



Security Clearance Appeals Process

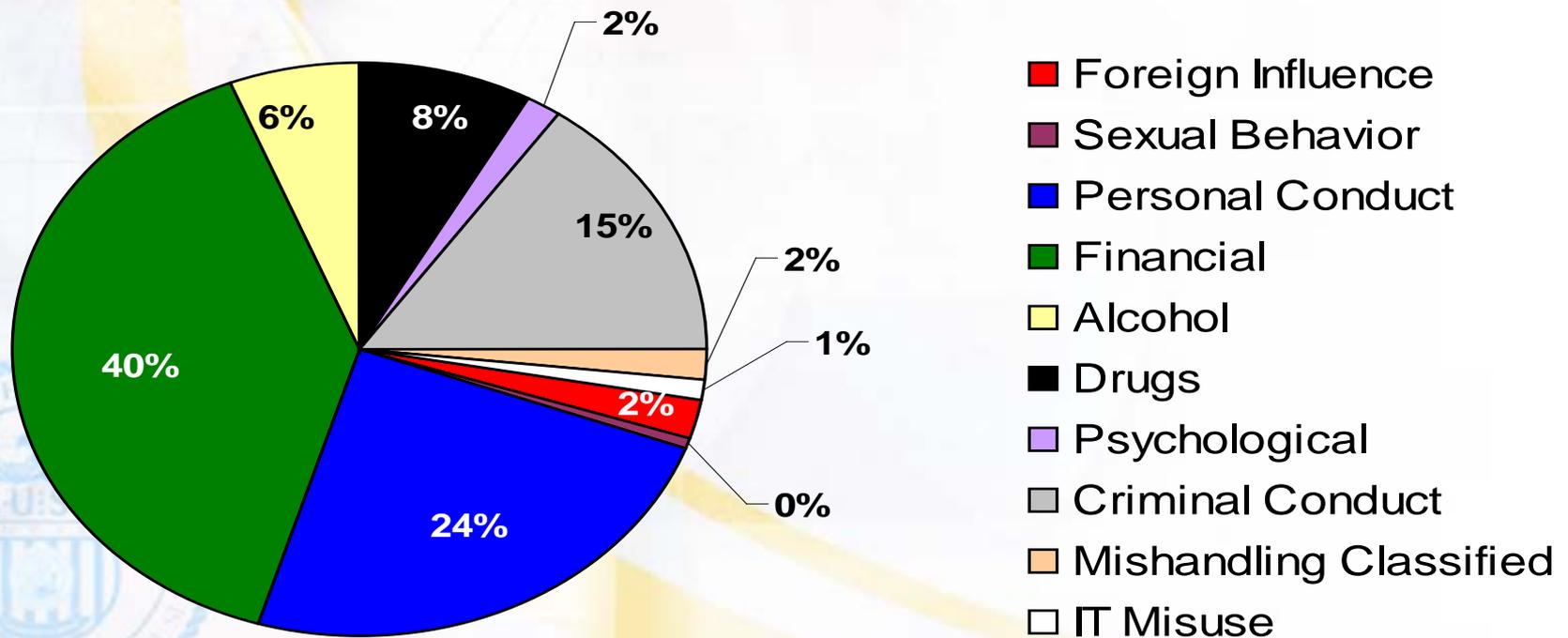


13 Adjudicative Guidelines

- Allegiance to the United States
- Foreign Influence
- Foreign Preference
- Sexual Behavior
- Personal Conduct
- Financial Considerations
- Alcohol Consumption
- Drug Involvement
- Psychological Conditions
- Criminal Conduct
- Handling Protected Information
- Outside Activities
- Use of Information Technology Systems

Being denied a security clearance or having your security clearance revoked can have lasting effects that ripple through your personal and professional life. Most of the time this can be avoided by taking a few small actions, which will be discussed.

Personal Conduct, Financial Considerations and Criminal Conduct account for approximately 80% of the Department of the Navy denial issues. (based on 2009 statistics)



CY2009 Statistics

Lets Start with the major players and the roles they play.

DONCAF who are they and what do they do?

The **Department Of Navy Central Adjudications Facility**: Adjudicates the background investigations and identifies potentially disqualifying information and makes the initially suitability determination.

DOHA who are they and what do they do?

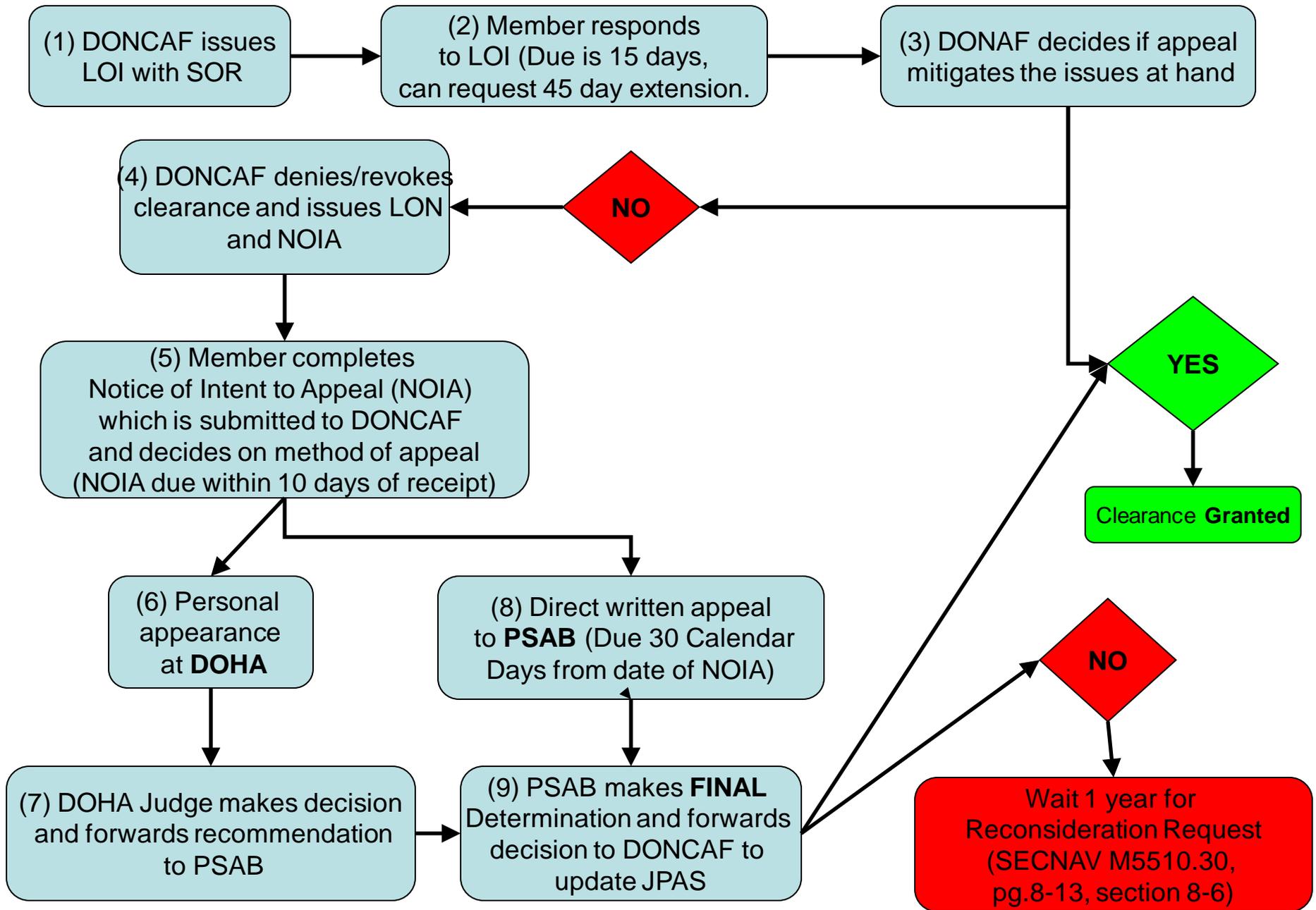
The **Defense Office of Hearings and Appeals**: provides the member an opportunity to make a personal appearance and discuss the issues at hand. DOHA then sends their *recommendation* to the PSAB.

PSAB who are they and what do they do?

The **Personnel Security Appeals Board**: Is the **Final Decision Authority** for all Dept of Navy unfavorable personnel security determinations.

The next slide will show how the process flows and how each office is related to one another. This process assumes that the individual decides to appeal the DONCAF decision.

WORKFLOW DIAGRAM



“INTENT TO DENY ELIGIBILITY FOR SECURITY CLEARANCE” What is it and what does it mean?

Stage 1:

The Letter of Intent or LOI as it is called is a warning that something in your background Investigation will need to be addressed or your security clearance may be revoked or denied.

The LOI is accompanied by a document called the Statement of Reasons (SOR). This document is issued by the Department of the Navy Central Adjudication Facility (DONCAF) and indicates exactly what was found in your background investigation that will need to be addressed.



Appealing the DONCAF LOI/SOR

Stage 2:

If you receive an LOI with SOR it is vital that you ***take action immediately***. The SOR can be used as a road map to form your appeal. The SOR will list the exact reasons that need to be mitigated before the security clearance can be granted/reinstated. And will provide insight as to the types of documents you should try to obtain to help your case.

The BEST thing to do is use the SOR as a template and find/provide proof that **every item in question** can be mitigated. At this stage it is absolutely vital that you provide documentation to support your claims.

(Example: Saying that a debt that is included on your credit report is an error is not as convincing as a letter from the creditor stating that the debt was reported in error and will be removed from the credit report.)

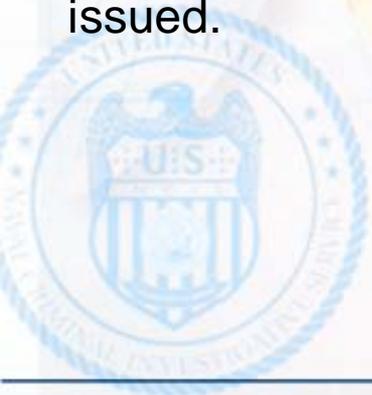


Stage 3:

The Appeal to the LOI/SOR is forwarded from the member's command directly to DONCAF. The documents, statements and command endorsements will be carefully weighed to determine if the SOR issues have been properly mitigated.

YES: If the documents provided have successfully mitigated ALL issues listed on the SOR then your security clearance/Eligibility for access to a sensitive position will be granted and the process is over.

NO: If your LOI Appeal documents are not sufficient to mitigate ALL issues on the SOR, then your clearance/eligibility access will be denied and an LON will be issued.





“FINAL DENIAL/REVOCAION OF ELIGIBILITY FOR SECURITY CLEARANCE” What is it and what does it mean?

Stage 4:

This letter is referred to as the Letter of Notification (LON) and serves as notice that your Security Clearance or access to a sensitive position has been officially denied or revoked.

This will tell you in general terms that your original appeal to the LOI/SOR was not sufficient and that more information is required to mitigate the issues listed on the SOR. The LON will tell you the overall issues (i.e. personal conduct and/or financial considerations) at hand and will refer you back to the SOR to reference the exact personal or financial issues that still need to be mitigated.

Upon receipt of this letter your access to classified information and/or assignment to sensitive duties will be immediately terminated. (per the instructions for Handling the Letter of Notification.)

Stage 5:

The LON issued by DONCAF will be accompanied by a document called the Notice of Intent to Appeal (NOIA). This document gives the member the opportunity to choose whether or not to try and appeal the denial/revocation and the method in which to appeal.

There are **two** options in which to appeal.

- Submit a written appeal directly to the PSAB. (Stage 8)
- Appear before a DOHA Administrative Judge who will, in turn, forward a recommendation to the PSAB. (Stage 6)

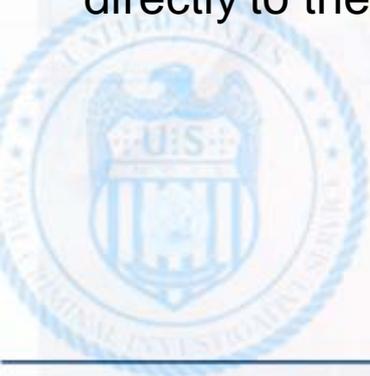
Regardless of the choice that is made this document will need to be returned to DONCAF within 10 calendar days of receipt before further action can take place.

Stage 6:

If you choose to make a personal appearance before an Administrative Judge (AJ), you will be contacted by DOHA to schedule the appearance. Once your hearing is completed the AJ will write a recommendation based on all information provided and forward the recommendation to the PSAB (Stage 7) who makes the final determination.

Stage 8:

If you choose to make a direct written appeal to the PSAB, you will be required to provide any mitigating documents, statements, command endorsement, etc. directly to the PSAB within 30 calendar days of signing the NOIA.



Stage 9.

The Personnel Security Appeals Board will review ALL documentation to include the member's appeal documents, the AJ's recommendation and the historic case file provided by DONCAF and make a final determination based on the whole person concept.

YES: If the PSAB decides to overturn the DONCAF denial the clearance will be granted or reinstated. (May be a "conditional" reinstatement whereby certain conditions will be placed on the appellant for them to retain their clearance).

NO: If the PSAB decides to uphold the DONCAF decision the appeal process will be closed and the member will have to wait one year from the date of the final decision before they can request a reconsideration.

[SECNAV 5510.30, pg. 8-13, section 8-6]

The key to a successful appeal is **PROOF**.

Since the vast majority of denials/revocations are based on financial issues, we will use that as our example.

If your SOR listed a number of bad debts, you will want to find documentation to show that you have satisfied the debt or that you are working on a resolution.

-A letter from the creditor stating that the debt has been satisfied is the **BEST** way to do this.

-Letter from your creditor documenting a payment or payments that have been made can show that you are working toward a resolution.

-A CANCELLED check payable to the creditor is sufficient to document payments. (but remember providing a copy of just the front of the check does not prove that the payment was completed!)

-A Current credit report clearly stating that the debt has been “Paid”, “Paid in full”, “Settled in Full” may also be sufficient provided the account numbers can be verified and the same debt in question on the SOR.

Documentation that does not satisfy the requirements:

- Copy of the front of a check written to your creditor. (without indication that the check has been cancelled, there is no proof of payment)
- Copies of Money Orders
- Simply stating that the Debt has been satisfied. (at this stage it is not what you say it is what you can prove)
- If you plan to satisfy your debts VIA a Debt Management Plan. Simply enrolling in the plan will not be sufficient documentation. You will need to provide documents that indicate exactly which debts are included in the Debt Management Plan. You will also have to show a history of making the required monthly payments to this plan. The earlier you begin this process the better as it gives you more time to demonstrate a good-faith effort to resolve your debts.

Career Impact

Failure to maintain your security clearance can have lasting effects throughout your career and even your personal life.

- There is possibility of a rate conversion, which may have significant impact on future advancement and promotion boards.
- Even if no rate conversion, working outside your rate for a period of time due to clearance issues will most often have a negative effect on your fitreps/evals.
- Possibility of being forced to retire or discharged from service.
- Difficulty gaining employment in private sector due to employment/clearance issues.
- If your command and/or Big Navy allows you to stay, once the clearance is denied/revoked you will have to wait one year before you can request a reconsideration per (SECNAV M. 5510.30, Sec 8-6, page 8-13.)

TIPS!

BE HONEST!!

Not listing arrests, financial issues, drug use, etc. will come back to haunt you later and only hurts more in long run if it is found that you were trying to be deceptive.

DONCAF will pull a credit report and criminal record. You cannot hide this!

It is always a good idea to pull your own credit report in order get clear picture of your current debts, before applying for a security clearance. And especially at the beginning of your appeal process assuming financial considerations is a concern.



QUIZ

1.) Who is the FINAL decision authority?

- A) DONCAF
- B) DOHA
- C) PSAB
- D) SOR

2.) When you receive a LON with NOIA from DONCAF, how many calendar days do you have to complete it and submit to DONCAF?

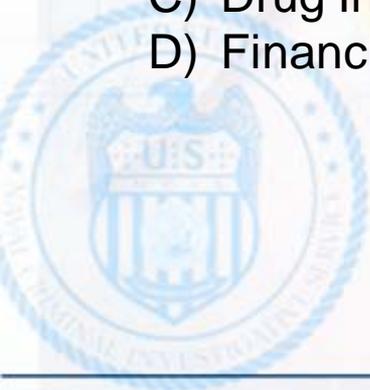
- A) 10 calendar days
- B) 15 calendar days
- C) 30 calendar days
- D) 60 calendar days

3.) Which of the following is NOT one of the adjudicative Guidelines?

- A) Outside Activities
- B) Security Violations
- C) Financial Considerations
- D) Personal Conduct

4.) Which of the following adjudicative guidelines is the most common reason for having a clearance denied or revoked?

- A) Criminal Conduct
- B) Personal Conduct
- C) Drug Involvement
- D) Financial Considerations



- 5.) If you choose to appeal directly to the PSAB via a written appeal, when is your appeal due?
- A) 30 Calendar days from the date of the LON
 - B) 60 Calendar days from the date of the LON
 - C) 30 Calendar days from the date of the your signing the NOIA
 - D) 60 Calendar days from the date of the your signing the NOIA
- 6.) Career Impact. Which of the following is least likely to happen if your clearance is denied or revoked?
- A) Rate conversion, which may have significant impact on future advancement and promotional boards.
 - B) Possibility of being forced to retire
 - C) Possibility of being discharged from service
 - D) World Peace

7.) When your security clearance is denied by PSAB (the final decision authority for Dept. of Navy) how long must one wait before requesting reconsideration?

- A) 60 Calendar days from date of final decision
- B) 90 Calendar days from date of final decision
- C) 6 Months from date of final decision
- D) 1 Year from date of final decision

8.) Which document provides you with the exact reason that your clearance was denied and can be used as your “Road Map” for creating your appeal package?

- Statement of Reasons (SOR)
- Notice of Intent to Appeal (NOIA)
- Letter of Notification (LON)
- Letter of Intent (LOI)

- 9.) Once your DOHA appearance is completed the AJ will.
- A) Render the final decision and inform DONCAF of the results
 - B) Render the final decision and inform PSAB of the results
 - C) Write a recommended decision and forward to PSAB to make final decision
 - D) Write a recommended decision and forward to DONCAF to make final decision
- 10.) Which is an acceptable form of documentation to mitigate financial consideration issues?
- A) Copy of the front of a check written to your creditor
 - B) Copy of a money order
 - C) Letter from the creditor stating the debt has been satisfied
 - D) Stating that the debt has been satisfied with no documentation to support the claim.



UNITED STATES NAVAL CRIMINAL INVESTIGATIVE SERVICE

