

## When Your Security Clearance Is Suspended

*"In accordance with U.S. governmentwide standards set forth in Executive Orders 10450 and 12968, Governmentwide Adjudicative Guidelines and Department of State regulations, the Office of Personnel Security and Suitability (DS/SI/PSS) has determined that your continued access to classified information is not clearly consistent with the interests of national security. Your Top Secret security clearance is suspended pending the vetting of a DS investigation."*

When you started your Foreign Service career, you never imagined that you would receive a notification like that. Unfortunately, misconduct or allegations of misconduct both inside and outside of work hours could lead to such a letter.

As noted in 3 FAM 4376, "because of the uniqueness of the Foreign Service, employees are considered to be on duty 24 hours a day and must observe especially high standards of conduct during and after working hours and when on leave or in travel status."

In AFSA's experience, the most common reasons for suspended clearances are failure to report foreign contacts, lack of candor during investigations conducted by Diplomatic Security and the Office of the Inspector General, illegal behavior or behavior which could make

one vulnerable to coercion (e.g., frequenting prostitutes, affairs that have not been disclosed to the employee's spouse), failure to pay taxes, and a pattern of rules violations.

### The Waiting Game

*What happens next?* The short answer is—you wait.

Individuals with a suspended security clearance have no grievance or appeal rights from the suspension decision, because it is considered an "interim measure" and not an "adverse action."

Historically, those individuals with suspended clearances remain in pay status, and the department generally places them in a DG over-complement status and/or assigns them to positions that do not require access to classified information. With the December 2016 passage of the FY17 State Authorization Act which includes language in Section 415 allowing "suspension without duties" for those with suspended security clearances, this practice may change.

The Act permits, *but does not require*, the Secretary of State to place a member of the Service in a "temporary status without duties" when the member's security clearance is suspended. When read in conjunction with the Administrative Leave Act of 2016, this Act does not appear to significantly change the existing practice.

However, to date AFSA has not heard from the department regarding its interpretation.

If your security clearance is revoked, you will be given notice of the reasons

for the revocation and the opportunity to respond. If the assistant secretary for Diplomatic Security upholds the revocation, you can appeal that decision to the Department of State's Security Appeals Panel. Note: all foreign affairs agencies have similar appeal procedures.

*How long do you have to wait for the review of your case to be completed?* The short answer is—it depends.

AFSA has seen cases range from six months to, in one extreme case, nine years. Based on cases seen by AFSA's Labor Management Office in the last five years, the average suspension lasts 21 months.

*What is happening during those 21 months?* Several things.

Whether it is a decision to suspend, revoke or reinstate an employee's clearance, DS has a seven-layer internal process for reviewing and clearing on a recommendation to the director of DS. This internal process includes reviews by the DS/SI/PSS and Legal (L/M/DS).

If, following the review, a determination is made to recommend suspension or



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revocation of the employee's clearance, the decision must be made by the senior coordinator for security infrastructure (DS/SI) and approved by the director of DS. If the

recommendation is approved by the director, the employee is notified of the suspension or revocation.

### Due Process Rights

While there are no grievance or appeal rights from a decision to suspend their security clearance, employees do still have procedural due process rights, albeit limited, should their security clearance be revoked.

These include the right to representation; the right to request a copy of the investigatory file, as permitted by national security and other applicable law; the right to refute or rebut the department's case for the revocation decision; and the right to appeal any adverse decision to the Security Appeal Panel.

If you are advised that your security clearance has been revoked or is under review, we strongly urge you to contact AFSA as soon as possible, so that the Labor Management team can help you navigate the process. Contact information is available on the AFSA website; [www.afsa.org/member-guidance](http://www.afsa.org/member-guidance). ■

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