

***Adjudicative Guideline K:
Handling Protected
Information Short
Student Guide***

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Adjudicative Guideline K: Handling Protected Information

Introduction

Welcome to the Adjudicative Guideline K: Handling Protected Information Short. In this Short you will review two applicants' completed background investigation files and make a national security trust determination.

The learning objective is listed below:

- Review completed national security investigative files and make a national security trust determination based on Guideline K: Handling Protected Information.

Meet Jennifer and George

Meet Jennifer Dudek. She is a 34-year-old linguistic analyst employed by a U.S. Government contractor. Jennifer recently applied for and accepted an analyst position. The position requires Top Secret eligibility and access. Jennifer submitted the required paperwork to initiate her national security background investigation through her security office.

Now let's meet George Avigael. He is a 55-year-old intelligence analyst employed by a U.S. Government contractor. He was recently promoted to another division within his company. The new position requires Secret eligibility and access. George submitted paperwork to initiate his national security background investigation through his security office.

These cases have been assigned to you. Before reviewing Jennifer and George's completed investigation files and making a national security trust determination, let's review some background information on the adjudicator's role in examining cases.

Adjudicator's Role

The most important part of an adjudicator's job is to examine a sufficient period of an individual's life to determine whether the individual is an acceptable security risk. This task should never be taken lightly, as cleared personnel may eventually have access to classified information. Adjudicators take into consideration all available and reliable information, both favorable and unfavorable from a person's past and present to form the "whole-person" concept, when making a national security trust determination.

Factors to Consider When Adjudicating

In evaluating the relevance of an individual's conduct, the adjudicator should consider the following nine factors:

- (1) The nature, extent, and seriousness of the conduct
- (2) The circumstances surrounding the conduct, to include knowledgeable participation
- (3) The frequency and recency of the conduct
- (4) The individual's age and maturity at the time of the conduct
- (5) The extent to which participation is voluntary
- (6) The presence or absence of rehabilitation and other permanent behavioral changes

- (7) The motivation for the conduct
- (8) The potential for pressure, coercion, exploitation, or duress
- (9) The likelihood of continuation or recurrence

Factors to Consider When Adjudicating – Currently Eligible

When information of a security concern becomes known about a trusted insider or an individual who is currently eligible for access to classified information or eligible to hold a sensitive position, the adjudicator should consider whether the individual:

- (1) Voluntarily reported the information
- (2) Was truthful and complete in responding to questions
- (3) Sought assistance and followed professional guidance, where appropriate
- (4) Resolved or appears likely to favorably resolve the security concern
- (5) Has demonstrated positive changes in behavior
- (6) Should have their national security eligibility suspended pending final adjudication of the information

Guideline K

Listed below is the National Security Adjudicative Guideline K: Handling Protected Information concern from Security Executive Agent Directive (SEAD) 4:

Handling protected Information states that deliberate or negligent failure to comply with rules and regulations for handling protected information – which includes classified and other sensitive government information, and proprietary information – raises doubt about an individual’s trustworthiness, judgment, reliability, or willingness and ability to safeguard such information, and is a serious security concern.

Clarifying Guidance – Protected Information

It is everyone’s obligation to protect information as required. This includes protecting information in all forms such as print or electronic. “Protected Information” encompasses classified information, other sensitive government information such as Controlled Unclassified Information, or CUI, and proprietary information.

Classified Information

Classified information is any information or material that the United States Government has determined, pursuant to an Executive Order, statute, or regulation, requires protection against unauthorized disclosure due to national security. There is guidance that must be followed to properly safeguard, store, destroy, transmit, and transport classified information.

For more information on protecting classified information, reference Department of Defense Manual, or DODM, 5200.01 Volume 3 – DOD Information Security Program: Protection of Classified Information.

Controlled Unclassified Information (CUI)

CUI is information that the United States Government creates or possesses and requires safeguarding or dissemination controls limiting its distribution to those with a lawful government purpose. CUI does not include classified information.

One sub-set of CUI is personally identifiable information, or PII. PII is unique information about an individual that can be used to distinguish their identity. Examples include social security numbers; date and place of birth; passport numbers; DOD Common Access Card, or CAC, numbers; and credit card numbers.

For more information on protecting CUI, reference DOD Instruction 5200.48 – Controlled Unclassified Information.

Proprietary Information

Proprietary information is sensitive information owned by an institution or individual that is not intended for public disclosure. It too requires protection. Proprietary information is often protected by company policies and agreements such as non-disclosure agreements, or NDAs, or system notices when logging in.

Examples of proprietary information include client lists, pricing, proposals, intellectual property, copyrights, trade secrets, and banking account information.

Everyone is responsible for protecting all information requiring protection – it is not limited to classified information.

Clarifying Guidance – Unauthorized Disclosure

Unauthorized disclosure is the communication or physical transfer of classified information or CUI to an unauthorized recipient. It is a violation to divulge non-public DOD information, classified or unclassified, to an unauthorized person. However, it is not a violation to divulge this information, via proper procedures, if the person is authorized.

Examples of Unauthorized Disclosure

Examples of unauthorized disclosure include:

- Release of classified information or CUI into the public domain such as online postings and print articles
- Willful, negligent, and inadvertent disclosures of classified information or CUI
- Improper safeguarding of information or using inappropriate measures and controls to protect classified information or CUI
- Data spills, where classified information or CUI is on an information system not authorized at the appropriate security level or doesn't have the required protection of access controls
- Espionage or activities designed to obtain, deliver, communicate, and/or transmit classified information or CUI intended to aid a foreign power

Clarifying Guidance – Whistleblower

Whistleblowing is used to report information an employee reasonably believes provides evidence of a violation of any law, rule, or regulation, gross mismanagement, a gross waste of funds, abuse of authority, or a substantial danger to public health and safety.

You are required to report wrongdoing. However, you need to go through the proper channels to report it. Follow your agency's whistleblower policy for reporting wrongdoing. Every agency has their own reporting procedures.

It is unlawful for an employer to retaliate against an employee for making a "protected disclosure." A protected disclosure is based on a reasonable belief that wrongdoing has occurred. It must be made to a person or entity that is authorized to receive it. If you do not follow correct procedures when reporting a wrongdoing, there may be adverse consequences.

Reference Security Executive Agent Directive, or SEAD 9, Whistleblower Protection, and your agency's policy, for more information on this topic.

Investigative File Review – Jennifer

Now that you have reviewed the guideline and guidance, your task is to review Jennifer and George's completed background investigation files and make a national security trust determination. Please note that other adjudicative guidelines may apply.

In this case you will focus only on Guideline K: Handling Protected Information. Let's start with Jennifer. While reviewing Jennifer's investigative file and Standard Form 86, or SF 86, you read that she was previously placed on administrative leave after she mishandled classified documents.

Jennifer Dudek: Investigative File

- Jennifer had Secret eligibility and access in her previous position. Four months ago, Jennifer voluntarily resigned from her former position after she was placed on paid administrative leave.
- Employment records indicated she was placed on administrative leave after her supervisor discovered two classified documents marked "Secret" in her unlocked desk drawer and reported the incident to the company Facility Security Officer (FSO). She refused to attend additional training and resigned.
- During the subject interview, Jennifer stated that she had stored classified documents in her desk drawers on other occasions too because it made it easier for her to accomplish her work. She stated she usually kept the drawer locked.
- Jennifer indicated that she had received counseling for a prior incident as well and was directed to receive additional training from her former company's FSO. She stated she never completed the training because she was too busy at work. She also stated that although she knew storing

documents in her desk drawer was a security violation, she felt confident that it was sufficient protection.

- Jennifer feels that it really shouldn't be a big deal, since she no longer works for the company and never let anyone look at the documents. She feels that she should be trusted as she now knows what to do.

Knowledge Check – Disqualifying Conditions

Does the information in Jennifer’s file raise a valid security concern under Guideline K: Handling Protected Information?

Review the [investigative file](#), as needed, and then select the disqualifier(s) that apply to Jennifer’s case. Check your answer in the Answer Key at the end of this Student Guide.

- (a) Deliberate or negligent disclosure of protected information to unauthorized persons, including, but not limited to, personal or business contacts, the media, or persons present at seminars, meetings, or conferences
- (b) Collecting or storing protected information in any unauthorized location
- (c) Loading, drafting, editing, modifying, storing, transmitting, or otherwise handling protected information – including images, on any unauthorized equipment or medium
- (d) Inappropriate efforts to obtain or view protected information outside one’s need to know
- (e) Copying or modifying protected information in an unauthorized manner designed to conceal or remove classification or other document control markings
- (f) Viewing or downloading information from a secure system when the information is beyond the individual’s need-to-know
- (g) Any failure to comply with rules for the protection of classified or sensitive information
- (h) Negligence or lax security practices that persist despite counseling by management
- (i) Failure to comply with rules or regulations that results in damage to the national security, regardless of whether it was deliberate or negligent
- No disqualifying conditions apply

Knowledge Check – Mitigators

Jennifer’s mishandling of classified documents is a security concern, but each Adjudicative Guideline has specific mitigating conditions that sometimes allow an applicant to be cleared in spite of the concern. Do any mitigating conditions apply to Jennifer’s case?

Review the [investigative file](#), as needed, and then select the mitigator(s) that apply to Jennifer’s case. Check your answer in the Answer Key at the end of this Student Guide.

- (a) So much time has elapsed since the behavior, or it has happened so infrequently or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment
- (b) The individual responded favorably to counseling or remedial security training and now demonstrates a positive attitude toward the discharge of security responsibilities
- (c) The security violations were due to improper or inadequate training or unclear instructions
- (d) The violation was inadvertent, it was promptly reported, there is no evidence of compromise, and it does not suggest a pattern
- No mitigating conditions apply

Summary – Jennifer

The information from Jennifer’s background investigation raised a concern under Guideline K. She failed to protect classified information by storing it in her locked desk drawer on an unspecified number of occasions. In addition, she continued to demonstrate lax security practices despite training. Both raise questions about her ability or willingness to comply with laws, rules, and regulations.

This concern cannot be mitigated.

When making a national security trust determination, remember that an investigative file may have multiple adjudicative concerns. This training Short focuses on National Security Adjudicative Guideline K.

Investigative File Review – George

Now let's look at George. Your task is to review George's completed investigation files and make a national security trust determination. Please note that other adjudicative guidelines may apply.

In this case you will focus only on Guideline K: Handling Protected Information. While reviewing George's investigative file and SF 86, you read that he had previously distributed a report that contained sensitive information. Take a moment to review [Guideline K](#), if needed.

George Avigael: Investigative File

- George has been working as a Federal contractor for the last ten years. He was recently promoted to a position as an Intelligence Analyst. This new position requires a higher eligibility.
- Employment records indicate, during his first year of employment, George created and distributed a report to his coworkers that contained sensitive information including personally identifiable information (PII). He promptly reported this mishap to his supervisor when he realized the error.
- During the investigation, it was determined that George did not initially realize the information included in the report was PII and he had not yet completed the required training on handling protected information.
- After the incident, George completed the required training and there has not been another incident noted in his record since this incident occurred.

Knowledge Check – Disqualifying Conditions

Does the information in George's file raise a valid security concern under Guideline K: Handling Protected Information?

Select the [investigative file](#), as needed, and then select the disqualifier(s) that apply to George's case. Check your answer in the Answer Key at the end of this Student Guide.

- (a) Deliberate or negligent disclosure of protected information to unauthorized persons, including, but not limited to, personal or business contacts, the media, or persons present at seminars, meetings, or conferences
- (b) Collecting or storing protected information in any unauthorized location
- (c) Loading, drafting, editing, modifying, storing, transmitting, or otherwise handling protected information – including images, on any unauthorized equipment or medium
- (d) Inappropriate efforts to obtain or view protected information outside one's need to know
- (e) Copying or modifying protected information in an unauthorized manner designed to conceal or remove classification or other document control markings

- (f) Viewing or downloading information from a secure system when the information is beyond the individual's need-to-know
- (g) Any failure to comply with rules for the protection of classified or sensitive information
- (h) Negligence or lax security practices that persist despite counseling by management
- (i) Failure to comply with rules or regulations that results in damage to the national security, regardless of whether it was deliberate or negligent
- No disqualifying conditions apply

Knowledge Check – Mitigators

George's negligent disclosure of protected information to unauthorized persons and failure to comply with the rules for the protection of sensitive information is a security concern, but each Adjudicative Guideline has specific mitigating conditions that sometimes allow an applicant to be cleared in spite of the concern. Do any mitigating conditions apply to George's case?

Review the [investigative file](#), as needed, and then select the mitigator(s) that apply to George's case. Check your answer in the Answer Key at the end of this Student Guide.

- (a) So much time has elapsed since the behavior, or it has happened so infrequently or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment
- (b) The individual responded favorably to counseling or remedial security training and now demonstrates a positive attitude toward the discharge of security responsibilities
- (c) The security violations were due to improper or inadequate training or unclear instructions
- (d) The violation was inadvertent, it was promptly reported, there is no evidence of compromise, and it does not suggest a pattern
- No mitigating conditions apply

Summary – George

The information from George's background investigation raised a concern under Guideline K. Although he was negligent in disclosing protected information to unauthorized persons, it appears to be a mistake. He has since been trained and hasn't had any issues for over 10 years. This concern can be mitigated.

When making a national security trust determination, remember that an investigative file may have multiple adjudicative concerns. This training Short focuses on National Security Adjudicative Guideline K.

Conclusion

Congratulations! You have completed the Adjudicative Guideline K: Handling Protected Information Short. You should now be able to review completed background investigative files and make a national security trust determination based on Guideline K.

For more information on the other Adjudicative Guidelines, please see the other Shorts developed by CDSE. To review the Job Aid for Guideline K: Handling Protected Information Short, access the Short's Resources.

Appendix A: Answer Key

Knowledge Check – Disqualifying Conditions – Jennifer

Does the information in Jennifer’s file raise a valid security concern under Guideline K: Handling Protected Information?

- (a) Deliberate or negligent disclosure of protected information to unauthorized persons, including, but not limited to, personal or business contacts, the media, or persons present at seminars, meetings, or conferences
- (b) Collecting or storing protected information in any unauthorized location (correct response)
- (c) Loading, drafting, editing, modifying, storing, transmitting, or otherwise handling protected information – including images, on any unauthorized equipment or medium
- (d) Inappropriate efforts to obtain or view protected information outside one’s need to know
- (e) Copying or modifying protected information in an unauthorized manner designed to conceal or remove classification or other document control markings
- (f) Viewing or downloading information from a secure system when the information is beyond the individual’s need-to-know
- (g) Any failure to comply with rules for the protection of classified or sensitive information (correct response)
- (h) Negligence or lax security practices that persist despite counseling by management (correct response)
- (i) Failure to comply with rules or regulations that results in damage to the national security, regardless of whether it was deliberate or negligent
- No disqualifying conditions apply

Feedback: *The conditions that raise a security concern and may be disqualifying in Jennifer’s case include storing protected information in an unauthorized location, failure to comply with rules for the protection of classified or sensitive information, and negligence or lax security practices that persist despite counseling by management.*

Knowledge Check – Mitigators – Jennifer

Do any mitigating conditions apply to Jennifer’s case?

- (a) So much time has elapsed since the behavior, or it has happened so infrequently or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgement
- (b) The individual responded favorably to counseling or remedial security training and now demonstrates a positive attitude toward the discharge of security responsibilities
- (c) The security violations were due to improper or inadequate training or unclear instructions
- (d) The violation was inadvertent, it was promptly reported, there is no evidence of compromise, and it does not suggest a pattern

- No mitigating conditions apply (correct response)

Feedback: *The disqualifying conditions cannot be mitigated in this case.*

Knowledge Check – Disqualifying Conditions – George

Does the information in George’s file raise a valid security concern under Guideline K: Handling Protected Information?

- (a) Deliberate or negligent disclosure of protected information to unauthorized persons, including, but not limited to, personal or business contacts, the media, or persons present at seminars, meetings, or conferences (correct response)
- (b) Collecting or storing protected information in any unauthorized location
- (c) Loading, drafting, editing, modifying, storing, transmitting, or otherwise handling protected information – including images, on any unauthorized equipment or medium
- (d) Inappropriate efforts to obtain or view protected information outside one’s need to know
- (e) Copying or modifying protected information in an unauthorized manner designed to conceal or remove classification or other document control markings
- (f) Viewing or downloading information from a secure system when the information is beyond the individual’s need-to-know
- (g) Any failure to comply with rules for the protection of classified or sensitive information (correct response)
- (h) Negligence or lax security practices that persist despite counseling by management
- (i) Failure to comply with rules or regulations that results in damage to the national security, regardless of whether it was deliberate or negligent
- No disqualifying conditions apply

Feedback: *The conditions that raise a security concern and may be disqualifying in George’s case include negligent disclosure of protected information to unauthorized persons and failure to comply with the rules for the protection of sensitive information.*

Knowledge Check – Mitigators– George

Do any mitigating conditions apply to George’s case?

- (a) So much time has elapsed since the behavior, or it has happened so infrequently or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgement (correct response)
- (b) The individual responded favorably to counseling or remedial security training and now demonstrates a positive attitude toward the discharge of security responsibilities (correct response)
- (c) The security violations were due to improper or inadequate training or unclear instructions (correct response)

- (d) The violation was inadvertent, it was promptly reported, there is no evidence of compromise, and it does not suggest a pattern (correct response)
- No mitigating conditions apply

Feedback: *The disqualifying conditions can be mitigated in this case because so much time has elapsed since the behavior. In addition, once he realized the error, he reported it. At the time of the incident, he had not yet completed his training on handling protected information. He has since completed the required training and responded favorably to it. In addition, the violation was inadvertent; and he has not had another incident since his training.*