§ 709.17 Final disposition of CI evaluation findings and recommendations.

(a) Following completion of a CI evaluation, the Director of the Office of Intelligence and Counterintelligence must recommend, in writing, to the appropriate Program Manager that the covered person’s access be approved or retained, or denied or revoked.

(b) If the Program Manager agrees with the recommendation, the Program Manager notifies the covered person that the covered person’s access has been approved or retained, or denied or revoked.

§ 709.16 Application of Counterintelligence Evaluation Review Boards in reaching conclusions regarding CI evaluations.

(a) General. If the results of a counterintelligence evaluation are not dispositive, the Director of the Office of Intelligence and Counterintelligence may convene a Counterintelligence Evaluation Review Board to obtain the individual views of each member as assistance in resolving counterintelligence issues identified during a counterintelligence evaluation.

(b) Composition. A Counterintelligence Evaluation Review Board is chaired by the Director of the Office of Intelligence and Counterintelligence (or his/her designee) and includes representation from the appropriate line Program Managers, lab/site/facility management (if a contractor employee is involved), NNSA, if the unresolved issues involve an NNSA covered person, the DOE Office of Health, Safety and Security and security directors for the DOE or NNSA site or operations office.

(c) Process. When making a final recommendation under §709.17 of this part, to a Program Manager, the Director of Intelligence and Counterintelligence shall report on the Counterintelligence Evaluation Review Board’s views, including any consensus recommendation, or if the members are divided, a summary of majority and dissenting views.

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§ 709.17 Final disposition of CI evaluation findings and recommendations.

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§ 709.21 Requirements for notification of a polygraph examination.

When a polygraph examination is scheduled, the DOE must notify the covered person, in writing, of the date, time, and place of the polygraph examination, the provisions for a medical waiver, and the covered person’s right to obtain and consult with legal counsel or to secure another representative prior to the examination. DOE must provide a copy of this part to the covered person. The covered person must receive the notification at least ten days, excluding weekend days and holidays, before the time of the examination except when good cause is shown or when the covered person waives the advance notice provision.

§ 709.22 Right to counsel or other representation.

(a) At the covered person’s own expense, a covered person has the right to obtain and consult with legal counsel or another representative. However, the counsel or representative may not be present during the polygraph examination. Except for interpreters and signers, no one other than the covered person and the examiner may be present in the examination room during the polygraph examination.

(b) A covered person has the right to consult with legal counsel or another representative at any time during an interview conducted in accordance with §709.15 of this part.

§ 709.23 Obtaining consent to a polygraph examination.

DOE may not administer a polygraph examination unless DOE:

(a) Notifies the covered person of the polygraph examination in writing in accordance with §709.21 of this part; and

(b) Obtains written consent from the covered person prior to the polygraph examination.

§ 709.24 Other information provided to a covered person prior to a polygraph examination.

Before administering the polygraph examination, the examiner must:

(a) Inform the covered person that audio and video recording of each polygraph examination session will be made, and that other observation devices, such as two-way mirrors and observation rooms, also may be employed;

(b) Explain to the covered person the characteristics and nature of the polygraph instrument and examination;

(c) Explain to the covered person the physical operation of the instrument and the procedures to be followed during the examination;

(d) Review with the covered person the relevant questions to be asked during the examination;

(e) Advise the covered person of the covered person right against self-incrimination; and

(f) Provide the covered person with a pre-addressed envelope, which may be used to submit a quality assurance