

AMENDING SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950 1663

(3) an opportunity to appear personally at a hearing; (4) a reasonable opportunity to prepare for the appearance; (5) to be represented by counsel; (6) an opportunity to confront and cross-examine his accusers (except, as provided in Section 4, when the head of the department declares that such disclosure "would be substantially harmful to the national interest"); and (7), a written notice of a final decision which contains findings as to each allegation in the statement of reasons. This section clearly does not authorize the procedure of Section V. B. and the Court feels that by inference Section V. B. is inconsistent with this Section of the Executive Order. Section 9 provides for a revocation or denial of a security clearance under lesser procedural protection "only when the head of a department determines that the procedures prescribed in Sections 3, 4, and 5 cannot be invoiced consistently with the national security". Defendants do not contend that this section has been complied with here or that it authorizes the procedure of Section V. B. Finally, Sections 1(a) and 2, the sections of Executive Order 10865 which generally restate the authority and responsibility of the executive department heads to protect classified information and issue appropriate regulations, do not constitute the specific authorization for Section V. B. which is required by Greene v. McElroy, supra. As defendants point to no other Executive Orders which might provide the requisite authorization, this Court concludes that Section V. B. is invalid as not being authorized. This ruling makes it unnecessary for this Court to decide the other ground advanced by plaintiff in support of his motion for summary judgment.