved:
 - a) Obtain the Chairman's signature or approval to use the Chairman's e-signature;
 - b) Coordinate distribution of the signed document;
 - c) Note the date of approval of the final proposed document and sign the Request for Board Action;
 - d) Provide a copy of the Request for Board Action, the Affirmation of Board Voting Record, and the final signed document to each Board Member; and
 - e) Coordinate the disposition of the complete document package with the Records Manager in accordance with Board Directive AD 19-1, *Records Management Program*.
 - f) Initiate action to post notational vote forms to the internet in accordance with the applicable staff operating procedure.
- 2) If the document was not approved, the Board's Executive Secretary shall:
 - a) Note the disapproval on the Request for Board Action;

- b) Provide a copy of the Request for Board Action and the Affirmation of Board Voting Record to the Board Members and the document originator; and
- c) Coordinate the disposition of the complete document package with the Records Manager in accordance with Board Directive AD 19-1, *Records Management Program*.
- d) Initiate action to post notational vote forms to the internet in accordance with the applicable staff operating procedure.

1. The Affirmation of Board Voting Record and Board Member vote sheets will be automatically posted in the Board's public website unless redactions are being considered by the Board.

2. The subject matter document, associated correspondence and supporting information will not be posted to the Board's public website. Any Board Member may propose a separate Board Action to post to the Board's public website.

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AFFIRMATION OF BOARD VOTING RECORD

SUBJECT: RFBA by Board Member Santos to Revise the Board Procedures

Doc Control#2018-300-075


The Board, with Board Member(s) Bruce Hamilton, Jessie H. Roberson, Daniel J. Santos *approving*, Board Member(s) Joyce L. Connery *disapproving*, Board Member(s) none *abstaining*, and Board Member(s) none *not participating*, has voted to approve the above document on July 2, 2018.

The votes were recorded as:

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING*	COMMENT	DATE
Bruce Hamilton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	06/29/18
Jessie H. Roberson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	06/29/18
Daniel J. Santos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	06/29/18
Joyce L. Connery	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	07/02/18

*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.


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: Bruce Hamilton


SUBJECT: RFBA by Board Member Santos to Revise the Board Procedures

Doc Control#2018-300-075

Approved X Disapproved Abstain

Recusal – Not Participating

COMMENTS: Below Attached None X


Bruce Hamilton

29 JULY 2018
Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET


FROM: Jessie H. Roberson

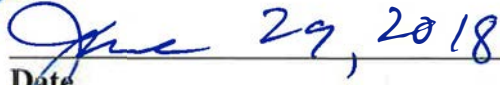
SUBJECT: RFBA by Board Member Santos to Revise the Board Procedures

Doc Control#2018-300-075

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

SUBJECT: RFBA by Board Member Santos to Revise the Board Procedures

Doc Control#2018-300-075

Approved X **Disapproved** **Abstain**

Recusal – Not Participating

COMMENTS: **Below** **Attached** **None** X



Daniel J. Santos

6/29/18

Date

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET**

FROM: Joyce L. Connery

SUBJECT: RFBA by Board Member Santos to Revise the Board Procedures

Doc Control#2018-300-075

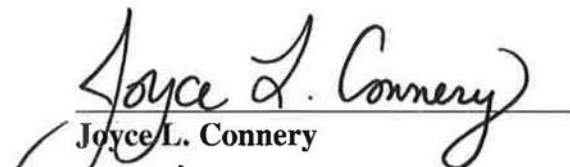
Approved _____ Disapproved X Abstain _____

Recusal – Not Participating _____

COMMENTS: Below X Attached _____ None _____

It has been the practice of the Board in recent years to post notational votes on its website in order to make them “available for public inspection”. The proposed RFBA would restrict what is visible to the public in voting on amendments including any justification and may include as little information as “replace text with red-line edits.” I believe this is contrary to the spirit of the FOIA law, if not the content. Further, there is an Executive Memorandum in place that requires increased transparency (“Transparency and Open Government” Jan. 21, 2009), while this action seems to go in the other direction from where the Board has been over the past several years. Both this Administration and the previous Administration have touted the importance of transparency in Government.

While there is a provision in the RFBA for any Board Member to propose a separate Board Action to post to the website, the burden is shifted from the person proposing the Amendment onto those that may have voted against it. This puts undo restrictions on the minority voters and undermines the transparency of the Board. The RFBA offers no explanation as to the “upside” of making this change. The change will serve only to hide the actions of Board Members, and the change could drive interested persons to file FOIA requests for the information, burdening agency resources to produce in response to a FOIA request.



Joyce L. Connery
Date July 2, 2018