



INTELLIGENCE

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SEP 11 2013

MEMORANDUM FOR DOD COMPONENT SECURITY POLICY CHIEFS

SUBJECT: DoD Homeland Security Presidential Directive-12 (HSPD-12) Investigative and Adjudicative Guidelines

- References: (a) HSPD-12, "Policy for a Common Identification Standard for Federal Employees and Contractors," August 27, 2004
(b) Office of Management and Budget Memorandum, M-05-24, August 5, 2005
(c) U.S. Office of Personnel Management Memorandum, "Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD-12," July 31, 2008
(d) Directive-Type Memorandum (DTM) 08-006 – "DoD Implementation of Homeland Security Presidential Directive – 12 (HSPD-12)" November 26, 2008
(e) Directive-Type memorandum (DTM) 08-003, "Next Generation Common Access Card (CAC) Implementation Guidance" December 1, 2008
(f) Federal Information Processing Standard 201 (FIPS Pub 201-02), "Personal Identity Verification (PIV) of Federal Employees and Contractors," August 2013
(g) DoD Directive 5220.6, "Defense Industrial Personnel Security Clearance Review Program," January 2, 1992
(h) Parts 731, 732, and 736 of Title 5, Code of Federal Regulations

References (a) and (b) established the requirement and implementing instructions for HSPD-12. Reference (c) provides final government-wide credentialing standards to be used by all agencies in determining whether to issue, deny, or revoke Personal Identity Verification (PIV) credentials for their employees and contractor personnel, including those who are non-United States citizens. In DoD, the PIV is the Common Access Card (CAC). References (d) and (e) established interim DoD policy pending promulgation of DoD Instructions, which are under development. Reference (f) superseded Federal Information Processing Standard 201-1 and reaffirmed the reconsideration (appeal) process requirement identified therein.

The proposed Department of Defense Instruction (DoDI) 5200.kk, "Investigative and Adjudicative Guidelines for Issuing the Common Access Card (CAC)," contains DoD-specific policy and procedures, to include appeals processes, for CAC issuance. All DoD components concurred with this draft issuance during the formal coordination process. The Office of the Deputy General Counsel for Intelligence deemed this document to be legally sufficient on August 14, 2013. This proposed DoDI is currently pending Office of Management and Budget approval. When the DoDI 5200.kk is promulgated, the overarching national policy remains in effect.



To assist your HSPD-12 implementation efforts, please consider the following reconsideration (appeal) process extracted from the proposed DoDI 5200.kk:

a. Individuals who have been denied a CAC or have had a CAC revoked due to an unfavorable credentialing determination must be entitled to appeal the determination in accordance with the following procedures:

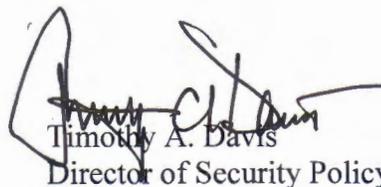
(1) Except as stated in paragraph b, new civilian and contractor applicants who have been denied a CAC may elect to appeal to a three member board comprised of not more than one security representative and one human resources representative.

(2) Contractor employees outside the purview of the National Industrial Security Program, who have possessed a CAC granted without consideration of a CAC personnel security investigation and the CAC credentialing standards contained in this Instruction, and who have subsequently had their CAC revoked based on the CAC credentialing procedures required by this policy, may appeal the unfavorable determination to the Defense Office of Hearings and Appeals in accordance with the established administrative process set out in Reference (g).

b. The appeal process does not apply when a CAC is denied or revoked as a result of either a negative suitability determination consistent with part 731 of Reference (h) or a decision to deny or revoke a security clearance or eligibility for a sensitive national security position, since the person is already entitled to seek review in accordance with applicable suitability or national security procedures. Likewise, there is no right to appeal when the decision to deny the CAC is based on the results of a separate determination to disqualify the person from an appointment in the excepted service or to bar the person from working for or on behalf of a Federal agency.

c. The DoD Component will notify the individual in writing of the final determination and provide a statement that this determination is not subject to further appeal.

Please feel free to contact us with any questions. The Security Policy and Oversight Directorate point of contact is Mr. Phil Krebs at (703) 604-1113 or Philip.c.krebs.ctr@mail.mil.


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