

Clearance Eligibility and Access

REFERENCE

SECNAV M-5510.30, Chapters 7, 8, 9, Appendix A

OUTLINE

A. Security Clearance Eligibility

1. Definition - A formal determination by an approved adjudicative authority that a person meets the EO 12968 personnel security eligibility standards for access to classified information. Eligibility is established at the highest levels supportable by the prerequisite personnel security investigation. **(PSP Appendix A)**
2. Three Levels: Top Secret, Secret and Confidential
3. Basic Policy **(PSP 7-1, thru 7-4)**
 - a. DON CAF is the sole DON security clearance eligibility granting authority (Designated by SECNAV)

NOTES:

"Security clearance eligibility" is new term replacing "security clearance". "Security clearance" is now understood to exist at the level of authorized access

Eligibility + Access (Includes Need-To-Know) =
Clearance

"Temporary Access" is new term for "interim clearance and interim access"

- b. Clearance eligibility remains valid providing the individual:
 - Complies with personnel security standards
 - Has no subsequent break in service exceeding 24 months.

- c. Eligibility does not expire and is not invalidated by overdue reinvestigation
- d. Clearance eligibility is not an automatic authorization for access.
- e. Access authorization - Separate command (CO) level determination based on the need to access classified information in order to perform official duties.

NOTE: SCI access is a separate issue.

- 4. Clearance Issuance Policy **(PSP 7-4)**
 - a. Initially issued upon adjudication of prerequisite personnel security investigation (PSI).
 - b. Reestablished upon adjudication of subsequent command submitted investigations.
 - c. Established at highest level supportable by the prerequisite security investigation.
- 5. Reciprocity between Agencies **(PSP 7-7)**
 - a. Federal Government clearance eligibility determinations accepted throughout Federal Government if:
 - No break in service greater than 24 months
 - Investigative basis adequate for clearance level
 - No new derogatory information identified
 - b. Clearance denial/revocation also reciprocal
- 6. Clearance Eligibility Prohibitions **(PSP 7-8)**
 - a. U.S. citizens only are eligible if they are:
 - Members of the executive branch of the government
 - Contractors under the National Industrial Security Program (NISP)

- b. Clearance not granted for:
 - Non-sensitive positions
 - Inadvertent access (i.e., guards, emergency personnel)
 - Performing unclassified duties within a restricted area (i.e., food services, maintenance/or cleaning personnel)
 - Persons whose access can be prevented by a cleared escort (i.e., vendors, and other commercial sales/service personnel)
 - Facility Access Determination (FAD)Program

- 7. Clearance Eligibility Documentation - Formal DON CAF certification of security clearance **(PSP 7-4)**
 - a. All DON CAF eligibility determinations are recorded in JPAS on a daily basis
 - b. Supports local access determinations and other local program management requirements
 - c. Clearance eligibility found in JPAS/JCAVS - See Person Summary Screen under "Adjudication Summary"

- 8. Unique Clearance Requirements **(PSP 7-9)**
 - a. Commanding Officer - Must have a favorably adjudicated SSBI and eligibility determination at least equivalent to highest level of classified information at command (Incumbent COs will review records of prospective CO to ensure individual has the necessary investigation and security clearance certification)
 - b. Cryptographic Duties - Clearance eligibility must be established, "interim access" cannot be assigned
 - c. Reserve Personnel in "active status" considered to have continuous service
 - d. Individual Ready Reserves (IRR) will have security clearance eligibility established by DON CAF as necessary

- e. Certain ratings/MOS will require individuals to have security clearance eligibility established by DON CAF to support potential subsequent assignments
 - PRs are not required except for continuous access
 - Derogatory information will be sent to DON CAF via JPAS
 - f. DON CAF will establish and provide certification of security clearance eligibility for DON employees assigned to other Federal agencies
 - g. Command direct-hired consultants will have clearance eligibility established by DON CAF (not under the NISP)
 - h. Members of congressional staffs may be processed for security clearance eligibility
 - i. State governors may be processed for security clearance eligibility by Dept. of Homeland Security
9. Contractor Clearance Eligibility **(PSP 7-10)**
- a. Contractor PSIs are conducted by OPM, adjudicated by DISCO and entered into JPAS
 - b. COs will report to DISCO, via JPAS, any adverse or questionable information that comes to their attention concerning a cleared contractor employee assigned to a worksite under their control

B. Access to Classified Information

- 1. Definition - The ability and opportunity to obtain knowledge of classified information
(PSP Appendix A)
- 2. Basic Policy - Granting access is a command responsibility; CO's have ultimate authority over who may have access **(PSP 9-1 thru 9-3)**

- a. Access granted to individuals who have:
 - Official need-to-know
 - Established security clearance eligibility
 - No known un-adjudicated disqualifying information

(CO cannot grant SCI access)

NOTE: Need-to-know is the determination that an individual requires access to specific classified information in the performance of lawful and authorized functions and duties

- b. Access granted only if it promotes furtherance of DON mission and preserves national security interests
- c. Access should be limited to minimum number of individuals necessary to accomplish the mission.

NOTE: No one has right to have access to classified information solely because of rank, position, or security clearance.

- d. Level of access - limited to minimum level required to perform assigned duties.
- e. Access is formally terminated when no longer required to perform duties or clearance has been denied or revoked
- f. All local command actions regarding access will be documented in JPAS

3. Classified Information Nondisclosure Agreement (NdA)(SF 312) (Available on website www.navysecurity.navy.mil - Forms link) **(PSP 9-3)**

- a. Condition of initial access - Must be executed by all personnel (only required to be signed once) and documented in JPAS/JCAVS (if not documented on Person Summary Screen - open "Indoctrinate" link and enter date executed)

- b. Current version (Rev. 1-00) - Supersedes previous versions (Previously executed NdAs remain valid and are interpreted and enforced consistent with current form)
- c. Individuals requested to sign NdA will:
 - (1) Be provided with explanation of SF 312
 - (2) Have opportunity to read Sections of Titles 18 and 50 of the U.S. code and other references on the SF 312

(The SF 312 Briefing Booklet can be found on www.navysecurity.navy.mil under "additional information" next to the SF-312 form)
- d. Execution of SF 312
 - (1) Must be witnessed. Witness (any command member) signs and dates form
 - (2) Must be accepted on behalf of U.S. The accepting officials (CO, XO, Security Manager, or individual designated in writing by CO)
 - (3) Will be maintained for 70 years from date of signature.
- e. If individual refuses to sign SF 312 deny access and report refusal to DON CAF using the "Report Incident" link in JPAS
- f. Record Maintenance for Executed NdAs.

Send completed forms (after documenting them in JPAS/JCAVS): **(PSP 9-4.8)**

USN military members -
Commander, Naval Personnel Command
Pers 312C
5720 Integrity Drive
Millington, TN 38055-8310

- USMC military -

Commandant of the Marine Corps
Headquarters US Marine Corps (MMSB-20)
MCCDC
2008 Elliot Road
Quantico VA 22134-5030

- Civilians - Human Resource Office(HRO) for
inclusion in Official Personnel Folder
(OPF)

4. Personal Attestation (**PSP 4-8**)

- a. Required upon being granted initial top secret security clearance and/or indoctrination into a Special Access Program (SAP) or to Sensitive Compartmented Information (SCI)
 - (1) Individuals will orally attest to understanding their responsibility to protect classified national security information
 - (2) Witnessed by one individual in addition to the individual presiding
 - (3) Document in JCAVS on the Person Summary Screen - open "Indoctrinate" link
- b. Personnel with an existing TS clearance eligibility or SCI/SAP access will verbally attest at the time or the required PR or when granted access to another compartmented program, whichever is sooner
- c. During Annual Refresher - emphasize provisions of each of the nondisclosure agreements, as applicable, and the responsibilities of cleared individuals to protect classified information
- d. A copy of the attestation statement is shown below:

"I accept the responsibilities associated with being granted access to classified national security information.

I am aware of my obligation to protect classified national security information through proper safeguarding and limiting access to individuals with the proper security clearance and/or access and official need to know.

I further understand that in being granted access to classified information and/or SCI/SAP, a special confidence or trust has been placed in me by the United States Government."

C. Command Actions - Granting Access and Temporary Access (Interim Clearance) (PSP 9-1 and 9-4)

1. Determine if command member's duties require access to classified information
2. Complete a Local Records Check - Used to determine if locally available disqualifying information exists. Consists of review of available records
 - Service Record or Official Personnel Folder
 - Checks with: Medical/Dental, Base/military Police, Legal, Security, other command records

NOTE: Commands are prohibited from reviewing civilian law enforcement records, the National Crime Information (NCIC) records or checking with NCIS

3. DON CAF Clearance Certification found in JCAVS and clearance supports access level required:

NOTE: If information not available in JCAVS, contact DON CAF

- a. Assign Access

- b. Record access on JCAVS Person Summary Screen (reminder - access cannot be recorded until NDA signature date recorded). Also record any Special Program access (e.g., NATO, PRP) on JCAVS. SSO will record SCI access

NOTE: If cannot record access in JCAVS (e.g., do not get "Indoctrinate" link or person shows no "Person Category") - Maintain local record to include: name, SSN, citizenship verification, date and level of access authorized (to include any special or other program access), basis for determination, name, rank/grade of individual authorizing the access.

- c. Conduct required briefings
- d. If one of the following shows up for clearance eligibility - DON CAF will have to be contacted before any further action is taken:
 - Favorable
 - Pending action
 - Requires review
 - No determination made
 - Loss of jurisdiction

- 4. Individual does not have necessary investigation for level of clearance/access required.

- a. CO, as delegated by DON CAF can grant an:
 - (1) Temporary Secret or Confidential access based upon:
 - A favorable review of local records, and
 - A favorable review of the completed Personnel Security Questionnaire (PSQ), and
 - Submission of PSQ package
 - (2) Temporary Top Secret access based upon:

- Secret or Confidential security clearance eligibility exists or a current favorably adjudicated NAC
- Same checks as 4.a.(1) above

NOTE: Temporary access may only be authorized by the CO or designee who has been the subject of a favorably completed SSBI. (Temporary access for SCI may only be authorized by DON CAF)

- b. Record temporary access determinations in JCAVS
 - (1) Once "PSQ Sent" link is completed then the "Grant Interim" link should show up in the far right section of the access block on the Person Summary Screen
 - (2) Once the "Interim" link is completed interim clearance will show up in middle section of Person Summary Screen
 - (3) After Interim Clearance is granted can grant "interim access" by again going to the far right box of the access section and opening the "Indoctrinate" button

Interim clearances (temporary accesses) documented in JCAVS remain valid until the investigation is completed and adjudicated

- c. Monitor JPAS to ensure the submitted PSI shows up as an open investigation. An inordinate delay in PSI showing open in JPAS (30 days) requires command follow-up
- d. If command becomes aware of adverse information on an individual holding a temporary access procedures for suspending access will be applied

5. Access Adjustments (PSP 9-6)

- a. Debrief individual and document in JCAVS when permanent change in official duties eliminates requirement for access at the command
 - b. Duty requires new level - Document access change in JCAVS or if access required exceeds DON CAF certification level - initiate appropriate PSI
 - c. Command Transfer/Separation/Retirement
 - (1) Debrief individual and document in JCAVS. If individual access was documented in JCAVS then should get "debrief" link next to "indoctrinate" link.
 - (2) "Remove" individual from command SMO. Either go to the Person Summary screen and open "In/Out" or go to PSM Net and click remove box (then save)
 - (3) Do not execute Security Termination Statement for transfers
6. Contractor Access - COs may grant access to classified information to contractors based upon need-to-know and verification of clearance eligibility and access in JPAS

NOTE: At any time COs may deny contractor employees access to areas and information under command control for cause, however suspension/revocation of contractor security clearances can only be affected through DISCO

D. Other Types of Access

1. One-time Access **(PSP 9-5)**
 - a. For urgent operational or contractual emergency
 - b. Granted for only one level above eligibility
 - c. Short duration - Cannot exceed 90 days

- d. Must be granted by a flag or general officer, general courts-martial convening authority or equivalent Senior Executive Service (SES) member

NOTE: Access to information under control of the official who authorized the one time access

- e. Candidate must be a U.S. citizen, possess a current DOD security clearance eligibility and have no break in service greater than 24 months
- f. Limited to single instance or, *at most*, a few occasions. Repeated use within one 12 month period prohibited
- g. Not authorized for access to SCI, NATO, COMSEC or foreign government information
- h. Supervisor must be cleared and maintain records of information and dates access afforded
- i. A record maintained for each individual authorized one time access to include:
 - Name and SSN of individual
 - Level of access authorized
 - Justification for the access
 - Unclassified description of the specific information access afforded
 - Duration of the access
 - Dates access afforded
 - Local records identified and certified that no adverse information known to exist
 - Approving authority's signature
 - Briefing/debriefing copies

NOTE: NAVADIMIN 261/03 and MARADMIN 491/03 state "In the interest of efficiency and readiness, personnel deployed in support of military operations for one year or less may be permitted access to Top Secret classified information for up to one year, as needed to perform assigned

duties, based on final Secret security clearance eligibility. Until further notice, SSBIs will not be requested to support these short-term assignments. This guidance applies only to assignments of less than one-year and does not apply to NATO or SCI"

2. Limited Access Authorization (LAA) (**PSP 9-15**)
 - a. Access to non-U.S. citizens for compelling reason (e.g., person has unique/unusual skill/expertise for which cleared (or clearable) U.S. citizen not available)
 - b. Specific Conditions required:
 - Access limited to specific program/project and not inconsistent with release to individual's country or origin
 - Physical custody will not be authorized
 - Not granted to perform routine administrative/support duties
 - Cannot be couriers or escorts unless accompanied by cleared U.S. individual
 - Not permitted uncontrolled access
 - Favorably completed SSBI (10 years) or CI polygraph (if full investigative coverage cannot be completed)
 - Individual agrees to take CI polygraph before granted access. *Failure to agree will terminate LAA process*
 - c. CNO (N09N2) approval required (See PSP paragraph 9-15.2 for submission requirements)
 - d. Individuals granted LAAs will:
 - Be under general supervision of cleared personnel
 - Execute a SF 312
 - Only be authorized access to material specified by CNO (N09N2)
 - e. PRs required every 5 years - submit with new request for LAA (LAAs only authorized for 5 years)

- f. If individual transfers - LAA granted is no longer valid.
 3. Access By Retired Personnel **(PSP 9-8)**
 - a. CNO (N09N2) approval required.
 - b. Exception - Active duty flag/general officer may grant retired flag/general officer temporary access if compelling reasons in furtherance of DON mission
 4. Access by Investigative and Law Enforcement agents - NCIS will verify the need to know **(PSP 9-10)**
 5. Access Authorization for Attorneys - Submit requests to CNO(N09N2) **(PSP 9-11)**
 6. Access For Persons Outside the Executive Branch. CNO (N09N2) approval required **(PSP 9-13)**
 7. Access for Historical Researcher **(PSP 9-14)**
- E. Suspension of Access for Cause - CO action (PSP 9-7)**
1. Questionable or unfavorable information becomes available
 2. Temporary measure
 3. Resolved by DON CAF prior to transfer to different command
 4. Command Requirements:
 - a. Notify the individual in writing of suspension, to include brief statement of reasons for action.
 - b. Report to DON CAF no later than 10 working days from date of suspension.
 - (1) Notify using JCAVS - open "report incident" link and check box to

"suspend" access or notify by official correspondence

- (2) Include specific reasons for suspension, supporting documentation will be sent separately (if reporting via JCAVS)
- c. Remove clearance certification from records.
- d. Remove individual's name from all access rosters and visit certifications.
- e. Notify all coworkers of suspension.
- f. Change combinations to which individual had access.
- g. Cancel or hold in abeyance PCS orders.

F. Unfavorable Security Determinations Process (PSP 8-4)
(see figure 7.3-1)

1. Unfavorable personnel security actions will result in one or more of the following:
 - a. Denial or revocation of clearance eligibility
 - b. Denial or revocation of Special Access Authorization (including SCI)
 - c. Non-appointment to or non-selection for sensitive assignment

UNFAVORABLE SECURITY DETERMINATION PROCESS

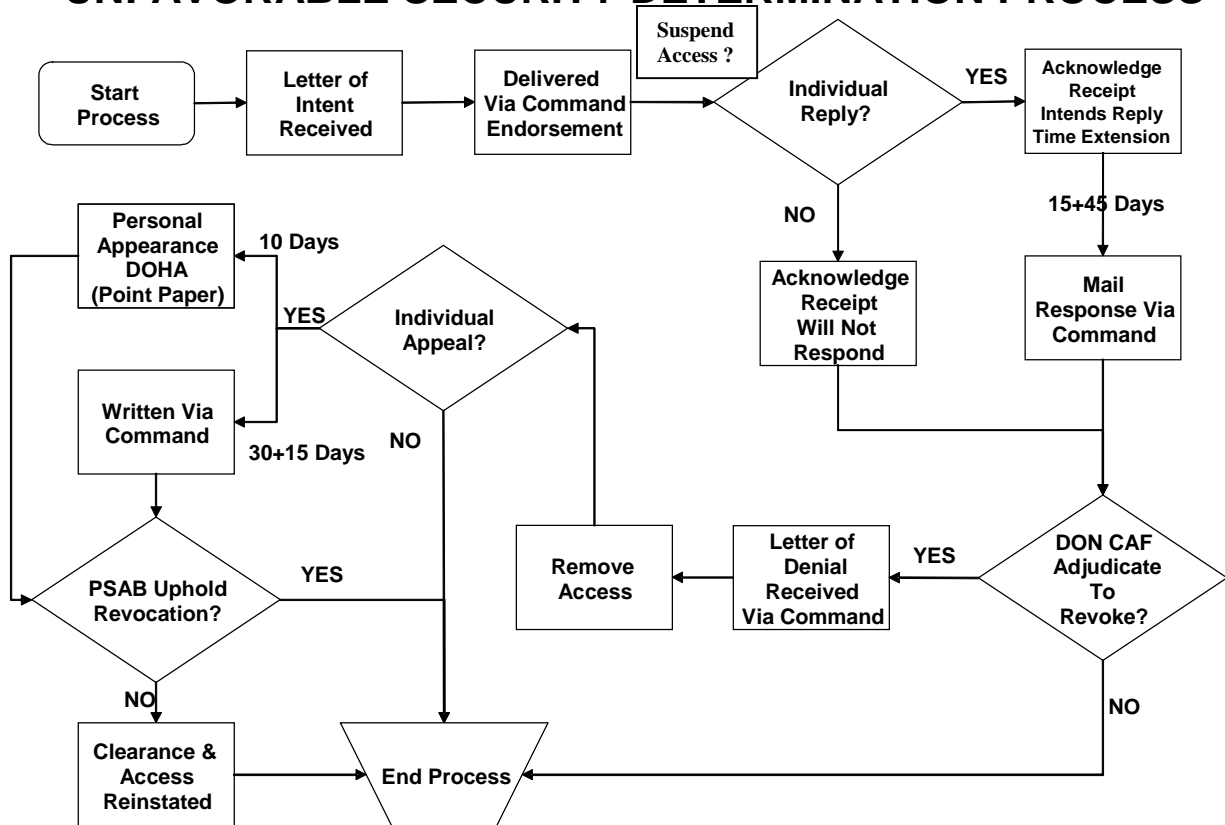


Figure 7.3-1
Unfavorable Security Determinations Process

2. Letter of Intent (LOI) to revoke or deny security clearance eligibility
 - a. Issued by DON CAF when contemplating an unfavorable security determination
 - b. Advises the individual of the proposed action, reasons for the action and the rebuttal process:
 - c. Sent to individuals via their command
 - (1) Command will receive advance notification through JCAVS (Statement of Reasons (SOR) Notification)

- (2) Expand SOR Notification box and respond to DON CAF with dates LOI received, given to individual, and acknowledgement of receipt sent

NOTE: Copies sent by DON CAF to NAVPERS or HQMC for military personnel

- d. Upon LOI hard copy receipt, the command will:
 - (1) Immediately present the LOI to the individual and assume direct role in facilitating the process
 - (2) Determine the individual's intentions regarding response
 - (a) Complete and return the "Acknowledgement of Receipt of the LOI" indicating individual's intent to respond and if command has granted a 45 day extension for response
 - (b) Individual will forfeit their rights to appeal if they choose not to respond, or if response untimely
 - (3) When the mail service may prevent a timely return of the Acknowledgement of Receipt, commands may respond by message or fax

NOTE: If the individual is no longer affiliated with the command, DON CAF will be immediately notified and the LOI will be returned to DON CAF

- e. Fax correspondence should be used whenever practicable throughout the process.
- f. CO's call to suspend individual's access while unfavorable determination process continues (If individual has temporary

access (interim clearance) assigned then access must be suspended immediately)

- g. Recipient has 15 calendar days from LOI receipt to prepare and submit a written response via their command.
 - (1) CO can grant an extension of up to 45 calendar days
 - (2) Request for further extension must be directed to DON CAF.
- h. Absent command response within 60 days, DON CAF may issue a final determination based on existing information.
- i. DON CAF will adjudicate response to LOI within 30 days and will make either a favorable or unfavorable notification
 - (1) Favorable - individual notified in writing, via their command
 - (2) Unfavorable - issue Letter of Denial (LOD)

NOTE: The LOD will be sent to the individual via the command with copy to BUPERS (PERS-483) or HQMC (ARS) or SSO Navy/NETWARCOM as appropriate

3. Letter of Denial (LOD)

- a. Removes clearance eligibility. Commands will ensure individual:
 - (1) No longer occupies any sensitive position
 - (2) Has no further access to classified information
- b. Advises recipient of appeal rights
- c. Final decision will be documented in JPAS

4. Appealing LOD (**PSP 8-5**)

a. Individual has two appeal options. Can only do one or the other, however ultimate determination made by the Personnel Security Appeals Board (PSAB) (see Exhibit 8A PSP for a description of the PSAB)

(1) Verbal Appeal - Personnel appearance before an Administrative judge from the Defense Office of Hearings and Appeals (DOHA)

- Request hearing within 10 days of receipt of LOD
- DOHA will schedule appearance within 30 days
- Hearing locations - Most are now done using video teleconferencing (If individual must travel then command will pay travel costs)
- Recommendation of the administrative judge (AJ) following appeal will be forwarded to PSAB for review/consideration
- Transcript of the proceedings will serve as the individual's appeal to the PSAB
- Commands are encouraged to provide command perspective by submitting a point paper directly to the PSAB.

(2) Written Appeal - Submitted by individual via command directly to the PSAB

- Individual has 30 days from receipt of LOD to submit appeal, CO can provide an additional 15 days. Further extension approval must be granted by the PSAB
- Commands encouraged to provide command perspective by endorsing the individual's appeal.

b. PSAB Procedures **(PSP 8-5)**

- (1) PSAB meets at least monthly and within 5 days of adjourning, will notify individual, via command, of PSAB determination.
- (2) PSAB determination is final for both verbal and written appeals and concludes administrative appeals process.
- (3) Final decision of PSAB will be recorded in JPAS

NOTE: PSAB determination is final and if decision is clearance eligibility removal/denial individual cannot appeal reconsideration until at least a year after the decision

5. LOI/LOD process will apply for issues resulting from the Smith Amendment, however only option to losing clearance eligibility is a Meritorious Waiver signed by SECNAV, who has to report all waivers granted to Congress. PSAB will request a waiver if it feels it is warranted

NOTE: DON CAF will only apply these guidelines when adjudicating an investigation to support a new security clearance or a PR. It does not matter if these issues were previously favorably adjudicated