

CHAPTER 8
DENIAL OR REVOCATION OF ACCESS TO CLASSIFIED INFORMATION

- 8-1 Failure to Meet Standards - Applicants and employees who are determined to not meet the standards for access to classified information established in section 3.1 of the Executive Order 12968 shall be provided with the following, as set forth in the Executive Order::
- A. As comprehensive and detailed a written explanation of the basis for that conclusion as the national security interests of the United States and other applicable law permit;
 - B. Within 30 days, upon request and to the extent the documents would be provided if requested under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act (3 U.S.C. 552a), as applicable, any documents, records, and reports upon which a denial or revocation is based;
 - C. Information concerning their right to be represented by counsel or other representative at their own expense; to request any documents, records, and reports as described in paragraph B, above, upon which a denial or revocation is based; and to request the entire investigative file, as permitted by the national security and other applicable law, which, if requested, shall be promptly provided prior to the time set for a written reply;
 - D. A reasonable opportunity to reply in writing to, and to request a review of, the determination;
 - E. Written notice of and reasons for the results of the review, the identity of the deciding authority, and written notice of the right to appeal;
 - F. An opportunity to appeal in writing to a high level panel, appointed by the Secretary, which shall be comprised of at least three members, two of whom shall be selected from outside the security field. Decisions of the panel shall be in writing, and final except as provided in paragraph 8-2, below; and
 - G. An opportunity to appear personally and to present relevant documents, materials, and information at some point in the process before an adjudicative or other authority, other than the investigating entity, as determined by the agency head.

A written summary or a recording of such appearance shall be made part of the applicant's or employee's security record unless such appearance occurs in the record, unless such appearance occurs in the presence of the appeals panel described above.

8-2 Secretary's Authority - Nothing in this chapter shall prohibit the Secretary from personally exercising the appeal authority in 8-1.F., above, based upon recommendations from an appeals panel. In such case, the decision of the Secretary shall be final.

8-3 Suspension of Access - While the procedures described in paragraph 8-1, above are in process, the Security Officer will suspend the employer's access to classified information.

8-4 Chief, Employee Relations Branch - When an employee's access to classified information is suspended, denied, or terminated, the Security Officer shall inform the Chief, Employee Relations Branch, in Headquarters. The Chief, Employee Relations Branch is responsible for the following:

- A. Providing advice and assistance to Departmental management officials concerning appropriate action in relation to the individual's employment with the Department. Such advice shall ensure that an individual whose whose access to classified information has been suspended, denied, or terminated does not perform sensitive duties;
- B. Coordinating with Administrative Service Center employee relations staff in the case of employees who are duty-stationed in Field offices;
- C. Consulting with the Assistant General Counsel for Human Resources Law in Headquarters about the legal sufficiency of any proposed adverse action taken on the basis of suspension, denial, or termination of an employee's access to classified information; and
- D. Obtaining the concurrence of the Deputy Secretary on proposed actions based upon denial or termination of access to classified information when such action is a reassignment to a non-sensitive position or the withholding of sensitive duties in the employee's existing position.