



## DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND  
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IN REPLY REFER TO

NAVSEAINST 5510.3A  
Ser 09T1/087  
10 Jun 98

NAVSEAINST 5510.3A

From: Commander, Naval Sea Systems Command

Subj: NAVSEA POLICY ON PERSONNEL SECURITY DETERMINATIONS

Ref: (a) DOD 5200.2R Change 3 of 1 Nov 95 (NOTAL)  
(b) OPNAVINST 5510.1H  
(c) OPNAVNOTE 5510 Ser 09N2/6U532050 20 Mar 96  
(d) NAVSUP to DODDIR C-5105.21 (M-1) (NOTAL)

Encl: (1) Standardized Adjudication Guidelines  
(2) Appeal Options and Procedures

1. Purpose. To implement revised personnel security adjudication criteria and establish new procedures for processing unfavorable personnel security determinations as required by references (a) through (d). This is a major revision and should be read in its entirety.

2. Cancellation. NAVSEAINST 5510.3 of 16 Mar 95.

3. Background. Executive Order (E.O.) 12968, "Access to Classified Information," established the requirement to standardize personnel security adjudication guidelines (enclosure (1)) and create a uniform unfavorable determinations process to be employed throughout the Federal Government. Reference (a) implements E.O. 12968 within the Department of Defense and includes the requirement to allow appellants of unfavorable personnel security determinations the opportunity to personally present an appeal to an Administrative Judge of the Defense Office of Hearings and Appeals (DOHA) (enclosure (2)).

4. Discussion. This policy is intended to ensure fair, equitable and timely processing of unfavorable determinations for the Command and the employee. It protects the Command and provides due process to the employee.

a. When OPM determines that an investigation contains issues which may disqualify the individual for employment under the employment suitability criteria, they forward the Report of Agency Adjudicative Action with the investigative results to the Department of the Navy Central Adjudication Facility (DONCAF). DONCAF then forwards this information to the Command for an employment suitability determination. This action is considered

a personnel matter, not a security matter. Once the employment suitability determination is made by the Command, the results are returned to DONCAF for a security determination.

b. Additionally, when questionable or unfavorable information (refer to enclosure (1)) becomes available locally concerning an employee who has been granted access to classified information, that information must be reported to DONCAF. Supervisors, coworkers and employees themselves are responsible for reporting information to security. The Command security representative's responsibility is to report the same to DONCAF. DONCAF determines if the information affects the individual's continued eligibility for access to classified information, including Sensitive Compartmented Information (SCI) access. Regardless of the reporting mechanism, all reports relating to SCI access will list the Special Security Officer (SSO) Navy or the Commander, Naval Security Group (COMNAVSECGRU), as an information addressee.

(1) If the Command determines that the developed information is significant enough to require a suspension of the employee's access for cause, the suspension action must be accomplished as outlined in paragraphs 4.d.(5) and (7), below.

(2) A Command report of suspension of access for cause will automatically cause the DONCAF to suspend the employee's clearance eligibility. Once clearance eligibility is suspended (or the individual is debriefed from Sensitive Compartmental Information (SCI) access for cause), the employee may not be granted access or considered for reindoctrination into SCI access until clearance eligibility has been reestablished by the DONCAF.

(3) The DONCAF evaluates and adjudicates all reported information and promptly notifies Command of the determination. If the reported information is incomplete or too limited to allow adjudication, DONCAF may either request more information from the Command or may request that the Command forward the necessary investigative request forms to DONCAF.

(4) In cases when the unfavorable information was developed at the local Command and subsequently resolved by local investigation or inquiry, Commands must notify DONCAF of the inquiry results and may request temporary clearance eligibility authorization, pending DONCAF validation after full adjudication of the investigation or inquiry results. Temporary clearance eligibility authorization will be at DONCAF discretion and is usually only possible if the local inquiry developed the necessary mitigation and there are no other unresolved security issues or other related pending inquiries or investigations.

c. DONCAF then adjudicates the investigative report and makes a security clearance determination. If a favorable

determination is made, DONCAF will provide notification of the decision. All records of the case held by the Command shall be destroyed immediately.

d. If an unfavorable determination is made and DONCAF issues a Letter of Intent to Revoke or Deny Security Clearance (LOI), the Command's security representative will follow the procedures listed below:

(1) If the employee has terminated employment with the Command, been discharged from service or transferred to another Command, the LOI must be returned by the Command security representative to DONCAF with this information noted. In the case of a transfer, indicate the name and location of the gaining Command, if known.

(2) If the employee is participating in a residential rehabilitation treatment program or if he or she is incarcerated for less than 30 days, hold the LOI and deliver it to the employee immediately upon his or her return to duty. In the interim, advise DONCAF by telephone that the letter is being held in abeyance pending the employee's return to duty. If the employee is incarcerated and is expected to remain for a period greater than 30 days, return the LOI to DONCAF with an annotation of when the employee is expected to be released.

(3) Notify the employee's supervisor.

(4) Set up a meeting with the supervisor, representatives from the Office of Counsel and the Human Resources Center to determine if the employee's access to classified information should be suspended. This decision will be based on the seriousness of the disqualifying information, the supervisor's observations as to the employee's character and type of position the individual occupies in accordance with references (b) and (d).

(5) If management decides to suspend the employee's access during the unfavorable determination process, the employee must be notified in writing of the Command's Notice of Intent to Suspend Access. The employee will be given this notice concurrently with the LOI. The notice must include a brief statement of the reason(s) for this action. The employee is then given an opportunity to provide a response to the Notice of Intent to Suspend Access. Except under extraordinary circumstances, the employee must respond within one working day. Once the Command makes an access determination, the employee must be notified in writing of its decision.

(6) The Command, at its option, may investigate whether a nonsensitive position exists or if one can be temporarily created precluding access by the employee during this process. If not,

the Command may determine that a proposed indefinite suspension is appropriate. This must be coordinated with the Human Resources Center and the Office of Counsel.

(7) All access suspensions must be reported to DONCAF, on the Personnel Security Action Request, OPNAV 5510/413, no later than 10 working days from the date of action.

(8) The security representative for the Command will assume a direct role in facilitating the LOI process. The security representative will determine the individual's intentions and immediately complete and return the acknowledgment of the LOI to the DONCAF. The acknowledgment must indicate whether the employee intends to submit a response to the contemplated action and whether the Command has granted an extension of time to submit the response. Absent Command or employee notification of intentions, the DONCAF may issue a final determination after 60 calendar days from the date on the LOI based upon existing information. Where mail service may prevent a timely return of the Acknowledgment of Letter of Intent, the Command may send the DONCAF a message or facsimile. Facsimile transmission should be used whenever practicable throughout the process.

e. The employee receiving the LOI will have 15 calendar days from receipt of the LOI to prepare and submit a written response. No outside influence will be permitted to forfeit the individual's opportunity to reply. The Command has the authority to grant up to 45 extension days (for a total of 60 days) provided the Command notifies DONCAF.

(1) Extensions may be appropriate to enable the employee to obtain a copy of the investigation or information upon which the DONCAF based its intended action, medical or mental evaluation, personal reference letters that will mitigate or rebut the disqualifying information, financial statements, legal counsel or documentation, documentation from rehabilitation institutes, or other related information to support the response.

(2) Extensions are not authorized to enable the employee to demonstrate responsibility for an issue that the employee was previously aware of but took no steps to resolve before receiving the LOI. This includes requests for extension to resolve financial or legal matters or to seek treatment for mental, emotional, or medical issues presented in the LOI. Extensions are also not authorized to enable mitigation by the passage of time or to otherwise create mitigation not already present.

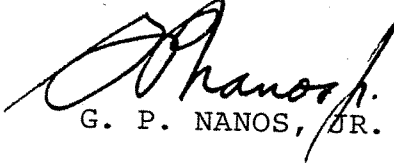
f. The DONCAF will adjudicate the response to the LOI within 30 calendar days of receipt and either make a favorable determination and authorize eligibility or issue a Letter of

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Notification (LON) of denial or revocation of security clearance, SCI access and/or sensitive position eligibility. If a favorable determination is made, the employee will be notified immediately, via the Command security representative. If an unfavorable determination is made by the DONCAF, the employee will be notified in writing, citing all factors which were successfully mitigated by the employee's response to the LOI and what unfavorable factors remain dictating denial or revocation. The LON will be sent via the Command with a copy to Bureau of Personnel (BUPERS) or Headquarters, Marine Corps (HQMC) for military members and a copy to SSO Navy for SCI access issues.

g. The LON will inform the employee of his/her appeal rights, including the options contained in enclosure (2). Upon receipt of the LON, Commands must ensure the individual has no further access to national security information, as the employee has been determined to no longer meet the requirements for such access. The Command Security Representative must advise the supervisor immediately to coordinate the appropriate personnel action with the Human Resources Center.

5. Action. All NAVSEA activities are directed to implement these policies.



G. P. NANOS, JR.

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## STANDARDIZED ADJUDICATION GUIDELINES

### PURPOSE

The following adjudication guidelines are established for all U.S. government civilian and military personnel, consultants, contractors, employees of contractors, licensees, certificate holders or grantees and their employees and other individuals who require a personnel security determination. They apply to persons being considered for initial or continued eligibility for assignment to sensitive duties, for access to classified information (to include Sensitive Compartmented Information (SCI)), and for special access programs. These guidelines will be used by local commands to support local personnel security program determinations as well as by the Department of the Navy Central Adjudication Facility (DON CAF) and other Federal government departments and agencies in all final clearance determinations.

### ADJUDICATIVE PROCESS

The adjudicative process requires an examination of a sufficient amount of information regarding an individual to determine whether the individual is an acceptable security risk. A determination that a person is an acceptable security risk equates to a determination of eligibility for access to classified information and/or sensitive duty assignment. Each adjudication is to be an overall common sense determination based upon consideration and assessment of all available favorable and unfavorable information, in light of the security guidance or criteria provided herein. However, as the assessment must be made on the person as a whole, the individual may be considered a security risk if the available information, although not sufficiently unfavorable concerning a single criterion, reflects a pattern of recurring questionable judgment, irresponsibility or instability so as to raise sufficient doubt regarding the individual's acceptability. Any doubt regarding an individual's eligibility will be resolved in favor of the national security.

The adjudicative process will place particular emphasis on the seriousness, recency, frequency and motivation for the individual's conduct; the extent to which the conduct was negligent, willful, voluntary or undertaken with knowledge of the circumstances or consequences involved; and to the extent that it can be estimated, the probability that the conduct will or will not continue in the future. When potentially disqualifying information is established regarding an individual, the adjudicator should additionally consider whether the individual voluntarily reported the information, sought assistance and followed professional guidance (where appropriate), demonstrated a positive change in lifestyle and behavior or otherwise acted

responsibly and with sound judgment to resolve the security concerns.

The listed "Disqualifying Factors" and "Mitigating Factors" in this set of guidelines reflect the consideration of those factors of seriousness, recency, frequency, motivation, etc., with respect to common situations and types of behavior encountered in personnel security adjudication, and should be followed whenever an individual case can be measured against this policy guidance. The "Disqualifying Factors" provided herein establish some of the types of serious conduct that may justify an unfavorable determination. The "Mitigating Factors" establish some of the types of circumstances that may lessen or mitigate the conduct listed under the "Disqualifying Factors."

#### FINAL DETERMINATIONS

Notwithstanding the whole person concept, pursuit of further investigation may be terminated by appropriate adjudicative agency in the face of reliable, significant, disqualifying information.

If after evaluating information of security concern the adjudicator decides that the information is not serious enough to warrant an unfavorable determination, it may be appropriate to recommend conditional approval with a warning that future incidents of a similar nature may result in an unfavorable determination.

In all adjudications, the protection of the national security will be the paramount determinant. In each case, the final decision must comply with the basic standard that the issuance of the clearance, SCI or special program access or assignment to sensitive duties is "clearly consistent with the interests of national security."



ALLEGIANCE TO THE UNITED STATES

Basis: An individual must be of unquestioned allegiance to the United States. The willingness to safeguard classified information is in doubt if there is any reason to suspect an individual's allegiance to the United States.

Disqualifying Factors: (Behavior that falls within one or more of the following categories):

1. The involvement in any act of sabotage, espionage, treason, terrorism, sedition, or other act whose aim is to overthrow the Government of the United States or alter the form of government by unconstitutional means;
2. Association or sympathy with persons who are attempting to commit, or who are committing any of the above acts;
3. Association or sympathy with persons or organizations that advocate the overthrow of the United States Government, or any state or subdivision, by force or violence or by other unconstitutional means;
4. Involvement in activities which unlawfully advocate or practice the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any state.

Mitigating Factors: (Circumstances which may mitigate disqualifying information):

1. The individual was unaware of the unlawful aims of the individual or organization and severed ties upon learning of these;
2. The individual's involvement was only with the lawful or humanitarian aspects of such an organization;
3. Involvement in the above activities occurred for only a short period of time and was attributable to curiosity or academic interest;
4. The person has had no recent proscribed involvement or association with such activities.

## FOREIGN INFLUENCE

Basis: A security risk due to foreign influence may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she may be bound by affection, influence, or obligation are not citizens of the United States or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interest in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure.

Disqualifying Factors: (Behavior or circumstances that fall within one or more of the following categories):

1. An immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country;
2. Sharing living quarters with a person or persons, regardless of their citizenship status, if the potential for adverse foreign influence or duress exists;
3. Relatives, cohabitants, or associates who are connected with any foreign government;
4. Failing to report, where required, associations with foreign nationals;
5. Unauthorized association with a suspected or known collaborator or employee of a foreign intelligence service;
6. Conduct which may make the individual vulnerable to coercion, exploitation, or pressure by a foreign government;
7. Indications that representatives or nationals from a foreign country are acting to increase the vulnerability of the individual to possible future exploitation, coercion or pressure;
8. A substantial financial interest in a country, or in any foreign owned or operated business that could make the individual vulnerable to foreign influence.

Mitigating Factors: (Circumstances which may mitigate  
disqualifying information):

1. A determination that the immediate family member(s), cohabitant, or associates) in question would not constitute an unacceptable security risk;

2. Contacts with foreign citizens are the result of official U.S. Government business;

3. Contact and correspondence with foreign citizens are casual and infrequent;

4. The individual has promptly reported to proper authorities all contacts, requests, or threats from persons or organizations from a foreign country, as required;

5. Foreign financial interests are minimal and not sufficient to affect the individuals security responsibilities.

## FOREIGN PREFERENCE

Basis: When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

Disqualifying Factors: (Behavior that falls within one or more of the following categories):

1. The exercise of dual citizenship;
2. Possession and/or use of a foreign passport;
3. Military service or a willingness to bear arms for a foreign country;
4. Accepting educational, medical, or other benefits, such as retirement and social welfare, from a foreign country;
5. Residence in a foreign country to meet citizenship requirements;
6. Using foreign citizenship to protect financial or business interests in another country;
7. Seeking or holding political office in the foreign country;
8. Voting in foreign elections;
9. Performing or attempting to perform duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

Mitigating Factors: (Circumstances which may mitigate disqualifying information):

1. Dual citizenship is based solely on parents' citizenship or birth in a foreign country;
2. Indicators of possible foreign preference (e.g., foreign military service) occurred before obtaining United States citizenship;
3. Activity is sanctioned by the United States;
4. Individual has expressed a willingness to renounce dual citizenship.

## SEXUAL BEHAVIOR

Basis: Sexual behavior is a security concern if it involves a criminal offense, indicates a personality or emotional disorder, subjects the individual to undue influence or coercion, or reflects lack of judgment or discretion.

\* Sexual orientation or preference will not be used as a basis for or as a disqualifying factor in determining a person's eligibility for a security clearance.

Disqualifying Factors\* (Behavior that falls within one of more of the following categories):

1. Sexual behavior of a criminal nature, whether or not the individual has been prosecuted;

2. Compulsive or addictive sexual behavior when the person is unable to stop a pattern of self-destructive or high-risk behavior or that which is symptomatic of a personality disorder;

3. Sexual behavior that causes an individual to be vulnerable to undue influence or coercion;

4. Sexual behavior of a public nature and/or that which reflects lack of discretion or judgment.

Mitigating Factors (circumstances which may mitigate disqualifying information):

1. The behavior occurred during or prior to adolescence and there is no evidence of subsequent conduct of a similar nature;

2. The behavior was not recent and there is no evidence of subsequent conduct of a similar nature;

3. There is no other evidence of questionable judgment, irresponsibility, or emotional instability;

4. The behavior no longer serves as a basis for undue influence or coercion.

\* The adjudicator should also consider guidelines pertaining to criminal conduct or emotional, mental and personality disorders as appropriate issues to resolve the security concerns raised by sexual behavior.

PERSONAL CONDUCT

Basis: Conduct involving questionable judgment, untrustworthiness, unreliability or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information.

Refusal to undergo or cooperate with required security processing, including medical and psychological testing; or

Refusal to complete required security forms, releases, or provide full, frank and truthful answers to lawful questions of investigators, security officials or other official representatives in connection with a personnel security or trustworthiness determination.

Refusal to provide complete information or cooperate with security processing will normally result in an unfavorable clearance action or administrative termination of further processing.

Disqualifying Factors: (Behavior that falls within one or more of the following categories):

1. Reliable, unfavorable information provided by associates, employers, coworkers, neighbors, and other acquaintances;
2. The deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities;
3. Deliberately providing false or misleading information concerning relevant and material matters to an investigator, security official, competent medical authority, or other official representative in connection with a personnel security or trustworthiness determination;
4. Personal conduct or concealment of information that increases an individuals vulnerability to coercion, exploitation or pressure;
5. A pattern of dishonesty or rule violations; to include violation of any written or recorded agreement made between the individual and the agency.
6. Association with persons involved in criminal activity.

Mitigating Factors: (Circumstances which may mitigate disqualifying information):

1. The information was unsubstantiated or not pertinent to a determination of judgment, trustworthiness, or reliability;
2. The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily;
3. The individual made prompt, good-faith efforts to correct the falsification before being confronted with the facts;
4. Omission of material facts was caused or significantly contributed to by improper or inadequate advice of authorized personnel, and the previously omitted information was promptly and fully provided;
5. The individual has taken positive steps to significantly reduce or eliminate vulnerability to coercion, exploitation, or pressure;
6. A refusal to cooperate was based on advice from legal counsel or other officials that the individual was not required to comply with security processing requirements and, upon being made aware of the requirement, fully and truthfully provided the requested information;
7. Association with persons involved in criminal activities has ceased.

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## FINANCIAL CONSIDERATIONS

Basis: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts.

Disqualifying Factors: (Behavior that falls within one or more of the following categories):

1. A history of not meeting financial obligations;
2. Deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, income tax evasion, expense account fraud, filing deceptive loan statements, and other intentional financial breaches of trust;
3. Inability or unwillingness to satisfy debts;
4. Unexplained affluence;
5. Financial problems that are linked to gambling, drug abuse, alcoholism, or other issues of security concern.

Mitigating Factors: (Circumstances which may mitigate disqualifying information):

1. The behavior was not recent;
2. It was an isolated incident;
3. The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation);
4. The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;
5. The affluence resulted from a legal source;
6. The individual initiated a good faith effort to repay overdue creditors or otherwise resolve debts.



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## ALCOHOL CONSUMPTION

Basis: Excessive alcohol consumption often leads to the exercise of questionable judgment, unreliability, failure to control impulses, and increases the risk of unauthorized disclosure of classified information due to carelessness.

Disqualifying Factors: (Behavior that falls within one or more of the following categories):

1. Alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, or other criminal incidents-related to alcohol use;
2. Alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, or drinking on the job;
3. Diagnosis by a licensed physician, licensed clinical psychologist, or board certified psychiatrist of alcohol abuse or alcohol dependence;
4. Habitual or binge consumption of alcohol to the point of impaired judgment;
5. Consumption of alcohol, subsequent to a diagnosis of alcoholism by a credentialed medical professional\* and following completion of an alcohol rehabilitation program.

Mitigating Factors: (Circumstances which may mitigate disqualifying information):

1. The alcohol-related incidents do not indicate a pattern;
2. The problem occurred a number of years ago and there is no indication of a recent problem;
3. Positive changes in behavior supportive of sobriety;
4. Following diagnosis of alcohol abuse or alcohol dependence, the individual has successfully completed inpatient or outpatient rehabilitation along with aftercare requirements, participates frequently in meetings of Alcoholics Anonymous or a similar organization, abstained from alcohol for a period of at least 12 months, and received a favorable prognosis by a credential medical professional\*.

\*Credential medical professional: licensed physician, licensed clinical psychologist, or board certified psychiatrist.

Enclosure (1)

## DRUG INVOLVEMENT

Basis: Improper or illegal involvement with drugs raises questions regarding an individual's willingness or ability to protect classified information. Drug abuse or dependence may impair social or occupational functioning, increasing the risk of an unauthorized disclosure of classified information.

Drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens) and inhalants and other similar substances. Drug abuse is the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction.

Disqualifying Factors: (Behavior that falls within one or more of the following categories):

1. Any drug abuse;
2. Illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution;
3. Failure to successfully complete a drug treatment program prescribed by a credentialed medical professional.\* Current drug involvement, especially following the granting of a security clearance, or an expressed intent not to discontinue use, will normally result in an unfavorable determination.

Mitigating Factors: (Circumstances which may mitigate disqualifying information):

1. The drug involvement was not recent;
2. The drug involvement was an isolated or infrequent event;
3. A demonstrated intent not to abuse any drugs in the future;
4. Satisfactory completion of a drug treatment program prescribed by a credentialed medical professional.\*

\*credential medical professional: licensed physician, licensed clinical psychologist or board certified psychiatrist.

## EMOTIONAL, MENTAL, AND PERSONALITY DISORDERS

Basis: Emotional, mental, and personality disorders can cause a significant deficit in an individual's psychological, social and occupational functioning. These disorders are of security concern because they may indicate a defect in judgement, reliability or stability.

When appropriate, a credentialed mental health professional\* acceptable to or approved by the government, should be consulted so that potentially disqualifying and mitigating information may be fully and properly evaluated.

Disqualifying Factors: (Behavior or condition that falls within one or more of the following categories):

1. A diagnosis by a credentialed mental health professional\* that the individual has a disorder that could result in a defect in psychological, social, or occupational functioning;
2. Information that suggests that an individual has failed to follow appropriate medical advice relating to treatment of a diagnosed disorder, e.g., failure to take prescribed medication;
3. A pattern of high-risk, irresponsible, aggressive, antisocial or emotionally unstable behavior;
4. Information that suggests that the individual's current behavior indicates a defect in his or her judgment or reliability.

Mitigating Factors: (Circumstances which may mitigate disqualifying information):

1. There is no indication of a current problem;
2. Recent diagnosis by a credentialed mental health professional\* that an individual has recovered from a previous emotional, mental or personality disorder or is in remission and has a low probability of recurrence or exacerbation.
3. The past emotional instability was a temporary condition (e.g., one caused by a death, illness, or marital breakup), the situation has been resolved, and the individual is no longer emotionally unstable.

\*credentialed mental health professional: licensed clinical psychologist, licensed social worker, or board certified psychiatrist.

## CRIMINAL CONDUCT

Basis: A history or pattern of criminal activity creates doubt about a person's judgment, reliability and trustworthiness.

Disqualifying Factors: (Behavior that falls within one or more of the following categories):

1. Any criminal conduct, regardless of whether the person was formally charged;
2. A single serious crime or multiple lesser offenses.

Mitigating Factors: (Circumstances which may mitigate disqualifying information):

1. The criminal behavior was not recent;
2. The crime was an isolated incident;
3. The person was pressured or coerced into committing the act and those pressures are no longer present in that person's life;
4. The person did not voluntarily commit the act and/or the factors leading to the violation are not likely to recur;
5. There is clear evidence of successful rehabilitation.

## SECURITY VIOLATIONS

Basis: Noncompliance with security regulations raises doubt about an individual's trustworthiness, willingness, and ability to safeguard classified information.

Disqualifying Factors: (Behavior that falls within one or more of the following categories):

1. Unauthorized disclosure of classified information;
2. Violations that are deliberate or multiple or due to negligence.

Mitigating Factors: (Circumstances which may mitigate disqualifying information):

1. Incident(s) were inadvertent;
2. Incident(s) were isolated or infrequent;
3. Incident(s) were due to improper or inadequate training;
4. Individual demonstrates a positive attitude towards the discharge of security responsibilities.

## OUTSIDE ACTIVITIES

Basis: Involvement in certain types of outside employment or activities is of security concern if it poses a conflict with an individual's security responsibilities and could create an increased risk of unauthorized disclosure of classified information.

Disqualifying Factors: (Behavior that falls within one or more of the following categories):

1. Any service, whether compensated, volunteer, or employment with:
  - a. a foreign country;
  - b. any foreign national;
  - c. a representative of any foreign interest;
  - d. any foreign, domestic, or international organization or person engaged in analysis, discussion, or publication of material on intelligence, defense, foreign affairs, or protected technology.

Mitigating Factors: (Circumstances which may mitigate disqualifying information):

1. Evaluation of the outside employment or activity indicates that it does not pose a conflict with an individual's security responsibilities;
2. The individual terminates the employment or discontinues the activity upon being notified that it is in conflict with his or her security responsibilities.

## MISUSE OF INFORMATION TECHNOLOGY SYSTEMS

Basis: Noncompliance with rules, procedures, guidelines or regulations pertaining to information technology systems may raise security concerns about an individual's trustworthiness, willingness, and ability to properly protect classified systems, networks, and information.

Information Technology Systems include all related equipment used for the communication, transmission, processing, manipulation, and storage of classified or sensitive information.

Disqualifying Factors: (Behavior that falls within one or more of the following categories):

1. Illegal or unauthorized entry into any information technology system;
2. Illegal or unauthorized modification, destruction, manipulation, or denial of access to information residing on an information technology system;
3. Removal (or use) of hardware, software or media from any information technology system without authorization, when specifically prohibited by rules, procedures, guidelines or regulations;
4. Introduction of hardware, software or media into any information technology system without authorization, when specifically prohibited by rules, procedures, guidelines or regulations.

Mitigating Factors: (Circumstances which may mitigate disqualifying information):

1. The misuse was not recent or significant;
2. The conduct was unintentional or inadvertent;
3. The introduction or removal of media was authorized;
4. The misuse was an isolated event;
5. The misuse was followed immediately by a prompt, good faith effort to correct the situation.

## APPEAL OPTIONS AND PROCEDURES

### 1. APPEALS

a. The Personnel Security Appeals Board (PSAB) is the ultimate appellate authority for unfavorable personnel security determinations made by the Department of the Navy Central Adjudication Facility (DON CAF). The PSAB structure and functioning is described in Exhibit 22B of reference (b). If an individual chooses to appeal an unfavorable DON CAF determination, the appeal may be submitted either personally or in writing as follows:

(1) Individuals may request a personal appearance before an Administrative Judge (AJ) from the Defense Office of Hearings and Appeals (DOHA). This appearance is intended to provide the individual an opportunity to personally respond to the DON CAF Letter of Notification (LON) and to submit supporting documentation to the AJ, who will make a recommendation to the PSAB. A transcript of the personal response to DOHA, with any supplemental documentation, will be forwarded with the DOHA recommendation and will serve as the individual's appeal to the PSAB.

(2) Individuals may submit a written appeal directly to the PSAB via their commands and forego the personal appearance. A written appeal should also include supporting documentation when appropriate.

b. Individuals may select either the appeal personally presented to the DOHA AJ or a written appeal forwarded directly to the PSAB. Individuals may not choose both options. Having or not having a personal appearance will not bias the PSAB in making a fair determination.

### 2. DOHA VERBAL APPEAL SUBMISSIONS

a. Individuals desiring to present a personal appeal must request a DOHA hearing within 10 days of receipt of the LON.

b. DOHA will schedule the personal appearance to be generally accomplished within 30 days of receipt of the individual's request.

c. Individuals will be provided a notice designating time, date and place for the personal appearance. For individuals at duty stations within the contiguous 48 states, the personal appearance will be conducted at the individual's duty station or a nearby suitable location. For individuals assigned to duty stations outside the contiguous 48 states, the site of the personal appearance will be determined by the Director, DOHA, or



designee, but will be held at the individual's duty station, at a suitable location near the individual's duty station, or at DOHA facilities located either in the Washington, D.C. metropolitan area or the Los Angeles, California metropolitan area.

d. Travel costs for the individual presenting a personal appeal to DOHA will be the responsibility of the individual's command.

e. The individual may be represented by counsel or other personal representative at the individual's expense.

f. Requests for postponement of the personal appearance can be granted only for good cause as determined by the DOHA AJ.

g. Individuals who choose a personal appearance will not have the opportunity to present or cross-examine witnesses. Individuals who desire to present the view of others must do so in writing (e.g. letters of reference, letters from medical authorities, etc.). The appeal should address the disqualifying issues identified by the LON and should present any existing mitigation as defined in enclosure (1), to include pertinent supporting documentation.

h. The AJ will review the individual's case file, hear the individual's or counsel's presentation and review any documentation submitted by the individual. Then the AJ will develop a recommended determination, which will be forwarded, along with a transcript of the personal appeal, to the PSAB within 30 days of the personal appearance.

i. The value of a command perspective on the PSAB deliberations cannot be overstated. Since appeals presented to DOHA do not have the benefit of a command endorsement, commands are strongly encouraged to submit a position paper directly to the PSAB. However, because of time constraints, the PSAB will only solicit a command position when the appeal contains substantial information that was not included in the individual's rebuttal to the Letter of Intent. In these cases the Executive Director, PSAB, will contact the command to provide the new information. The command will have 10 days to evaluate the new information and respond to the PSAB.

### 3. PSAB WRITTEN APPEAL SUBMISSIONS

a. The individual has 30 days from receipt of the LON to submit a written appeal to the PSAB. The command may extend the time allowed for an additional 15 days for a total of 45 days. Requests for further extensions can only be approved by the Executive Director, PSAB.

b. The written appeal may be made by counsel or personal representative at the individual's expense.

c. Written appeals should address the disqualifying issues identified by the LON and should present any existing mitigation as defined in enclosure (1), to include pertinent supporting documentation.

#### 4. PSAB PROCEDURES

a. The PSAB will review the DON CAF case file, the individual's appeal (to include DOHA recommendations and command submissions, as provided) and any supporting documentation submitted by the individual.

b. The PSAB will meet on a monthly basis and within 5 days of the Board review it will notify the individual, via the individual's command, of the PSAB determination.

c. The PSAB determination is final and concluded the administrative process. SCI access eligibility determinations alone may be further appealed to the Director of Naval Intelligence, who retains the authority to consider appeals of unfavorable SCI determination.

d. The DON CAF will be directed to grant or restore clearances to individuals whose appeals are approved at the PSAB. For individuals whose appeals are denied at the PSAB, reconsideration is only possible if at a later date (generally after one year from the date of the final DON CAF determination) if the individual's command again decides to nominate them for a security determination and the issues which caused the unfavorable determination are mitigated either through the passage of time or other relevant positive developments.