

d. DoD Components without an authorized PCA program may request PCA support through the DoD PCA program manager from one of the organizations listed in Enclosure 1 of Reference (d).

e. Examinee privacy shall be protected in accordance with DoDD 5400.11 (Reference (g)), DoD 5400.11-R (Reference (h)), and, as appropriate, section 1564a of title 10, U.S.C. (Reference (f)).

f. Polygraph and PCASS examinations require the consent of the examinee. The examinee may withdraw consent and terminate the examination at any time during any phase of the examination. Polygraph examinations require consent in writing in accordance with subparagraph 4.a.(1) of Enclosure 4.

g. PCA examinations are a supplement to, not a substitute for, other methods of screening or investigation. No unfavorable administrative action (to include access, employment, assignment, and detail determinations) shall be taken solely on the basis of either a refusal to undergo a PSS examination or an unresolved PSS examination, except as provided in sections 6 and 7 of Enclosure 4.

h. Before a polygraph examination is administered, other investigative activity shall be completed when practical. This does not apply when the examination is administered as part of a PSS examination.

i. The polygraph is the only authorized PCA technology for screening of U.S. persons. This does not apply to approved research and testing of PCA technologies.

j. All PCA examinations shall undergo a QC review according to Enclosure 7. Where operational exigencies preclude an immediate or timely QC review, DoD Components shall conduct the review as soon as practical and provide an official notification of the results to the requestor.

k. DoD Components shall comply with polygraph countermeasure (CM) detection awareness training requirements and anti-CM procedures in accordance with section 7 of Enclosure 4.

l. DoD Components authorized to conduct PCA examinations shall write internal PCA policies and procedures consistent with Reference (a) and this Instruction. The policies and procedures shall address:

- (1) Approval authorities.
- (2) Categories and types of authorized examinations.
- (3) Polygraph examiner and/or PCASS operator selection, supervision, certification, and decertification.

Such examinations are subject to legal stipulations between attorneys and the DIA CAP.

4.18.3. (U) The polygraph examiner and the examinee's legal counsel will agree, in advance, to the terms of the DIA specific-issue polygraph examination. However, the DIA CAP will not conduct examinations under proposed stipulations that would violate Federal polygraph or CAP standards or unreasonably interfere with the conduct of the examination.

4.19. (U) Pursuant to Reference (c), DIA will only accept polygraph examinations and the results of such examinations conducted by active Federal polygraph examiners trained and authorized to administer such examinations.

4.20. (U) Pursuant to Reference (d), Chief, CAP may exempt personnel from conducting the DoD semiannual minimum number of polygraph examinations.

4.21. (U) Applicants for employment, assignment, or detail to DIA, including military and civilian personnel and contractors nominated for access to DIA systems, facilities, or information, who refuse to take or fail to successfully complete a CSP examination will not be hired, selected, or assigned.

4.22. (U) DIA personnel who refuse to take or fail to successfully complete a DIA-administered CSP examination in connection with continued employment, assignment, or detail in the DIA, may be denied assignment, detail, or access to classified information. They may also be reassigned to less sensitive duties, have restrictions placed on their mobility, be returned to their parent military Service, or be subject to removal.

4.23. (U) Contractors who refuse to take or fail to successfully complete a DIA-administered CSP examination may be removed from the applicable DIA contract. DIA, at its sole discretion, may restrict the number of polygraph sessions afforded a contractor to complete a CSP examination.

4.24. (U) DIA personnel who refuse to take or fail to successfully complete a DIA-administered ESS polygraph examination, when required in connection with extension of an overseas assignment, may be returned to the United States.

4.25. (U) Any deliberate alteration of one's natural physiology during the course of a DIA CAP administered polygraph examination will be viewed, regardless of motivation, as a threat to DIA and national security.

4.25.1. (U) DIA personnel who engage, or coach or collaborate with others to engage, in purposeful non-cooperation or deliberate tactics that undermines the validity or reliability of a polygraph examination will be subject to administrative or disciplinary action including suspension, loss of access or security clearance, and removal from DIA.

4.25.2. (U) Civilian applicants for hire, and civilian and military personnel and contractors newly nominated for access to DIA systems, facilities, or information, that engage in

d. DoD Components without an authorized PCA program manager shall be advised by the DoD PCA program manager from one of the organizations listed in Enclosure 4.

e. Examinee privacy shall be protected in accordance with DoD 5400.11-R (Reference (h)), and, as appropriate, section 4.4 of Enclosure 4.

f. Polygraph and PCASS examinations require the consent of the examinee. The examinee may withdraw consent and terminate the examination at any time. Polygraph examinations require consent in writing in accordance with subparagraph 4.a.(1) of Enclosure 4.

g. PCA examinations are a supplement to, not a substitute for, other methods of screening or investigation. No unfavorable administrative action (to include access, employment, assignment, and detail determinations) shall be taken solely on the basis of either a refusal to undergo a PSS examination or an unresolved PSS examination, except as provided in sections 6 and 7 of Enclosure 4.

h. Before a polygraph examination is administered, other investigative activity shall be completed when practical. This does not apply when the examination is administered as part of a PSS examination.

i. The polygraph is the only authorized PCA technology for screening of U.S. persons. This does not apply to approved research and testing of PCA technologies.

j. All PCA examinations shall undergo a QC review according to Enclosure 7. Where operational exigencies preclude an immediate or timely QC review, DoD Components shall conduct the review as soon as practical and provide an official notification of the results to the requester.

k. DoD Components shall ensure that personnel are aware of the requirements of Enclosure 4.

l. DoD Components shall ensure that policies and procedures are consistent with the requirements of Enclosure 4.

(1) A

(2) C

(3) P  
decertification

g. PCA examinations are a supplement to, not a substitute for, other methods of screening or investigation. No unfavorable administrative action (to include access, employment, assignment, and detail determinations) shall be taken solely on the basis of either a refusal to undergo a PSS examination or an unresolved PSS examination, except as provided in sections 6 and 7 of Enclosure 4.

authorized to administer such examinations.

4.20. (U) Pursuant to Reference (d), Chief, CAP may exempt personnel from conducting the DoD semiannual minimum number of polygraph examinations.

4.21. (U) Applicants for employment, assignment, or detail to DIA, including military and civilian personnel and contractors nominated for access to DIA systems, facilities, or information, who refuse to take or fail to successfully complete a CSP examination will not be hired, selected, or assigned.

4.22. (U) DIA personnel who refuse to take or fail to successfully complete a DIA-administered CSP examination in connection with continued employment, assignment, or detail in the DIA, may be denied assignment, detail, or access to classified information. They may also be reassigned to less sensitive duties, have restrictions placed on their mobility, be returned to their parent military Service, or be subject to removal.

4.23. (U) Contractors who refuse to take or fail to successfully complete a DIA-administered CSP examination may be removed from the applicable DIA contract. DIA, at its sole discretion, may restrict the number of polygraph sessions afforded a contractor to complete a CSP examination.

4.22. (U) DIA personnel who refuse to take or fail to successfully complete a DIA-administered CSP examination in connection with continued employment, assignment, or detail in the DIA, may be denied assignment, detail, or access to classified information. They may also be reassigned to less sensitive duties, have restrictions placed on their mobility, be returned to their parent military Service, or be subject to removal.

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b. An issue-based polygraph examination shall not be conducted before the examinee has been previously interviewed and given the opportunity to address the relevant issues. The examinee should not be subjected to prolonged interrogation immediately prior to the polygraph.

c. Questions probing a person's religious, racial, or political beliefs and lawful affiliations that are not related directly to the investigation are prohibited.

d. The polygraph examiner's field analysis of polygraph data does not constitute an official result. The result is official only after the QC authority examines the data and renders a final opinion.

6. REFUSAL TO TAKE OR COMPLETE A PSS. DoD-affiliated personnel who refuse to take or complete a polygraph examination, and are in positions designated as requiring a PSS polygraph examination as part of determining initial eligibility for access to Top Secret, SAP, or other sensitive intelligence or operational information or for initial assignment or detail to the CIA or other IC elements, may be denied access, assignment, or detail.

7. FAILURE TO RESOLVE A PSS. DoD-affiliated personnel in positions cited in section 6 of this enclosure who are unable to resolve all relevant questions of a PSS shall be so advised. The results of the examination shall be forwarded to the requesting agency.

a. If, after reviewing the examination results, the requesting agency determines that they raise a significant question relevant to the individual's eligibility for a security clearance or continued access, the individual shall be given an opportunity to undergo additional examination.

b. If the additional examination fails to resolve all relevant questions, the Head of the DoD Component may initiate a CI investigation in accordance with DoD policy.

c. Additionally, the Head of the relevant DoD Component may temporarily suspend an individual's access to controlled information and deny the individual assignment or detail that is contingent on such access, based upon a written finding that, considering the results of the examination and the extreme sensitivity of the classified information involved, access under the circumstances poses an unacceptable risk to the national security. Such temporary suspension of access may not form the part of any basis for an adverse administrative action or an adverse personnel action.

d. The individual shall be advised in writing of the determination, that the determination may be appealed to the Head of the relevant DoD Component, and that his or her final determination is conclusive.

## 8. APPEALS

# Code of Federal Regulations

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## Title 32 - National Defense

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Volume: 1

Date: 2001-07-01

Original Date: 2000-07-01

Title: Subpart A - General Provisions

Context: Title 32 - National Defense. Subtitle A - Department. SUBCHAPTER E - SECURITY. PART 154 - DEPARTMENT OF DEFENSE PERSONNEL SECURITY PROGRAM REGULATION.

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### Subpart A—General Provisions

#### § 154.3 Definitions.

(bb) **Unfavorable administrative action**. Adverse action taken as the result of personnel security determinations and unfavorable personnel security determinations as defined in this part.

(cc) **Unfavorable personnel security determination**. A denial or revocation of clearance for access to classified information; denial or revocation of access to classified information; denial or revocation of a Special Access authorization (including access to SCI); nonappointment to or nonselection for appointment to a sensitive position; nonappointment to or nonselection for any other position requiring a trustworthiness determination under this part; reassignment to a position of lesser sensitivity or to a nonsensitive position; and nonacceptance for or discharge from the Armed Forces when any of the foregoing actions are based on derogatory information of personnel security significance.