

(b) *Clearance Decision.* A decision made in accordance with this part concerning whether it is clearly consistent with the national interest to grant an applicant a security clearance for access to Confidential, Secret, or Top Secret information. A favorable clearance decision establishes eligibility of the applicant to be granted a security clearance for access at the level governed by the documented need for such access, and the type of investigation specified for that level in 32 CFR part 154. An unfavorable clearance decision denies any application for a security clearance and revokes any existing security clearance, thereby preventing access to classified information at any level and the retention of any existing security clearance.

§ 155.4 Policy.

It is DoD policy that:

(a) All proceedings provided for by this part shall be conducted in a fair and impartial manner.

(b) A clearance decision reflects the basis for an ultimate finding as to whether it is clearly consistent with the national interest to grant or continue a security clearance for the applicant.

(c) Except as otherwise provided for by E.O. 10865, as amended, or this part, a final unfavorable clearance decision shall not be made without first providing the applicant with:

(1) Notice of specific reasons for the proposed action.

(2) An opportunity to respond to the reasons.

(3) Notice of the right to a hearing and the opportunity to cross-examine persons providing information adverse to the applicant.

(4) Opportunity to present evidence on his or her own behalf, or to be represented by counsel or personal representative.

(5) Written notice of final clearance decisions.

(6) Notice of appeal procedures.

(d) Actions pursuant to this part shall cease upon termination of the applicant's need for access to classified information except in those cases in which:

(1) A hearing has commenced;

(2) A clearance decision has been issued; or

(3) The applicant's security clearance was suspended and the applicant provided a written request that the case continue.

[57 FR 5383, Feb. 14, 1992, as amended at 59 FR 48565, Sept. 22, 1994]

§ 155.5 Responsibilities.

(a) The Assistant Secretary of Defense of Command, Control, Communications and Intelligence shall:

(1) Establish investigative policy and adjudicative standards and oversee their application.

(2) Coordinate with the General Counsel of the Department of Defense (GC, DoD) on policy affecting clearance decisions.

(3) Issue clarifying guidance and instructions as needed.

(b) The General Counsel of the Department of Defense shall:

(1) Establish guidance and provide oversight as to legal sufficiency of procedures and standards established by this part.

(2) Establish the organization and composition of the DOHA.

(3) Designate a civilian attorney to be the Director, DOHA.

(4) Issue clarifying guidance and instructions as needed.

(5) Administer the program established by this part.

(6) Issue invitational travel orders in appropriate cases to persons to appear and testify who have provided oral or written statements adverse to the applicant relating to a controverted issue.

(7) Designate attorneys to be Department Counsels assigned to the DOHA to represent the Government's interest in cases and related matters within the applicability and scope of this part.

(8) Designate attorneys to be Administrative Judges assigned to the DOHA.

(9) Designate attorneys to be Administrative Judge members of the DOHA Appeal Board.

(10) Provide for supervision of attorneys and other personnel assigned or attached to the DOHA.

(11) Develop and implement policy established or coordinated with the GC, DoD, in accordance with this part.