

(d) of this section, when deemed appropriate with the facts and circumstances of each particular case, following consultation with legal staff.

(b) If a DoD member is the subject of the request, the member shall be ordered, under 10 U.S.C. 814, to return expeditiously to an appropriate port of entry at Government expense, contingent on the party requesting return of the member providing for transportation, and escort, if desired, of the member from such port of entry to the jurisdiction of the party. The party requesting return of the member shall be notified at least 10 days before the member's return to the selected port of entry, absent unusual circumstances.

(c) If a DoD employee is the subject of the request concerning the court order, the employee strongly shall be encouraged to comply with the court order. Failure to respond to the court order may be a basis for withdrawal of command sponsorship and may be the basis for adverse action against the DoD employee, to include removal from the Federal Service. Proposals to take such adverse action must be approved by the Head of the DoD Component concerned, or designee. Such proposals shall be coordinated with the cognizant civilian personnel office and legal counsel.

(d) If the family member of a DoD member or employee is the subject of a request concerning the court order, the family member strongly shall be encouraged to comply with the court order. Failure to respond to the court order may be a basis for withdrawing the command sponsorship of the family member.

[54 FR 298, Jan. 5, 1989, as amended at 55 FR 34555, Aug. 23, 1990]

## PART 147—ADJUDICATIVE GUIDELINES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED INFORMATION

### Subpart A—Adjudicative Guidelines

Sec.

- 147.1 Introduction.
- 147.2 Adjudicative process.
- 147.3 Guideline A—Allegiance to the United States.
- 147.4 Guideline B—Foreign influence.

- 147.5 Guideline C—Foreign preference.
- 147.6 Guideline D—Sexual behavior.
- 147.7 Guideline E—Personal conduct.
- 147.8 Guideline F—Financial considerations.
- 147.9 Guideline G—Alcohol consumption.
- 147.10 Guideline H—Drug involvement.
- 147.11 Guideline I—Emotional, mental, and personality disorders.
- 147.12 Guideline J—Criminal conduct.
- 147.13 Guideline K—Security violations.
- 147.14 Guideline L—Outside activities.
- 147.15 Guideline M—Misuse of information technology systems.

### Subpart B—Investigative Standards

- 147.18 Introduction.
- 147.19 The three standards.
- 147.20 Exception to periods of coverage.
- 147.21 Expanding investigations.
- 147.22 Transferability.
- 147.23 Breaks in service.
- 147.24 The national agency check.

### Subpart C—Guidelines for Temporary Access

- 147.28 Introduction.
- 147.29 Temporary eligibility for access.
- 147.30 Temporary eligibility for access at the CONFIDENTIAL AND SECRET levels and temporary eligibility for "L" access authorization.
- 147.31 Temporary eligibility for access at the TOP SECRET levels and temporary eligibility for "Q" access authorization. For someone who is the subject of a favorable investigation not meeting the investigative standards for access at those levels.
- 147.32 Temporary eligibility for access at the TOP SECRET and SCI levels and temporary eligibility for "Q" access authorization: For someone who is not the subject of a current, favorable personnel or personnel-security investigation of any kind.
- 147.33 Additional requirements by agencies.

AUTHORITY: E.O. 12968 (60 FR 40245, 3 CFR 1995 Comp., p 391).

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### Subpart A—Adjudication

#### § 147.1 Introduction.

The following adjudicative guidelines are established for all United States Government civilian and military personnel, consultants, contractors, employees of contractors, licensees, certificate holders or grantees and their employees and other individuals who

require access to classified information. They apply to persons being considered for initial or continued eligibility for access to classified information, to include sensitive compartmented information and special access programs and are to be used by government departments and agencies in all final clearance determinations.

**§ 147.2 Adjudicative process.**

(a) The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for a security clearance. Eligibility for access to classified information is predicated upon the individual meeting these personnel security guidelines. The adjudicative process is the careful weighing of a number of variables known as the whole person concept. Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination. In evaluating the relevance of an individual's conduct, the adjudicator should consider the following factors:

- (1) The nature, extent, and seriousness of the conduct;
- (2) The circumstances surrounding the conduct, to include knowledgeable participation;
- (3) The frequency and recency of the conduct;
- (4) The individual's age and maturity at the time of the conduct;
- (5) The voluntariness of participation;
- (6) The presence or absence of rehabilitation and other pertinent behavioral changes;
- (7) The motivation for the conduct;
- (8) The potential for pressure, coercion, exploitation, or duress;
- (9) The likelihood of continuation of recurrence.

(b) Each case must be judged on its own merits, and final determination remains the responsibility of the specific department or agency. Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security.

(c) The ultimate determination of whether the granting or continuing of eligibility for a security clearance is

clearly consistent with the interests of national security must be an overall common sense determination based upon careful consideration of the following, each of which is to be evaluated in the context of the whole person, as explained further below:

- (1) Guideline A: Allegiance to the United States.
- (2) Guideline B: Foreign influence.
- (3) Guideline C: Foreign preference.
- (4) Guideline D: Sexual behavior.
- (5) Guideline E: Personal conduct.
- (6) Guideline F: Financial considerations.
- (7) Guideline G: Alcohol consumption.
- (8) Guideline H: Drug involvement.
- (9) Guideline I: Emotional, mental, and personality disorders.
- (10) Guideline J: Criminal conduct.
- (11) Guideline K: Security violations.
- (12) Guideline L: Outside activities.
- (13) Guideline M: Misuse of Information Technology Systems.

(d) Although adverse information concerning a single criterion may not be sufficient for an unfavorable determination, the individual may be disqualified if available information reflects a recent or recurring pattern of questionable judgment, irresponsibility, or emotionally unstable behavior. Notwithstanding, the whole person concept, pursuit of further investigations may be terminated by an appropriate adjudicative agency in the face of reliable, significant, disqualifying, adverse information.

(e) When information of security concern becomes known about an individual who is currently eligible for access to classified information, the adjudicator should consider whether the person:

- (1) Voluntarily reported the information;
- (2) Was truthful and complete in responding to questions;
- (3) Sought assistance and followed professional guidance, where appropriate;
- (4) Resolved or appears likely to favorably resolve the security concern;
- (5) Has demonstrated positive changes in behavior and employment;
- (6) Should have his or her access temporarily suspended pending final adjudication of the information.