

findings disposing of each substantial issue identified in a written statement in support of the request for review and the written response submitted by either the individual or the Office of Security Affairs, and shall predicate his opinion on the administrative record, including any new evidence that may have been submitted pursuant to § 710.29. If, after considering all the factors in light of the criteria set forth in this subpart, the Director, Office of Hearings and Appeals, is of the opinion that it will not endanger the common defense and security and will be clearly consistent with the national interest to grant or continue access authorization to the individual, the Director, Office of Hearings and Appeals, shall render an opinion favorable to the individual; otherwise, the Director, Office of Hearings and Appeals, shall render an opinion adverse to the individual. The written opinion of the Director, Office of Hearings and Appeals, shall be provided to the Director, Office of Security Affairs, accompanied by the administrative record in the case. The Director, Office of Hearings and Appeals, shall notify the individual of the foregoing action.

(e) Within 30 calendar days of receipt of the opinion of the Director, Office of Hearings and Appeals, the Director, Office of Security Affairs, will make the final determination, based on a complete review of the record, whether access authorization shall be granted or denied, or reinstated or revoked. If, after considering all of the factors in light of the criteria set forth in this subpart, the Director, Office of Security Affairs, determines that it will not endanger the common defense and security and will be clearly consistent with the national interest, access authorization shall be granted to or reinstated for the individual; otherwise, the Director, Office of Security Affairs, shall determine that access authorization shall be denied to or revoked for the individual.

(f) The Director, Office of Security Affairs, shall, through the Director, Office of Safeguards and Security, inform the individual involved and his counsel or representative in writing of the final determination and provide a copy of the written opinion rendered by the Di-

rector, Office of Hearings and Appeals. Copies of the correspondence shall also be provided to the Director, Office of Hearings and Appeals, the Manager, DOE Counsel, and any other party. In the event of an adverse determination, the correspondence shall indicate the findings by the Director, Office of Security Affairs, with respect to each allegation contained in the notification letter.

§ 710.29 New evidence.

(a) In the event of the discovery of new evidence relevant to the allegations contained in the notification letter prior to final determination of the individual's eligibility for access authorization, such evidence shall be submitted by the offering party to the Director, Office of Safeguards and Security. DOE Counsel shall notify the individual of any new evidence submitted by DOE.

(b) The Director, Office of Safeguards and Security, shall:

(1) Refer the matter to the Hearing Officer appointed in the individual's case if the Hearing Officer has not yet issued an opinion. The Hearing Officer getting the application for the presentation of new evidence shall determine the appropriate form in which any new evidence, and the other party's response, shall be received, e.g., by testimony before the Hearing Officer, by deposition or by affidavit.

(2) In those cases where the Hearing Officer's opinion has been issued, the application for presentation of new evidence shall be referred to the Director, Office of Hearings and Appeals, or the Director, Office of Security Affairs, depending upon where the case resides. In the event that the Director, Office of Hearings and Appeals, or Director, Office of Security Affairs, determines that the new evidence should be received, he shall determine the form in which it, and the other party's response, shall be received.

(c) When new evidence submitted by either party is received into the record, the opposing party shall be afforded the opportunity to cross-examine the source of the new information or to submit a written response, unless the information is subject to the exceptions in § 710.26 (l) or (o).