

Office of National Drug Control Policy

Classification Challenge Policy

March 22, 2016

Classification Challenge Definition

Section 1.8 of Executive Order 13526 ("Order") on "Classified National Security Information" provides for classification challenges by an authorized holder who believes that the classification status of certain information is improper. These challenges must be presented in writing but do not need to be more specific than questioning why information is or is not classified at a certain level. The Order provides this provision to encourage authorized holders to challenge classification levels in order to promote proper and thoughtful classification actions. The Order's Implementing Directive states that "the classification challenge provision is not intended to prevent an authorized holder from informally questioning the classification status of particular information. Such informal inquiries should be encouraged as a means of holding down the number of formal challenges and to ensure the integrity of the classification process." (32 CFR 2001.14(c)(2)).

Process for Classification Challenges for ONDCP Employees

The Order requires each agency to establish a process for tracking and handling challenges. These procedures are unique to each individual agency, but they must adhere to the provisions of the Order and the Implementing Directive. The following are specific procedures that the Office of National Drug Control Policy (ONDCP) will follow with respect to classification challenges:

1. All ONDCP staff are expected and encouraged to challenge instances of improper classification. Improper classification includes failure to classify what should be classified, classification of information that should remain unclassified, classification at a lower level than appropriate and classification at a higher level than appropriate.
2. All ONDCP staff are encouraged, but not required, to pursue classification challenges informally by discussing the document and its classification rationale with the Original Classification Authority (OCA), before initiating a formal challenge. After this discussion, if there is still a need for a formal challenge, please follow the process outlined below. You may contact the ONDCP Security Officer for more information..
3. Formal challenges should be made in writing to an ONDCP OCA with a copy to the ONDCP Security Officer and should describe the document or other material alleged to be improperly classified, with sufficient specificity to enable the staff to locate it with a reasonable amount of effort but not breach any classification boundaries. Challenges may include a statement alleging the nature of the improper classification, but such a statement is unnecessary to initiate a classification review.

4. Upon receipt of a challenge, the original ONDCP classification authority along with a cleared need to know subject matter expert, will work to provide the challenger with a written response and provide a copy to the ONDCP Security Officer.
5. If the challenger is dissatisfied with the initial ruling, an impartial panel consisting of the ONDCP Security Officer and the Component Head from the appropriate division representing the subject matter expertise, will review and rule on the challenge, and provide a written response to the challenger.
6. If a challenge is denied, the response shall include a concise reason for denial of the challenge, the names or titles of the officials who reviewed the challenge and the challenger's appeal rights, including procedures for forwarding the appeal to the Interagency Security Classification Appeals Panel (ISCAP).
7. This process should also be employed if an external Agency's staff member wishes to challenge ONDCP's classification of a document.
8. If an ONDCP staff member wishes to challenge an external Agency's classification of a document, that staff member should contact the ONDCP Security Officer. The Security Officer will contact the external Agency's OCA and ensure that the challenger receives the external Agency's classification challenge procedures and submission guidelines.
9. No adverse action will be taken against a person for bringing a classification challenge.