CYBER LEGAL ADVOCACY BRIEF

A Preventive Law Series
Cyber Center of Excellence Office of the Staff Judge Advocate
Legal Assistance Division, Fort Gordon

SECURITY CLEARANCE REVOCATION

WHAT ARE THE CONSEQUENCES OF SECURITY CLEARANCE REVOCATION?
For many Soldiers, a security clearance is required for pursuing and retaining their Military Occupational Specialty (MOS). If it is revoked, then a Soldier may be forced to reclassify into another MOS or may be involuntarily separated from the Army.

HOW DOES THE REVOCATION PROCESS BEGIN?
The process begins with the credible evidence of derogatory data about an individual who has a security clearance. This derogatory data can pertain to delinquent debt, allegations of criminal misconduct, or unreported foreign contacts. An individual may self-report such information, or a third party may report it to a commander or supervisor. The command may conduct an investigation to gather more information.

CAN MY COMMANDER REVOKE MY SECURITY CLEARANCE?
No. The Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) has the sole authority to determine security clearance eligibility of DoD personnel. The commander can, however, suspend an individual's *access* to classified information at a local level. The commander or supervisor will also report any derogatory information to DCSA CAS, which will then determine whether a clearance should be revoked.

WHAT DOES DCSA CAS DO ONCE A REPORT OF DEROGATORY INFORMATION IS RECEIVED?
They will review any derogatory information and determine whether a suspension of the security clearance is warranted. If they decide that a suspension is appropriate and that the clearance may be revoked, the individual will receive a Letter of Intent with an attached Statement of Reasons (SOR) detailing why DCSA CAS intends to revoke the person's clearance. The individual then has 10 days to acknowledge receipt of the SOR and inform DCSA CAS that he intends to submit a rebuttal. If an individual wants to submit a rebuttal, he has 30 calendar days to submit the rebuttal, but may also request a 30-day extension.

DOES DCSA CAS USE ANY GUIDELINES TO DETERMINE WHETHER TO REVOKE A CLEARANCE?
Yes. There are 13 guidelines, which are listed below. The SOR will list each guideline that applies to an individual's case along with an explanation of what derogatory information pertains to that guideline.

GUIDELINE	DESCRIPTION
A: Allegiance to the United States	Espionage, treason, terrorism, sedition
B: Foreign Influence	Close ties with foreign national
C: Foreign Preference	Personal ties with foreign country (passport, citizenship)
D: Sexual Behavior	Compulsive behavior, criminal behavior (impacts judgment)
E: Personal Conduct	Omissions/lies/dishonesty during background investigation
F: Financial Considerations	Delinquent debt, fraud, unexplained wealth
G: Alcohol Consumption	Alcohol incidents at work, diagnosis of addiction/abuse
H: Drug Involvement	Drug abuse, possession/sale, failure to complete treatment
I: Emotional, Mental, and Personality Disorder	Pattern of high-risk/irresponsible behavior, failure to follow treatment plan, indication that judgment is not reliable
J: Criminal Conduct	Any allegation of criminal conduct, regardless of charges
K: Security Violations	Unauthorized disclosure of classified information
L: Outside Activities	Service (paid/unpaid) to foreign government/person
M: Misuse of Information Technology Systems	Illegal/unauthorized entry/modification of any IT system or removal/introduction of information to IT system

WHAT SHOULD BE INCLUDED IN THE REBUTTAL?
An individual's response should admit or deny every item cited in the SOR, and should specifically refute, mitigate, or provide an explanation for each security concern. The relevant guideline's mitigating factors provide the structure for responding. Generic, unsubstantiated statements are not helpful. The individual can (and should) include additional evidence for DCSA CAS to consider.

WHAT HAPPENS AFTER THE REBUTTAL IS SUBMITTED?
The commander will recommend whether the individual's clearance should be restored or revoke. DCSA CAS then makes a determination within 60 days, but no later than 90 days, after receiving the rebuttal. The decision is forwarded to the individual.

IF DCSA CAS DECIDES TO REVOKE A CLEARANCE EVEN AFTER RECEIVING THE REBUTTAL, WHAT OPTIONS ARE AVAILABLE?
The individual may either request reconsideration or appeal.

A request for reconsideration must be submitted within 60 days of receipt of the revocation notification, and may only be used when the individual has new information to provide in mitigation or rebuttal. The request for reconsideration also requires the individual's commander to endorse the request and recommend restoration.

An appeal is submitted to the Army Personnel Security Appeals Board (PSAB). If an individual wants to appeal, they must submit their intent to appeal within 10 calendar days of receiving the revocation determination. The person has 30 calendar days to actually submit the appeal. If the individual wants to appeal with an in-person appearance, the appeal is first submitted to the Defense Office of Hearings and Appeals (DOHA). DOHA will review the facts of the case and make a recommendation to PSAB, which makes the final determination. If an individual does not request an in-person appearance, the appeal is submitted in writing directly to PSAB. PSAB's determination is final.

WHAT IF I DID NOT SUBMIT A REBUTTAL?
Failure to submit a rebuttal will result in revocation of the security clearance. An individual does not submit a rebuttal, they do still have the option of appealing either in writing or in person.