Student Guide

Introduction to Suitability Adjudications for the DoD

Course Overview

Course Introduction

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Imagine three individuals: Ernie, Tracey, and Lynn. Ernie has recently been laid off from his job in the private sector and is looking for civilian employment within the DoD. Years ago, Ernie was convicted of driving while intoxicated. He completed an alcohol treatment program, but he continues to struggle with alcohol abuse. Tracey is an experienced billing systems specialist applying for a position at a military installation. This position requires a high degree of public trust. Tracey has a history of theft in the workplace and was terminated from her last job. Lynn is applying for an executive administrative assistant position within the Defense Security Service, or DSS. Her resume lists a master's degree from a prestigious university but a background investigation reveals that she never actually attended college.

Which of these folks is suitable for federal employment? How will you decide?

The individuals in these examples are applying for civilian positions that require varying degrees of trust, but each of them also has character flaws and a history of conduct that could affect his or her ability to perform federal job duties with appropriate integrity, efficiency, and effectiveness. As a suitability adjudicator for the DoD, it is your job to determine whether people like these are suitable for employment in the DoD.

Welcome to the Introduction to Suitability Adjudications for the DoD course.

This course provides an introduction to DoD Suitability Adjudications. Per DoDI 1400.25, Volume 731, DoD Suitability Adjudicators are also required to use the U.S. Office of Personnel Management, Federal Investigative Services Division, and "Suitability Processing Handbook," dated September 2008 when making all suitability determinations for covered positions. Designated DoD Suitability Adjudicators can obtain the handbook directly from the Office of Personnel Management or their respective agency/component.

Course Objectives

The overarching purpose of adjudications is to ensure that all individuals working in the DoD are loyal, trustworthy, and of good conduct. In this course you will learn about suitability adjudications in the DoD and the role that suitability plays in protecting the integrity of the federal civil service. You will learn the basic phases of suitability and the responsibilities of OPM and the agency or component during each of these phases. Finally, you will learn the specific role the DoD adjudicator plays in conducting suitability adjudications. Here are the course objectives.

- Identify the purpose of suitability adjudications
- Recognize the legal and regulatory framework that governs suitability adjudications
- Identify the responsibilities of OPM, the agency, and the adjudicator in determining suitability
- Identify the types of investigations used to support suitability adjudications
- Identify the basic evidence standards for suitability actions
- Identify the eight suitability factors and seven additional considerations used in suitability adjudications

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Introduction to Suitability Adjudications for the DoD

Lesson 1: Introduction to Suitability

Introduction

Objectives

Suitability refers to identifiable character traits and conduct that indicate whether an individual is likely to be able to carry out the duties of a federal job with integrity, efficiency, and effectiveness. At the most fundamental level, the suitability program has one purpose: to ensure that individuals are suitable for employment in the federal government.

This lesson will briefly review the three main types of adjudications and will then focus on suitability. It will discuss the purpose and importance of suitability adjudications and introduce the basic elements of the suitability process. Finally, it will review the legal and regulatory foundations of suitability adjudications.

Lesson Objectives

- Identify the purpose of suitability review and adjudications
- Identify the basic elements of the suitability process
- Identify the legal and regulatory foundations of suitability adjudications

Overview of Adjudications

Purpose of Adjudications

In order to access classified information, perform sensitive duties, work in the competitive or excepted federal service, or receive credentials to access DoD-controlled facilities or information systems, DoD employees and contractor personnel must undergo investigation and adjudication by trusted government personnel.

During an adjudication, trusted government personnel evaluate pertinent information obtained from background investigations and other reliable sources to ensure that all individuals who work for the DoD are loyal, trustworthy, and of good conduct.

Types of Adjudications

There are three main types of adjudications in the DoD: national security adjudications, suitability adjudications, and Homeland Security Presidential Directive (HSPD) 12 adjudications. National security adjudications determine whether an individual is eligible to access classified information or perform sensitive duties that could result in an unacceptably adverse effect on national security.

Suitability adjudications determine whether an individual is suitable for employment in the federal government. In some cases, the suitability adjudication is more extensive and may determine whether an individual should be allowed to hold a position requiring public trust. Along the lines of suitability adjudications, fitness determinations ensure that individuals working in excepted service positions or as defense contractors are suitable to hold those positions.

Finally, HSPD-12 adjudications determine who may be issued credentials for physical access to DoD-controlled facilities or logical access to information systems such as secure computers and networks. Note that in some cases, individuals must be adjudicated for both national security and suitability. In these cases, the suitability adjudication occurs first to ensure that the individual is suitable for employment before valuable time and resources are invested in a national security adjudication.

Although this course focuses specifically on suitability adjudications, it is important for you to be aware of the other types of adjudications so that you can better understand how suitability fits into the bigger picture of protecting the interests of the federal government.

What are Suitability Adjudications?

Recall that the fundamental purpose of the suitability program is to determine suitability for federal employment. To be considered suitable for employment in the federal competitive service, individuals must meet certain criteria established by the Office of Personnel Management (OPM). They must demonstrate that they will maintain high standards of conduct. They must be of good character and reputation. They must be trustworthy. And they must be suitable to perform the duties of the position.

Suitability applies to several categories of employees. Related to suitability is the concept of fitness, which applies to different categories of employees but often holds people to standards similar to those used for suitability. Note that suitability and fitness determinations are distinct from the assessment of an individual's job qualifications. Although an individual may have the skills necessary for federal employment, he or she will not be eligible for federal employment unless he or she also demonstrates appropriate standards of conduct.

Subjects of Suitability

The requirements of the suitability program apply to all applicants for employment as well as all appointees and employees already serving in covered positions that are subject to investigation. These covered positions include positions in the federal competitive service, excepted service positions that can be converted to competitive service positions, and career appointments to positions in the Senior Executive Service (SES). Depending on the position's level of risk, some of these covered positions may also be considered positions of public trust, which are often subject to stricter adjudicative standards.

Subject of Fitness

Fitness determinations apply to defense contractors who need regular access to federally controlled facilities or information systems as well as excepted service employees whose positions cannot be converted to the competitive service. Because they fall outside the requirements of OPM's suitability program, fitness determinations are not necessarily subject to the same adjudicative criteria. However, within the DoD, fitness criteria are left to the discretion of individual agencies and components, which are strongly advised to follow the suitability criteria in their fitness determinations.

NOTE: The information in the box below will not be on the test but is included here as additional information that may provide useful background and insight.

Term	Definition/Explanation
Applicant	A person who is being considered or has been considered for employment
Appointee	A person who has entered the service and is in the first calendar year of a subject-to-investigation appointment
Employee	A person who has completed the first year of a subject-to-investigation appointment
Competitive service	Federal competitive service *jobs are subject to the civil service laws passed by Congress to ensure that applicants and employees receive fair and equal treatment in the hiring process.*
Excepted service	Federal excepted service positions are subject to rules established by the respective agencies and are not subject to federal competitive qualification requirements, appointment, pay, and classification rules.

Elements of the Suitability Process

Determining an individual's suitability for federal employment includes five main elements: position designation, preinvestigation, investigation, adjudication, and reinvestigation. For each position, DoD personnel must evaluate its risk level and sensitivity to determine what type of investigation is required and how closely the subject should be screened.

A preinvestigation review, called the Applicant Suitability Review and Evaluation, is then conducted based on the applicant's employment documents and other preinvestigation materials. If the review is favorable, the applicant completes the appropriate investigative forms, which DoD personnel also review for potential suitability issues. If no issues are present, an investigation is initiated. The actual investigation is conducted by an OPM investigator, who gathers various types of information based on the type of investigation required. Once all required information has been collected, an adjudicator from the employing agency or component reviews and assesses it to make a suitability determination. In the future, favorable suitability determinations will be made at the DoD Consolidated Adjudications Facility (DoD CAF). Cases that cannot be determined favorable will be adjudicated by the component or agency.

All individuals in public trust positions are subject to periodic reinvestigation every five years. And all other positions are subject to reinvestigation as needed based on various factors, such as risk-level changes, reemployment, or the discovery of new information that raises questions about a person's suitability. Any time a reinvestigation occurs, a new adjudication must follow to review and assess the new information and make a new suitability determination. Later lessons will cover each of these elements in more detail.

Legal Foundations of Suitability Adjudications

Authority for Suitability

The authority to adjudicate suitability is documented in several key laws and regulations. Congress granted the ultimate authority for suitability to the President in Title 5 of the United States Code. Sections 3301 and 7301 authorize the President to ascertain the fitness of applicants for federal employment.

Presidential Authority
• Regulates admission of individuals into the civil service • Ascertains applicant fitness • Regulates employee conduct in Executive Branch

In 1954, President Dwight D. Eisenhower delegated this authority to OPM with Executive Order 10577, which established OPM's jurisdiction over appointments to the competitive service. Congress further defined OPM's authority over the suitability program in several laws, which authorize OPM to enforce civil service rules, to regulate examinations for federal employment, and to evaluate the effectiveness of agency compliance with suitability program requirements.

OPM Authority
• Has jurisdiction over appointments to competitive service • Enforces civil service rules • Regulates examinations for federal employment • Evaluates the effectiveness of agency compliance with suitability program requirements

Together, these policy documents grant agencies like the DoD the authority to administer and implement the suitability program within their respective components.

Agency Authority
• Delegates to the heads of agencies the authority for making suitability determinations and taking suitability actions

Other Laws and Regulations

In addition to the laws authorizing responsibility for suitability adjudications, there are several other key policy documents that further expand and define the suitability program.

Two recent executive orders expand the scope of the suitability program. In 2008, President George W. Bush issued Executive Order 13467, which established alignment and reciprocity of suitability investigations and adjudications across all federal agencies. The following year, he issued Executive Order 13488, which authorized reinvestigations for certain positions and established reciprocity for fitness determinations.

The regulations governing the suitability program appear in Title 5 of the Code of Federal Regulations (CFR). Five CFR part 731 establishes and maintains OPM's policies and procedures governing suitability investigations and adjudications, including the procedures for taking suitability actions and the general process for appealing a suitability action. Five CFR part 1201 provides procedures for appeals of suitability actions to the Merit Systems Protection Board (MSPB).

In August 2012, a new DoD Instruction was issued which established and implemented policy for suitability and fitness adjudications for civilian employees (covers nonappropriated fund (NAF) positions). DoDI 1400.25 establishes procedures, provides guidelines and model programs, delegates authority and assigns responsibilities regarding suitability and fitness adjudications within the DoD.

Precedent-Setting Cases

The OPM suitability program has been shaped by more than just policy. Throughout the program's history, many people have appealed unfavorable suitability determinations, and the resulting decisions have influenced both the nature and the scope of the suitability program.

A suitability case may set a precedent when it is appealed beyond the initial decision to the full board of the Merit Systems Protection Board (MSPB) or to the federal court system. These decisions fall into different categories, addressing different aspects of the suitability process. Some decisions have helped to define the evidence standards, not only establishing the standards for how evidence is collected but also shaping the ways in which evidence is evaluated. And yet others have served to uphold the established evidence standards. Others have addressed the credibility of witness testimonies as a form of evidence. In addition to cases related primarily to evidence standards, some decisions have affirmed the authority of the MSPB. And finally, several decisions have addressed the issue of falsification as it relates to an individual's suitability for federal employment.

NOTE: The information in the boxes below will not be on the test but is included here as additional information that may provide useful background and insight.

Standards of evidence

Cases on standards of evidence:

1981: Borninkhof v. Dept. of Justice

- Set forth the evidence standards
- Evaluated the probative value or substantiation of hearsay evidence

1986: Patch v. OPM

- An allegation made in a notice of proposed removal is not evidence that the allegation is true
- Claims of rehabilitation of employment issues cannot be considered unless evidence is provided
- Past conduct can be considered regardless of actions taken by previous employers

1997: Woodward v. OPM

- Discussed how the factors from Borninkhof should be applied to the evidence in an investigation to determine probative value or substantiation

2006: Doerr v. OPM

- An agency or component must demonstrate by preponderant evidence that the appellant's conduct or character may have a negative effect on the integrity or efficiency of the service

Credibility of witness testimony

Cases on credibility of witness testimony:

1987: Hillen v. Dept. of Army

- Discussed the factors upon which a determination concerning the credibility of a witness is based

2004: Jones v. Dept. of Interior

- A sworn statement has greater evidentiary weight than an unsworn statement

Authority of MSPB

Cases on the authority of the Merit Systems Protection Board:

1997: Hanker v. Dept. of Treasury

- Law enforcement positions require a higher standard of conduct/degree of public trust
- In the absence of a plausible explanation, the MSPB may infer an intent to deceive

2005: Folio v. Dept. of Homeland Security

- Addressed the MSPB's review of the additional considerations and the relationship between them and the specific suitability factors

Falsification

Cases on falsification:

1980: Tucker v. United States

- To sustain a charge of submitting false information on government documents, the agency or component must prove that the employee knowingly supplied incorrect information with the intent to defraud

1985: McCreary v. OPM

- A sworn statement has greater evidentiary weight than an unsworn statement
- Removal for falsification of government documents promotes the efficiency of the service because it raises serious doubt about honesty and fitness
- Successful performance has no relevance if employee was appointed as a result of falsification

1985: DeAngelis v. OPM

- Falsification raises serious doubts as to honesty and fitness for employment
- Hindsight is not an argument in defense of falsification

1986: Kissner v. OPM

- A false statement in an application need not be contained in the application for the position from which the employee is being removed
- Nexus may be presumed between intentional falsification of an employment application and the efficiency of the service
- An employee later correcting false information on an employment document is not absolved from previous false statements

Review Activity

Review Activity 1

The purpose of suitability adjudications is to ensure that all applicants, appointees, and employees of the federal government _____.

Select all that apply.

- ☐ Are suitable to perform duties of the position
- ☐ Are qualified for the position
- ☐ Are trustworthy
- ☐ Demonstrate high standards of conduct
- ☐ Are of good character and reputation

Review Activity 2

Read each question below. Select the best response for each.

1 of 5: Which element of the suitability process involves gathering information on the subject's background to meet the investigative requirements of the position?

- ○ Position designation
- ○ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ○ Reinvestigation

2 of 5: Which element of the suitability process involves evaluating a position's levels of risk and sensitivity to determine the type of investigation required?

- ○ Position designation
- ○ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ○ Reinvestigation

3 of 5: Which element of the suitability process occurs as needed based on factors, such as risk-level changes, reemployment, or the discovery of new information?

- ○ Position designation
- ○ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ○ Reinvestigation

4 of 5: Which element of the suitability process applies suitability criteria to the subject's investigation to make a suitability determination?

- ○ Position designation
- ○ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ○ Reinvestigation

5 of 5: Which element of the suitability process involves reviewing employment documents and other preinvestigative materials for potential suitability issues?

- ○ Position designation
- ○ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ○ Reinvestigation

Review Activity 3

Which of the following would you consult for regulations governing suitability adjudications?

Select the best response.

- ○ Executive Order 13488
- ○ Title 5, Code of Federal Regulations, part 731
- ○ Executive Order 10577
- ○ Title 5, U.S. Code

Answer Key - Review Activities

Review Activity 1

The purpose of suitability adjudications is to ensure that all applicants, appointees, and employees of the federal government _____.

Select all that apply.

- ☑ Are suitable to perform duties of the position
- ☐ Are qualified for the position
- ☑ Are trustworthy
- ☑ Demonstrate high standards of conduct
- ☑ Are of good character and reputation

Feedback*: The purpose of suitability adjudications is to ensure all applicants, appointees, and employees of the federal government demonstrate high standards of conduct, are of good character and reputation, are trustworthy, and are suitable to perform the duties of the position. Ensuring DoD employees are qualified to perform their job duties is not a purpose of suitability adjudications.*

Review Activity 2

Read each question below. Select the best response for each.

1 of 5: Which element of the suitability process involves gathering information on the subject's background to meet the investigative requirements of the position?

- ○ Position designation
- ○ Preinvestigation
- ⦿ Investigation
- ○ Adjudication
- ○ Reinvestigation

Feedback*: During the investigation, an investigator gathers information on the subject's background to meet the investigative requirements of the position.*

2 of 5: Which element of the suitability process involves evaluating a position's levels of risk and sensitivity to determine the type of investigation required?

- ⦿ Position designation
- ○ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ○ Reinvestigation

***Feedback**: During the position designation, DoD personnel evaluate the position's levels of risk and sensitivity to determine what type of investigation is required.*

3 of 5: Which element of the suitability process occurs as needed based on factors, such as risk-level changes, reemployment, or the discovery of new information?

- ○ Position designation
- ○ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ⦿ Reinvestigation

***Feedback**: Reinvestigation occurs as needed based on changes in a position's risk or sensitivity, reemployment, or discovery of new information*

4 of 5: Which element of the suitability process applies suitability criteria to the subject's investigation to make a suitability determination?

- ○ Position designation
- ○ Preinvestigation
- ○ Investigation
- ⦿ Adjudication
- ○ Reinvestigation

***Feedback**: During the adjudication, an adjudicator applies suitability criteria to the subject's investigation to make a suitability determination.*

5 of 5: Which element of the suitability process involves reviewing employment documents and other preinvestigative materials for potential suitability issues?

- ○ Position designation
- ⦿ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ○ Reinvestigation

Feedback*: A preinvestigation review, called the Applicant Suitability Review and Evaluation, is conducted based on the applicant's employment documents and other preinvestigation materials. If the review is favorable, the applicant completes the appropriate investigative forms, which DoD personnel also review for potential suitability issues.*

If no issues are present, an investigation is initiated.

Review Activity 3

Which of the following would you consult for regulations governing suitability adjudications?

Select the best response.

- ○ Executive Order 13488
- ⦿ Title 5, Code of Federal Regulations, part 731
- ○ Executive Order 10577
- ○ Title 5, U.S. Code

Feedback*: Title 5 CFR Part 731 outlines OPM regulations for suitability investigations and adjudications.*

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Introduction to Suitability Adjudications for the DoD

Lesson 2: Overview of the Suitability Process

Introduction

Objectives

The suitability process has four distinct phases: activities that occur before the investigation, the investigation itself, the adjudication, and the activities that occur after the adjudication. Before we can fully examine each of these phases, it is important to understand who is responsible for what parts of the suitability process and what tools are available to support this process.

This lesson will take a broad look at each of the phases. It will discuss the responsibilities of the Office of Personnel Management (OPM), and the DoD in determining a person's suitability. It will also review the main DoD and OPM information systems used in suitability review and adjudication.

Lesson Objectives

- Identify the phases and the general timeline of the suitability process
- Identify the responsibilities of OPM, the agency, and the adjudicator in carrying out key steps of the suitability process
- Identify databases and information systems used in suitability adjudications

Suitability Basics

When Does Suitability Apply

As you have learned, suitability applies to all applicants, appointees, and employees of the federal competitive service. But who are these people? And when does suitability actually apply?

Consider John Ryan, a recent college graduate embarking on his first job in the real world. He is applying for a position as a program analyst for the U.S. Marine Corps that will require him to work on base at Quantico, Virginia.

Now consider Carol Phelps, a former recruiter for the Defense Acquisition University who left the federal service eight years ago to care for her family. Now that her kids have reached school age, she is looking to resume her career in the federal workforce.

Finally, consider Ray Miller, a long-time finance analyst for the Defense Logistics Agency who has recently been promoted to chief accounting officer, a more sensitive position that carries with it a higher level of risk.

Which of these individuals is subject to the requirements of the suitability program? The answer is: they all are.

As an applicant for new employment in the federal competitive service, Mr. Ryan is the most obvious subject of a suitability adjudication. However, Ms. Phelps is also subject because she is seeking reemployment after a break in service of more than two years. Finally, even though Mr. Miller has been continuously employed with the DoD, he too is subject to a suitability adjudication because his new position has a higher level of risk than his previous position did. Other conditions that could require a new suitability adjudication for an existing employee include changes in duty, changes in assignment, or the discovery of new information that may come to light through self-reporting or in the media.

Alignment and Reciprocity

Let's consider another civilian employee of the DoD. Lucy Day, a new contract specialist at the Defense Contracting Management Agency, recently transferred from the General Services Administration, where she had worked for four years as a contract specialist. As a new employee of the DoD, is Ms. Day subject to a new suitability adjudication?

The answer is no.

In this case, the laws governing alignment and reciprocity come into play. Established by Executive Order 13467, alignment and reciprocity of adjudications serve to ensure fair treatment of all federal employees and prevent costly duplication of effort across agencies. Alignment refers to the consistent standards and methods that are employed across all federal agencies to ensure that all federal employees receive equal treatment regardless of which agency conducts the adjudication.

Reciprocity refers to the mutual acceptance of a suitability determination by all government agencies regardless of which agency issued the determination, as long as it meets or exceeds the suitability requirements of the new position. Sometimes, however, reciprocity won't apply.

Take the example of Joe Roberts.

Joe Roberts
Current Position: Criminal Investigator at the Defense Criminal Investigative Service **Previous Position**: Intelligence Analyst at the Department of Homeland Security

His new position involves duties that are more sensitive than his previous position. For this reason, a higher level of investigation is required, and, therefore, a new suitability adjudication.

The Suitability Process

Phases of Suitability

Remember Mr. Ryan, our applicant for new employment? Let's follow him as he goes through the basic suitability process. Even before Mr. Ryan submits his application for employment, the suitability process is underway. DoD personnel have already evaluated the position's risk and sensitivity levels to determine what type of investigation will be required for the successful applicant.

Once Mr. Ryan submits his application, HR personnel will review it not only to assess his ability to perform the job duties, but also to identify any information that would automatically disqualify him from federal employment. This preinvestigation review is called the Applicant Suitability Review and Evaluation. Assuming that no presumptively disqualifying information arises, Mr. Ryan will receive a tentative job offer. HR or security personnel will then initiate his background investigation and ask Mr. Ryan to submit an electronic investigative questionnaire. At this point, OPM personnel will conduct the investigation based on the requirements of the position. When the investigation is complete, OPM will send it back to the DoD for adjudication.

If Mr. Ryan is deemed suitable for employment, then the suitability process ends here. Depending on the circumstances. Mr. Ryan may be subject to reinvestigation in the future. If Mr. Ryan was deemed unsuitable for employment, then he will be subject to a suitability action, such as cancellation from eligibility for federal employment or debarment. If he is deemed unsuitable, then Mr. Ryan will have the opportunity to appeal the resulting suitability action using established due process procedures.

Suitability Timeline

So how much time is typically required to complete the full adjudication process? The typical turnaround time for a suitability determination is approximately 80 days from the time of a tentative offer of employment. The 80-day period covers both the

investigation and the adjudication, with each phase taking approximately 40 days. Typically, a tentative offer of employment precedes the suitability adjudication, but the employee may not begin working until the adjudication is complete.

However, agencies use an interim suitability process to the greatest extent practical to allow an appointee to begin work before a full investigation and adjudication have occurred. In such cases, the appointee is still subject to fingerprinting and initial checks, such as FBI and law enforcement checks, before he or she can begin working. And even though the appointee may begin working, his or her continued employment is still contingent on a favorable suitability determination. Interim suitability is not usually granted for sensitive positions, but the decision is left to the discretion of individual agencies, which have their own lists of preliminary checks.

Roles and Responsibilities in Suitability

OPM and the DoD

Let's look at the roles and responsibilities of OPM and the DoD in the suitability process. The overall responsibility for suitability adjudication falls to OPM. OPM is authorized to delegate this responsibility, to other agencies, as it has done for the DoD. However, OPM remains actively involved in several capacities.

As the designated suitability authority, OPM provides oversight of the entire DoD suitability program. For the most part, DoD agencies and components conduct their own adjudications. However, in cases involving evidence of material, intentional false statements, deception or fraud in examination or appointment, or refusal to furnish testimony, OPM must conduct the adjudication.

OPM is also responsible for issuing government-wide debarments and conducting suitability investigations.

OPM and Suitability
OPM role: • Has overall responsibility for suitability • Oversees agency adjudications **OPM responsibilities:** • May delegate suitability authority to agency • Adjudicates cases involving material, intentional false statement, deception, or fraud in examination or appointment or evidence of a refusal to furnish testimony • Issues government-wide debarments • Conducts investigations

Agencies and components have their own distinct responsibilities in supporting suitability adjudications. They must adhere to OPM's procedural and reporting requirements. They must also inform OPM of any cases requiring OPM adjudication. And lastly, they are responsible for keeping records of all suitability determinations and actions.

DoD and Suitability
Agency/component role: • Adjudicates suitability of all DoD covered positions unless there is evidence of material, intentional false statement deception or fraud in examination or appointment, or evidence of a refusal to furnish testimony **Agency/component responsibilities:** • Adheres to OPM procedural and reporting requirements • Informs OPM of cases requiring OPM adjudication • Keeps records of DoD suitability determinations and actions

Information Systems Used in Suitability

Introduction to Information Systems

Several different information systems support the suitability process. Some are electronic tools used early in the suitability process to enter information for later use. And others are database systems that store information and facilitate information sharing to support reciprocity across federal agencies. OPM and DoD each have unique systems that support suitability.

OPM Systems

OPM provides several systems that support the overall suitability process. Two of these are tools used in the Preinvestigation phase of suitability. Recall that the suitability process starts with position designation. The Position Designation Automated Tool (PDT) supports this element. Later, the investigation is initiated using e-QIP, the Electronic Questionnaires for Investigations Processing system.

OPM also provides two centralized database systems that support the remaining phases of suitability by communicating and storing investigative records and adjudicative results. These centralized database systems are the Central Verification System (CVS) and the Personnel Investigations Processing System (PIPS).

PDT

OPM developed the PDT to ensure a systematic and consistent position designation process. The PDT is a standalone tool that agencies and components use to assess a position's levels of risk and sensitivity to determine

the position designation. That designation determines the type of investigation required for the position.

e-QIP

e-QIP is a secure, web-based system that OPM owns and maintains. It completely automates the application process. Authorized individuals use it to initiate investigations. Subjects then use it to enter their personal information directly into the system.

CVS

The CVS is OPM's centralized database supporting reciprocity and information sharing within the federal government. The CVS houses information on all types of investigations and adjudications, including those used to support suitability and fitness determinations.

Because multiple federal agencies use the CVS, it supports reciprocity of security and suitability determinations. Before requesting an investigation, agencies should check the CVS to see whether an existing adjudication or investigation meets the current need.

PIPS

OPM's PIPS system maintains the Security/Suitability Investigations Index (SII) a centralized database that records investigations conducted by OPM and other authorized investigative agencies.

PIPS provides an agency or component's security office direct access to OPM records and allows agencies to monitor the progress of their cases and report adjudicative decisions.

Through PIPS, adjudicators query the SII database before initiating any adjudicative actions to ensure the records they have received are correct and up to date. DoD Suitability Adjudicators may access PIPs through CVS.

DoD Systems

In addition to the OPM systems, the DoD has its own centralized databases and systems to support security and suitability adjudications. The Joint Personnel Adjudication System (JPAS) is a centralized database that securely connects DoD security personnel around the world. It is used extensively by DoD adjudicators to record adjudicative actions and determinations.

The Defense Civilian Personnel Data System (DCPDS) is a human resources information support system for civilian personnel operations in the DoD. It captures

position information to include position risk and sensitivity. Finally, the Joint Verification System (JVS) is a future centralized database system that the DoD will adopt as part of its new Defense Information System for Security.

Review Activity

Review Activity 1

Read the questions below. Select the best response for each.

1 of 4: Which phase of the suitability process involves adjudicating a subject's investigation based on suitability criteria?

- ○ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ○ Reinvestigation

2 of 4: Which phase of the suitability process includes position designation, prescreening, and initiation of the investigation?

- ○ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ○ Reinvestigation

3 of 4: Which phase of the suitability process includes reinvestigation and suitability actions?

- ○ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ○ Reinvestigation

4 of 4: Which element of the suitability process investigates a subject's background based on position requirements?

- ○ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ○ Reinvestigation

Review Activity 2

Who performs the adjudicative responsibilities listed below?

Select OPM or Agency for each responsibility and check your answers in the Answer Key at the end of this Student Guide.

	OPM	DoD
Conducts suitability investigations	○	○
Adjudicates suitability of DoD covered positions not involving evidence of material, intentional false statement deception or fraud in examination or appointment, or refusal to furnish testimony as required by 5 DFR 731, section 5.4	○	○
Has the authority to issue a government-wide debarment	○	○
Adjudicates cases involving deception or fraud in examination or appointment	○	○

Review Activity 3

To determine John Ryan's suitability, several information systems will be used at different stages of the suitability process.

Read the questions below. Select the best response for each.

1 of 4: Which of these systems will be used to initiate Mr. Ryan's investigation?

- ○ Central Verification System (CVS)
- ○ Position Designation Automated Tool (PDT)
- ○ Electronic Questionnaires for Investigations Processing (e-QIP)
- ○ Joint Personnel Adjudication System (JPAS)

2 of 4: Which of these systems is a centralized database that stores adjudicative actions and determinations for the DoD?

- ○ Central Verification System (CVS)
- ○ Position Designation Automated Tool (PDT)
- ○ Electronic Questionnaires for Investigations Processing (e-QIP)
- ○ Joint Personnel Adjudication System (JPAS)

3 of 4: Which of these systems will be used to determine what type of investigation is required for Mr. Ryan?

- ○ Central Verification System (CVS)
- ○ Position Designation Automated Tool (PDT)
- ○ Electronic Questionnaires for Investigations Processing (e-QIP)
- ○ Joint Personnel Adjudication System (JPAS)

4 of 4: Which of these systems should be checked to determine whether Mr. Ryan has any previous investigations or adjudications that meet the current need?

- ○ Central Verification System (CVS)
- ○ Position Designation Automated Tool (PDT)
- ○ Electronic Questionnaires for Investigations Processing (e-QIP)
- ○ Joint Personnel Adjudication System (JPAS)

Answer Key - Review Activities

Review Activity 1

Read the questions below. Select the best response for each.

1 of 4: Which phase of the suitability process involves adjudicating a subject's investigation based on suitability criteria?

- ○ Preinvestigation
- ○ Investigation
- ⦿ Adjudication
- ○ Reinvestigation

Feedback: *The phase that adjudicates the subject's investigation based on suitability criteria is called the Adjudication phase.*

2 of 4: Which phase of the suitability process includes position designation, prescreening, and initiation of the investigation?

- ⦿ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ○ Reinvestigation

Feedback*: The phase that includes position designation, prescreening, and initiation of the investigation is the Preinvestigation phase.*

3 of 4: Which phase of the suitability process includes reinvestigation and suitability actions?

- ○ Preinvestigation
- ○ Investigation
- ○ Adjudication
- ⦿ Reinvestigation

Feedback*: The phase that includes reinvestigation and suitability actions is the Postadjudication phase.*

4 of 4: Which element of the suitability process investigates a subject's background based on position requirements?

- ○ Preinvestigation
- ⦿ Investigation
- ○ Adjudication
- ○ Reinvestigation

Feedback: *The phase that investigates subject's background based on the requirements of the position is the Investigation phase.*

Review Activity 2

Who performs the adjudicative responsibilities listed below?

Select OPM or Agency for each responsibility and check your answers in the Answer Key at the end of this Student Guide.

	OPM	DoD
Conducts suitability investigations	⦿	○
Adjudicates suitability of DoD covered positions not involving evidence of material, intentional false statement deception or fraud in examination or appointment, or refusal to furnish testimony as required by 5 CFR 731, section 5.4	○	⦿
Has the authority to issue a government-wide debarment	⦿	○
Adjudicates cases involving deception or fraud in examination or appointment	⦿	○

***Feedback**:*

Conducts suitability investigations	Conducting suitability investigations is a responsibility of OPM.
Adjudicates suitability of DoD covered positions not involving evidence of material, intentional false statement deception or fraud in examination or appointment, or refusal to furnish testimony as required by 5 CFR 731, section 5.4	Adjudicating the suitability of DoD covered positions not involving evidence of material, intentional false statement deception or fraud in examination or appointment, or refusal to furnish testimony as required by 5 CFR 731, section 5.4 is a DoD responsibility.
Has the authority to issue a government-wide debarment	Issuing a government-wide debarment is an OPM responsibility.
Adjudicates cases involving deception or fraud in examination or appointment	Adjudicating cases involving deception or fraud in examination or appointment is an OPM responsibility.

Review Activity 3

Read the questions below. Select the best response for each.

To determine John Ryan's suitability, several information systems will be used at different stages of the suitability process.

1 of 4: Which of these systems will be used to initiate Mr. Ryan's investigation?

- ○ Central Verification System (CVS)
- ○ Position Designation Automated Tool (PDT)
- ⦿ Electronic Questionnaires for Investigations Processing (e-QIP)
- ○ Joint Personnel Adjudication System (JPAS)

Feedback: *e-QIP is used to initiate all investigations.*

2 of 4: Which of these systems is a centralized database that stores adjudicative actions and determinations for the DoD?

- ○ Central Verification System (CVS)
- ○ Position Designation Automated Tool (PDT)
- ○ Electronic Questionnaires for Investigations Processing (e-QIP)
- ⦿ Joint Personnel Adjudication System (JPAS)

Feedback: *JPAS is DoD's centralized database that stores adjudicative actions and determinations.*

3 of 4: Which of these systems will be used to determine what type of investigation is required for Mr. Ryan?

- ○ Central Verification System (CVS)
- ⦿ Position Designation Automated Tool (PDT)
- ○ Electronic Questionnaires for Investigations Processing (e-QIP)
- ○ Joint Personnel Adjudication System (JPAS)

Feedback: *The PDT is used to determine what type of investigation will be required based on the position's levels of risk and sensitivity.*

4 of 4: Which of these systems should be checked to determine whether Mr. Ryan has any previous investigations or adjudications that meet the current need?

- ⦿ Central Verification System (CVS)
- ○ Position Designation Automated Tool (PDT)
- ○ Electronic Questionnaires for Investigations Processing (e-QIP)
- ○ Joint Personnel Adjudication System (JPAS)

Feedback: *The CVS is OPM's key centralized database supporting reciprocity and information sharing within the federal government. Agencies should check the CVS to see whether an existing adjudication or investigation meets the current need.*

Student Guide

Introduction to Suitability Adjudications for the DoD

Lesson 3: Preinvestigative Activities

Introduction

Objectives

The preinvestigation phase of the suitability process includes all of the activities that occur before the investigation, from position designation to prescreening to the initiation of the investigation.

This lesson will take a closer look at each of these steps. Here are the lesson objectives.

- Identify the purpose of position designation
- Identify the purpose of prescreening
- Identify the process for initiation of the investigation using e-QIP
- Identify the responsibilities of individuals within the agency or component in carrying out position designation, prescreening, and the initiation of the investigation

Step 1: Position Designation

Overview of Position Designation

The first step in the suitability process, position designation evaluates a position's level of risk and sensitivity to determine what type of investigation is required and how closely to screen an applicant for a position. The responsibility for position designation falls to the agency or component's hiring manager, who will receive guidance from the Human Resources office and, as appropriate, security personnel.

Position Risk

Every covered position must be designated as low, moderate, or high risk. This determination is based on the position's potential to adversely affect the efficiency and integrity of the federal government and, by extension, the employing agency or component. As a position's levels of authority and

responsibility increase, the character and conduct of the individual become more significant in deciding whether that individual's employment will protect the integrity or promote the efficiency of the service. Positions at the moderate and high risk levels are considered positions of public trust. These positions carry a significant risk of causing damage to people, programs, or the agency or component.

NOTE: The information in the box below will not be on the test but is included here as additional information that may provide useful background and insight.

Term	Definition/Explanation
Low Risk	Positions with the potential for limited impact on a DoD program or mission, or the integrity or efficiency of the service.
Moderate Risk	Positions with the potential for moderate to serious adverse effects on the mission of the DoD
High Risk	Positions with the potential for exceptionally serious adverse effects on the mission of the DoD
Positions of Public Trust	Moderate- and high-risk positions that may involve access to, operation of, or control of: • Policy • Programs • IT systems • Public safety and health • Law enforcement • Financial or personal records • Other duties requiring a significant degree of public trust

Position Sensitivity

Every covered position must be designated as nonsensitive, noncritical sensitive, critical sensitive, or special sensitive. This determination is based on the position's potential to adversely affect national security. The position sensitivity designation must take into consideration the position's need to access classified information or perform sensitive duties that could adversely affect national security.

NOTE: The information in the box below will not be on the test but is included here as additional information that may provide useful background and insight.

Term	Definition/Explanation
Nonsensitive	Positions that do not require access to classified information and do not involve the performance of sensitive duties
Noncritical Sensitive	Positions with the potential to cause significant or serious damage to national security
Critical Sensitive	Positions with the potential to cause exceptionally grave damage to national security
Special Sensitive	Positions with the potential to cause inestimable damage to national security Policy

The Position Designation System

So -- how do hiring managers determine the proper position designation?

To support this determination and ensure a systematic and consistent position designation process across all federal agencies, OPM developed a four-step system called the Position Designation System. The first step is to assess the nature of the position in terms of both its national security requirements and its suitability requirements. The second step is to determine the position's risk -- that is, its potential to adversely affect the mission of the agency or component. The third step is to adjust the total risk score based on the program designation and the position's level of supervision. And finally, the fourth step is to determine the final position designation, which in turn determines the investigative requirements.

The PDS is supported by the Position Designation Automated Tool (PDT) which is a computer-based tool that simplifies and automates the position designation process to achieve greater efficiency. Use of the automated PDT is required within the DoD. DoD Personnel should also refer to DoD's Position Designation Guidance and their agency or component guidance when using the PDT.

Step 1: Assess Nature of Position

Step 1 assesses the nature of the position in terms of its national security and suitability requirements. First, the position must be designated as special sensitive, critical sensitive, noncritical sensitive, or nonsensitive. Next, positions designated as noncritical sensitive or nonsensitive must be further assessed based on their public trust responsibilities.

NOTE: The information in the box below will not be on the test but is included here as additional information that may provide useful background and insight.

Term	Definition/Explanation
Public Trust Responsibilities	Moderate- and high-risk positions that may involve access to, operation of, or control of: • Policy or programs • Public safety and health • Hazardous materials • Law enforcement/security • Investigation/adjudication • Financial or personal records • IT systems • Other duties requiring a significant degree of public trust

Step 2: Assess Position Risk

Step 2 determines the potential impact of the position on the mission of the agency or component and on public trust. In this step, the public trust responsibilities identified in Step 1 are assessed for the degree of potential damage that could result from misconduct in the position. For each applicable category of public trust responsibility, one of five degree ratings will be assigned: not applicable, limited impact, moderate impact, severe impact, or automatic high-risk condition. These ratings will combine to provide a total risk rating that carries forward into Step 3.

Step 3: Adjust Points

Step 3 adjusts the total risk rating to account for the scope of the program and the level of supervision and control. First, the risk points will be adjusted based on whether the program operations have the potential for worldwide or government-wide impact, multi-agency impact, or agency impact. Next, the risk points will be adjusted based on whether the position has limited supervision, periodic supervision, or close technical supervision.

Step 4: Position Designation

Step 4 determines the final position designation, which in turn determines the type of investigation required and the appropriate investigative form for initiating that investigation.

Investigative Forms

Position designation determines what type of investigation will be required and which form must be completed to initiate the investigation. There are several different types of investigations, but all are initiated with one of only three distinct investigative forms. All national security positions, regardless of the level of position risk, will require Standard Form (SF) 86, the Questionnaire for National Security Positions. Of the remaining nonsensitive positions, those designated as Moderate or High Risk positions will require SF 85P, the Questionnaire for Public Trust Positions. Those designated as Low Risk will require SF 85, the Questionnaire for Nonsensitive Positions. Applicants will be able to complete all of these forms using e-QIP.

Steps 2 and 3: Prescreening and Initiation

Prescreening

The second step in the Preinvestigation phase is prescreening. In this step, applicants are screened for any information that would automatically disqualify them from suitability. Prescreening allows the DoD to discover any presumptively disqualifying information before devoting valuable time and resources to a full investigation. The responsibility for prescreening typically falls to the human resources office at the hiring agency or component. This office will review the applicant's resume, OF-306, interview details, employment references, and other applicable documentation to verify the accuracy of all information presented as fact. This may include verification of the applicant's education, employment history, and references as well as local investigative checks.

If any suitability issues are found during the prescreening, the file is then referred to the adjudication office or the suitability adjudicator to assess issues based on applicable suitability factors. The agency or component may then find the applicant unsuitable and withdraw the offer. The agency may also initiate agency-wide debarment or refer to OPM based on seriousness of issues. Both of these steps prevent applicants applying elsewhere within an organization or within the federal government.

Initiating the Investigation

The final step in the Preinvestigative Phase is the initiation of the investigation. This is typically the responsibility of the agency or component's human resources or security office. After the applicant has accepted the tentative offer of employment, an authorized agency or component initiator checks the Central Verification System to determine whether the applicant has any prior investigations that meet the criteria of the position. JPAS may be queried to validate that there are no suspensions or holds due to pending or unresolved incident reports.

If a new investigation is indeed required, then the authorized initiator initiates the appropriate investigation in e-QIP, the Electronic Questionnaires for Investigations Processing system. Next, the applicant enters his or her personal information directly into the e-QIP application. The authorized initiator reviews the application for completeness and possible suitability issues before submitting it to OPM to conduct the investigation. This is a key step, as the investigation will not begin if the information is incomplete.

If serious suitability issues exist, the employment offer may be withdrawn and/or applicable suitability referrals and debarment actions started. Note that the investigation should be initiated before appointment or within 14 days of placement in the position.

Review Activity

Review Activity 1

Select the step described by each statement.

1 of 6: The purpose of this step is to discover any presumptively disqualifying information before conducting a full investigation.

- ○ Position designation
- ○ Prescreening
- ○ Initiation of investigation

2 of 6: The position description is reviewed during this step.

- ○ Position designation
- ○ Prescreening
- ○ Initiation of investigation

3 of 6: During this step, the applicant enters personal information into e-QIP.

- ○ Position designation
- ○ Prescreening
- ○ Initiation of investigation

4 of 6: The purpose of this step is to determine what type of investigation will be required.

- ○ Position designation
- ○ Prescreening
- ○ Initiation of investigation

5 of 6: The applicant's resume and employment references are reviewed during this step.

- ○ Position designation
- ○ Prescreening
- ○ Initiation of investigation

6 of 6: A position's levels of risk and sensitivity are assessed during this step.

- ○ Position designation
- ○ Prescreening
- ○ Initiation of investigation

Review Activity 2

Which of the following are responsibilities of individuals within the agency or component?

Select all that apply.

- ☐ Position designation
- ☐ Prescreening the applicant
- ☐ Initiating investigation in e-QIP
- ☐ Entering personal information in e-QIP
- ☐ Reviewing e-QIP application for completeness

Answer Key - Review Activities

Review Activity 1

Select the step described by each statement.

1 of 6: The purpose of this step is to discover any presumptively disqualifying information before conducting a full investigation.

- ○ Position designation
- ⦿ Prescreening
- ○ Initiation of investigation

Feedback: *The purpose of the prescreening step is to discover any presumptively disqualifying information before conducting a full investigation.*

2 of 6: The position description is reviewed during this step.

- ⦿ Position designation
- ○ Prescreening
- ○ Initiation of investigation

Feedback: *The position description is reviewed as part of the position designation process.*

3 of 6: During this step, the applicant enters personal information into e-QIP.

- ○ Position designation
- ○ Prescreening
- ⦿ Initiation of investigation

Feedback: *The applicant enters his or her personal information into e-QIP during the initiation of the investigation.*

4 of 6: The purpose of this step is to determine what type of investigation will be required.

- ⦿ Position designation
- ○ Prescreening
- ○ Initiation of investigation

Feedback: *The purpose of position designation is to determine what type of investigation will be required.*

5 of 6: The applicant's resume and employment references are reviewed during this step.

- ○ Position designation
- ⦿ Prescreening
- ○ Initiation of investigation

Feedback: *The applicant's resume and employment references are reviewed as part of the prescreening process.*

6 of 6: A position's levels of risk and sensitivity are assessed during this step.

- ⦿ Position designation
- ○ Prescreening
- ○ Initiation of investigation

Feedback: *A position's levels of risk and sensitivity are assessed as part of the position designation process.*

Review Activity 2

Which of the following are responsibilities of individuals within the agency or component?

Select all that apply.

- ☑ Position designation
- ☑ Prescreening the applicant
- ☑ Initiating investigation in e-QIP
- ☐ Entering personal information in e-QIP
- ☑ Reviewing e-QIP application for completeness

Feedback: *Position designation, prescreening, initiating the investigation, and reviewing the applicant's e-QIP application are all responsibilities of the agency or component. Entering personal information into e-QIP is a responsibility of the applicant.*

Student Guide

Introduction to Suitability Adjudications for the DoD

Lesson 4: Investigations and Evidence Standards

Introduction

Objectives

The investigation phase of the suitability process, supplies the information that will eventually be used to determine a subject's suitability for federal employment.

This lesson explores the types of investigations that are used for suitability as well as the basic evidence standards used to conduct the investigation. Here are the lesson objectives. Take a moment to review them.

- Identify the types of suitability investigations and their uses in suitability adjudications
- Identify the basic evidence standards for suitability adjudications

Overview of Suitability Investigations

The evidence to support DoD suitability adjudications comes from investigations that OPM conducts on behalf of the DoD. Not all investigations are equally detailed, however. As you have learned, the type of investigation OPM conducts depends on the level of risk and sensitivity of a particular position. In order to protect individuals from unnecessary exposure, the level of investigation that OPM conducts may never be higher than what is required for the position. Note that certain low-risk positions are excepted from the investigative requirement. These exceptions include intermittent, seasonal, per diem, or temporary positions of less than 180 days.

Depending on the type of investigation required, the evidence collected may come from many different sources, such as agency, credit, and law enforcement checks, written inquiries, record searches, and testimonies.

As a suitability adjudicator, you need to understand the various types of investigations and the basic evidence standards, because they provide the information that you will use to determine whether an individual is suitable for federal employment.

Types of Suitability Investigations

Introduction to Investigations

As you have seen, the higher a position's risk and sensitivity levels, the more stringent the investigation that OPM performs on an applicant for that position. Also consider that the more thorough the investigation, the more evidence you will have to consider in determining the subject's suitability. Because you rely on these investigations to make your suitability determinations, you need to understand the various types of investigations so you know what kind of information you'll be basing your decision on. Let's take a look at this relationship in more detail.

Initial Investigations

OPM conducts five types of initial investigations, depending on the positions risk and sensitivity levels. As you will see, each successively higher level of investigation builds upon, but not does duplicate, the ones below it.

NACI

The National Agency Check with Inquiries (NACI) is the minimum investigation required for all new federal employees. It is used to investigate applicants for low risk positions with no position sensitivity. Like all types of personnel investigations, the NACI begins with a National Agency Check (NAC) which consists of searches of the FBI Identification Division's name and fingerprint files and other agency files and indices as required. The NACI also consists of additional checks and written inquiries, such as employment, education, law enforcement agency, and personal reference checks.

ANACI

The Access National Agency Check with Inquiries (ANACI) may be used to investigate applicants for a low risk position that is designated noncritical sensitive. The ANACI builds on the NACI by adding additional checks and inquiries, such as credit checks, residence checks, and subject interviews which are issue-triggered, as required.

MBI

The Moderate Risk Background Investigation (MBI) is used to investigate applicants for moderate risk positions that are designated as nonsensitive or noncritical sensitive. The MBI further builds on the ANACI by adding additional personal subject interviews as required.

BI

The Background Investigation (BI) is used to investigate applicants for high risk public trust positions with no position sensitivity. The BI builds on the MBI by adding additional checks, inquiries, and interviews, such as reviews of court actions and other source interviews, as required.

SSSBI

The Single Scope Background Investigation (SSBI) is used to investigate applicants for all special sensitive or critical sensitive positions at any risk level and all high risk public trust positions with any level of position sensitivity. The most thorough of the investigative types, the SSBI continues to build on the previous investigations by adding additional checks, inquiries, interviews, and investigations, such as citizenship checks and spouse/cohabitant NACs, as required.

Periodic Reinvestigations

In addition to initial suitability investigations, some positions also require periodic reinvestigations to support ongoing determinations of suitability. Specifically, all positions of public trust are subject to a periodic reinvestigation every five years. Other positions are subject to reinvestigation on an as-needed basis.

Like the initial investigations, these reinvestigations are conducted by OPM and are based on the risk and sensitivity of a position. There are three types of periodic reinvestigations.

NACLC

The National Agency Check with Law and Credit (NACLC) is the minimum investigation required for periodic reinvestigations. It is used to reinvestigate employees in low or moderate risk positions designated as noncritical sensitive and those in nonsensitive or noncritical sensitive positions with moderate risk. The NACLC consists of a NAC as well as additional checks and inquiries, such as credit checks and local law enforcement agency checks, as required.

PRI

The Periodic Reinvestigation (PRI) is used to reinvestigate employees in high risk public trust positions with no position sensitivity. The PRI builds on the NACLC by adding additional checks, inquires, and interviews, such as personal subject interviews and written inquiries to references, as required.

SSBI-PR or PPR

The Single-Scope Background Investigation—Periodic Reinvestigation (SSBI-PR) and the Phased Periodic Reinvestigation (PPR) are used to investigate

employees in all special sensitive or critical sensitive positions at any risk level and all high risk public trust positions with any level of position sensitivity. The SSBI-PR and PPR also build on the NACLC by adding additional checks, inquiries, interviews, and investigations, such as spouse/cohabitant NACs, other source interviews, other record checks, and reviews of court actions, as required.

The SSBI-PR and PPR are essentially the same investigation; however, the PPR allows agencies the option of conducting reinvestigations in two phases. A PPR may be requested if the subject's investigative questionnaire reveals no potential security issues. However, any investigation originally scheduled as a basic PPR will be expanded to meet the full SSBI-PR requirements if necessitated by the discovery of any security concerns.

Evidence in Suitability Adjudications

Role and Standards of Evidence

Evidence plays an important role in the suitability process, both during and after the adjudication. Initially gathered as part of a subject's background investigation, evidence is evaluated by the suitability adjudicator, who uses it to determine whether an individual is suitable for federal employment. Later, in the event that a suitability determination is appealed, additional evidence may be required to shed more light on any disputed facts. Throughout the suitability process three basic principles apply to the evidence that is collected.

The first is that evidence must exist to establish the individual's conduct. As an adjudicator, you cannot simply assume that something is true. You must have concrete evidence to prove that the conduct occurred in order to use it in your decision.

Second, the government carries the burden of proving that something is true. It is not the individual's responsibility to prove whether something did or did not occur. Rather, the government's investigation files need to contain sufficient information to prove that the conduct occurred. How much evidence does the government need to meet this burden? The standard of proof in suitability cases is that claims must be supported by a preponderance of evidence. That is, the evidence presented must be enough that a reasonable person would find it more likely to be true than untrue.

Types of Evidence

So, what kind of evidence can you expect to see in the investigative files that you receive? Let's take a look at some of the most common types of evidence that support suitability investigations. The first piece of evidence collected for any investigation is the investigative form, which contains information provided directly by

the subject of the investigation. The most basic investigations will go on to collect federal agency search records, employment records, local law enforcement records, and credit reports. These investigations may also collect written inquiries and correspondence.

As the complexity of the investigation increases to meet the requirements of higher levels of position risk and sensitivity, the types of evidence collected expand to reflect a deeper investigation of the subject. For example, instead of written inquiries, the investigation may include telephone inquiries or face-to-face interviews. Higher levels of investigation also contain additional elements that expand the scope of the investigation, such as financial records and records of previous court actions.

When Facts Are Disputed

Later in this course, you will see how individuals who disagree with an unfavorable suitability determination can appeal that decision. This is where the evidence is really put to the test because an individual may call into question some of the facts that were used to support the initial determination. In these situations, the evidence may be subject to greater scrutiny, and additional information may be required to enhance its value.

The value of the evidence may be enhanced by obtaining affidavits and unsworn declarations, certifying previous testimony, and obtaining supporting documentation. Also consider that in the context of an appeal, some types of evidence carry more weight than others. For example, the live, sworn testimony of a witness carries greater weight than a certified copy of a record. The relative weight, or value, that the Merit Systems Protection Board and the court system place on various kinds of evidence is known as the probative weight of evidence.

Take a look at the relative values of several different types of evidence.

Probative Weight of Evidence: 1. Sworn witness testimony at hearing 2. Signed, sworn affidavits 3. Unsworn declarations 4. Certified records 5. Investigative reports

As an adjudicator, it is important for you to understand the critical role that evidence plays after the adjudication, because you want your suitability determinations to be based on strong, substantiated evidence that will be hard to dispute.

Review Activity

Review Activity 1

Read the questions below. Select the best response for each.

1 of 3: Which of these investigations will collect the greatest amount of evidence?

- ○ Moderate Risk Background Investigation (MBI)
- ○ National Agency Check with Inquiries (NACI)
- ○ Single Scope Background Investigations (SSBI)
- ○ National Agency Check (NAC)

2 of 3: Which of these investigations is a common element of all other types of investigations?

- ○ Moderate Risk Background Investigation (MBI)
- ○ National Agency Check with Inquiries (NACI)
- ○ Single Scope Background Investigations (SSBI)
- ○ National Agency Check (NAC)

3 of 3: Which of these investigations is the minimum investigation required for all new federal employees?

- ○ Moderate Risk Background Investigation (MBI)
- ○ National Agency Check with Inquiries (NACI)
- ○ Single Scope Background Investigations (SSBI)
- ○ National Agency Check (NAC)

Review Activity 2

Which of the following are standards of evidence in suitability cases?

Select all that apply.

- ☐ The government has the burden of proof
- ☐ The evidence must establish the conduct
- ☐ All facts must be proven beyond a reasonable doubt
- ☐ All facts must be supported by a preponderance of evidence

Answer Key - Review Activities

Review Activity 1

Read the questions below. Select the best response for each.

1 of 3: Which of these investigations will collect the greatest amount of evidence?

- ○ Moderate Risk Background Investigation (MBI)
- ○ National Agency Check with Inquiries (NACI)
- ⦿ Single Scope Background Investigations (SSBI)
- ○ National Agency Check (NAC)

Feedback: *As the highest level of investigation, the Single-Scope Background Investigation (SSBI) collects the greatest amount of evidence.*

2 of 3: Which of these investigations is a common element of all other types of investigations?

- ○ Moderate Risk Background Investigation (MBI)
- ○ National Agency Check with Inquiries (NACI)
- ○ Single Scope Background Investigations (SSBI)
- ⦿ National Agency Check (NAC)

Feedback: *The National Agency Check (NAC) is conducted as part of all other types of investigations.*

3 of 3: Which of these investigations is the minimum investigation required for all new federal employees?

- ○ Moderate Risk Background Investigation (MBI)
- ⦿ National Agency Check with Inquiries (NACI)
- ○ Single Scope Background Investigations (SSBI)
- ○ National Agency Check (NAC)

Feedback: *The National Agency Check with Inquiries (NACI) is the minimum investigation required for all new federal employees.*

Review Activity 2

Which of the following are standards of evidence in suitability cases?

Select all that apply.

- ☑ The government has the burden of proof
- ☑ The evidence must establish the conduct
- ☐ All facts must be proven beyond a reasonable doubt
- ☑ All facts must be supported by a preponderance of evidence

Feedback: *The standard of evidence for suitability cases maintains that the evidence must establish the conduct, the government has the burden of proof, and all facts must be supported by a preponderance of evidence. It does not require that facts be proven beyond a reasonable doubt.*

Student Guide

Introduction to Suitability Adjudications for the DoD

Lesson 5: Suitability Adjudications

Introduction

Objectives

The adjudication phase of the suitability process is when an applicant's suitability for employment is actually adjudicated. This lesson will review the role and responsibilities of the adjudicator and discuss the two steps of suitability adjudication -- the basic suitability evaluation and the full, job-specific suitability adjudication. It will present the eight suitability factors and seven additional considerations used to adjudicate suitability. And finally, it will discuss the various possible outcomes of suitability adjudication.

Here is the lesson objective. Take a moment to review it.

- Identify the eight suitability factors and seven additional considerations used in suitability adjudications

The Adjudicative Process

Adjudicator Role and Responsibilities

Once OPM completes the investigation, it provides the results to the DoD for adjudication. Clean cases – those with no suitability issues – will be adjudicated electronically at the DoD Consolidated Adjudications Facility (DoD CAF). Cases that cannot be determined favorable are sent to the Components, where the suitability adjudicator will examine the issues to make a final suitability determination. Either way, as a suitability adjudicator for the DoD, you will examine these investigative results and evaluate the applicant against a specific set of criteria to make a suitability determination.

Your first responsibility as an adjudicator is to protect the interests of the federal government. However, because the decisions that adjudicators make can also have tremendous effects on the lives of individuals, you must ensure that you make these

decisions fairly and without bias. Your final responsibility is to report the outcome of the adjudication.

The final suitability determination, along with all other records of the subject's investigation and adjudication, will be submitted to OPM, where it will be stored for use in future investigations or assignments. Recall that this step of reporting back to OPM is the key to reciprocity. The final suitability determination will also be reported to the applicant.

Basic and Job-Specific Adjudications

Let's look at the two steps in suitability adjudication.

The first step is a basic evaluation of an individual's suitability for entry into federal employment. The adjudicator considers a subject's conduct in the context of his or her suitability for all covered positions in the DoD. It involves an assessment of all issues, in and of themselves, with no reference to the specific requirements of the position. During this step, the adjudicator reviews the investigative report to identify any obvious disqualifying issues. Individuals found unsuitable during the basic suitability evaluation may be unsuitable for any covered position. Cases may result in an agency-wide debarment or may even be referred to OPM for government-wide debarment.

If basic evaluation reveals no issues then the adjudicator may proceed with a full, job-specific adjudication. The adjudicator evaluates information about the subject's character and conduct in relation to the specific requirements of the position. The adjudicator will also revisit any items of concern identified in the basic evaluation in light of the position's specific duties, responsibilities, and level of public trust as well as the agency mission.

Suitability Criteria

Introduction to Suitability Criteria

So – how do adjudicators actually make suitability decisions?

To make decisions fairly and with as little bias as possible, adjudicators must carefully and objectively examine the investigative results in the context of eight suitability factors, each of which addresses a specific concern. If any issue raises a red flag, then the adjudicator will dig deeper to analyze the subject's conduct in light of seven additional considerations. These additional considerations help the adjudicator to weigh all information, both favorable and unfavorable, compiled from a subject's past and present, in a manner that takes the whole person into consideration.

Suitability Factors

The criteria for making suitability determinations are established in 5 CFR 731. Each of the eight suitability factors identifies a potential concern that may indicate that an individual is unsuitable for employment. Some of them address conduct that calls into question a subject's judgment, reliability, and trustworthiness. Some address an individual's ability or willingness to perform job duties with integrity, efficiency, and effectiveness. Some relate to a subject's ability or willingness to comply with laws, rules, and regulations. And finally, one factor addresses conduct that raises questions about a subject's loyalty to the United States.

Suitability Factors (5 CFR 731.202)

1. Misconduct or Negligence in Employment
2. Criminal or Dishonest Conduct
3. Material Intentional False Statement, or Deception, or Fraud in Employment
4. Refusal to Furnish Testimony as required by 5 CFR 731 (Section 5.4)
5. Alcohol Abuse
6. Illegal Drug Use
7. Knowing and Willful Engagement in Acts/Activities Designed to Overthrow the U.S. Government by Force
8. Statutory or Regulatory Bar to Employment

Factor 1: Misconduct or Negligence in Employment

The first factor, misconduct or negligence in employment, examines the subject for evidence of intentional wrongdoing on the job or any other conduct that would be considered contrary to an employer's reasonable expectations. Such conduct may include poor attendance without cause, insubordination, and other suitability issues occurring in the workplace, such as theft. Issues arising under this factor can raise questions about an individual's ability and willingness to carry out the duties of a federal job with appropriate integrity, efficiency, and effectiveness.

Factor 2: Criminal or Dishonest Conduct

The second factor, criminal or dishonest conduct, examines the subject for past criminal activity or evidence of conduct that demonstrates deliberate lies, fraud, or deceit. Examples of such conduct may include illegal activities, intentional falsification, or deliberate financial irresponsibility. All of these can raise concerns about a person's judgment, reliability, and trustworthiness. Unlawful or dishonest behavior, by its very nature, calls into question a person's ability or willingness to comply with laws, rules, and regulations.

Factor 3: Material, Intentional False Statement or Deception or Fraud in Employment

Federal hiring procedures exist to ensure fair and open competition in employee selection. The third factor, material, intentional false statements, or deception or fraud in examination or employment, examines whether the subject has attempted to circumvent these procedures by intentionally providing false information or intentionally withholding relevant information in the employment process. Examples of such behavior include falsifying qualifications in an application or committing deception or fraud in examination or appointment. Such behaviors call into question a person's ability or willingness to comply with laws, rules, and regulations and to perform the duties of the position with integrity. Note that any issues related to this suitability factor must be referred to OPM for adjudication.

Factor 4: Refusal to Furnish Testimony as required by 5 CFR 731 (Section 5.4)

The fourth factor, refusal to furnish testimony, examines a subject's failure to comply when requested to provide testimony in matters related to the civil service laws, rules, and regulations as required by section 5.4 of 5 CFR 731. Note here again that any issues that arise in reference to this suitability factor must be referred to OPM for adjudication.

Factor 5: Alcohol Abuse

The fifth and sixth factors deal with issues related to substance use without evidence of substantial rehabilitation. Factor 5 examines an applicant's history of alcohol abuse. Conduct to look out for includes ongoing, continuing alcohol abuse, a pattern of alcohol-related arrests, a pattern of alcohol-related problems in the workplace, and a lack of substantial rehabilitation efforts. Such conduct can interfere with an individual's ability to perform work duties in a satisfactory manner, lead to impaired judgment, raise questions about an individual's reliability and trustworthiness, and result in behaviors that put people, property, and information systems at risk.

Factor 6: Illegal Drug Use

Factor 6 examines an applicant's history of illegal drug use. Conduct to watch for includes illegal use of narcotics, drugs, or other controlled substances, current or recent use, a pattern of drug-related arrests, a pattern of drug-related problems in the workplace, and a lack of substantial rehabilitation efforts. Like for Factor 5, conduct related to this factor can interfere with an individual's ability to perform work duties in a satisfactory manner, lead to impaired judgment, raise questions about an individual's reliability and trustworthiness, and result in behaviors that put people, property, and information systems at risk. Illegal drug use can also raise questions about an individual's ability or willingness to comply with laws, rules, and regulations.

Factor 7: Knowing and Willful Engagement in Acts/Activities Designed to Overthrow the U.S. Government by Force

Factor 7 examines an applicant's loyalty to the United States. It looks for past or present behavior that provides evidence of knowing and willful involvement in acts or activities designed to overthrow the U.S. government by force. The focus here is on the actions the individual takes or prepares to take -- not what the individual believes. Individual expression is protected by freedom of speech, even if those views are unpopular or convey an antigovernment agenda. Membership in an organization alone is not disqualifying. A loyalty issue arises only when a person actually acts upon those beliefs in a manner that violates the law.

Factor 8: Statutory or Regulatory Bar to Employment

The final factor, statutory or regulatory bar to employment, examines whether the applicant may be barred from employment due to violation of federal statutes and regulations. Examples of such violations include participation in a strike against the government, employment that violates the anti-nepotism statute, and, for positions requiring access to or possession of firearms, misdemeanor conviction for crimes of domestic violence.

As the adjudicator, your first concern is to verify whether an existing debarment is in place for the applicant. Generally, if a government-wide debarment is already in place, then it would have been discovered long before the adjudication phase of the suitability process. However, if any conduct that may result in debarment is identified during the investigation, then you should contact the OPM to verify the individual's eligibility.

Additional Considerations

To take the whole person into account when making their adjudicative decisions, adjudicators use several tools to sort through the investigative information. In addition to the eight suitability factors, which address specific categories of information, adjudicators also use seven additional considerations to evaluate both the positive and negative information about a subject's conduct. Let's take a look at how these considerations apply to an adjudication.

Candace King has applied for the position of criminal investigator. On her OF-306 she admits to having been arrested for driving while intoxicated. But what else do you need to consider in evaluating whether this issue might disqualify her from suitability?

First, you must consider the nature of her position. Does her alcohol-related conduct and arrest have any direct bearing on the duties of the position? What if she were applying for a position that involved operating a motor vehicle or other heavy machinery? Next, weigh the circumstances surrounding the conduct itself. How

serious was the incident? Did her conduct result in injury to people or property? What exactly happened? Had she been drinking heavily prior to the incident? How high was her blood-alcohol level? How long ago did the incident occur? Was it a one-time thing? Or does she have a history of other alcohol-related problems with the law or in the workplace? Are the charges still pending?

Consider her age and life stage when the conduct occurred. Would it make any difference if the conduct occurred when she was younger and not yet aware of her professional future? Did it occur during a time when many of her peers may have been exhibiting similar behavior, such as during her college years? Finally, consider whether she has sought rehabilitation for her alcohol abuse and if she has been successful in her rehabilitation. Any issues that arise related to any of the first seven suitability factors should be examined through the filter of these additional considerations. Note that these considerations do not apply to the eighth suitability factor, which addresses statutory or regulatory bars to employment.

Additional Suitability Considerations (5 CFR 731.202)

- Nature of the position
- Nature and seriousness of the conduct
- Circumstances of the conduct
- Recency of the conduct
- Age at the time of the conduct
- Contributing societal conditions
- Rehabilitation

Job Aid

This course includes a Suitability Criteria Job Aid for your use. This Job Aid includes an excerpt from the DoD Instruction.

Adjudicative Outcomes

Suitability Determinations

Every suitability adjudication will result in one of two possible outcomes. The subject will be found suitable, or the subject will be found unsuitable for federal employment. A subject will be found suitable when the case is either clean, with no significant issues or disqualifying adverse information, or when any derogatory information has been mitigated. Alternately, a subject will be found unsuitable when the case contains reliable, significant, disqualifying, adverse information that cannot be mitigated. All unfavorable suitability determinations will result in a suitability action as defined in 5 CFR 731.

Sometimes, cases may contain issues that are of concern to the agency but aren't serious enough to warrant an unfavorable suitability determination. In these cases, a letter of advisement may be issued to advise the subject of the favorable determination and that any future problems in the area of concern may negatively affect future suitability determinations.

Review Activity

Review Activity 1

Read the Scenarios below. Which suitability factor(s) is/are most applicable to the facts in each scenario?

Select the best response.

1 of 4:
Subject: Jacob Fisher
Status: Applicant
Position: Contract specialist
Position Grade: GS-12
Position Risk: Moderate

Issue: Termination from previous employment

Additional facts:

- Terminated 18 months ago from position as auditing clerk
- Cause: frequent lateness; not reporting as scheduled twice in a month; not reporting reason for absence

Suitability Factors (5 CFR 731.202):

- ☐ 1: Misconduct or Negligence in Employment
- ☐ 2: Criminal or Dishonest Conduct
- ☐ 3: Material, Intentional False Statement or Deception or Fraud in Employment
- ☐ 4: Refusal to Furnish Testimony as required by 5 CFR 731 (Section 5.4)
- ☐ 5: Alcohol Abuse
- ☐ 6: Illegal Drug Use
- ☐ 7: Knowing and Willful Engagement in Acts/Activities Designed to Overthrow the U.S. Government by Force
- ☐ 8: Statutory or Regulatory Bar to Employment

2 of 4:
Subject: Patrice Green
Status: Applicant
Position: Personnel Security Specialist
Position Grade: GS-12
Position Risk: Moderate

Issue: Termination from previous employment

Additional facts:

- Terminated 4 years ago from administrative assistant position
- Cause: theft of 2 computers and 4 calculators (value: $1800.00)

Suitability Factors (5 CFR 731.202):

- ☐ 1: Misconduct or Negligence in Employment
- ☐ 2: Criminal or Dishonest Conduct
- ☐ 3: Material, Intentional False Statement or Deception or Fraud in Employment
- ☐ 4: Refusal to Furnish Testimony as required by 5 CFR 731 (Section 5.4)
- ☐ 5: Alcohol Abuse
- ☐ 6: Illegal Drug Use
- ☐ 7: Knowing and Willful Engagement in Acts/Activities Designed to Overthrow the U.S. Government by Force
- ☐ 8: Statutory or Regulatory Bar to Employment

3 of 4:

Subject: Fred Martin
Status: Applicant
Position: Law Enforcement Officer
Position Grade: GS-12
Position Risk: High

Issue: Pending charges for domestic violence

Additional facts:

- Facing charges for domestic violence
- Position requires ability to carry a weapon, both on-duty and off

Suitability Factors (5 CFR 731.202):

- ☐ 1: Misconduct or Negligence in Employment
- ☐ 2: Criminal or Dishonest Conduct
- ☐ 3: Material, Intentional False Statement or Deception or Fraud in Employment
- ☐ 4: Refusal to Furnish Testimony as required by 5 CFR 731 (Section 5.4)
- ☐ 5: Alcohol Abuse
- ☐ 6: Illegal Drug Use
- ☐ 7: Knowing and Willful Engagement in Acts/Activities Designed to Overthrow the U.S. Government by Force
- ☐ 8: Statutory or Regulatory Bar to Employment

4 of 4:

Subject: Doris Brown
Status: Applicant
Position: Electrical Engineer
Position Grade: GS-12
Position Risk: Moderate

Issue: Lying on employment application

Additional facts:

- Listed master's degree in mechanical engineering on investigation paperwork
- Investigation revealed she did not receive a degree and had never even been enrolled

Suitability Factors (5 CFR 731.202):

- ☐ 1: Misconduct or Negligence in Employment
- ☐ 2: Criminal or Dishonest Conduct
- ☐ 3: Material, Intentional False Statement or Deception or Fraud in Employment
- ☐ 4: Refusal to Furnish Testimony as required by 5 CFR 731 (Section 5.4)
- ☐ 5: Alcohol Abuse
- ☐ 6: Illegal Drug Use
- ☐ 7: Knowing and Willful Engagement in Acts/Activities Designed to Overthrow the U.S. Government by Force
- ☐ 8: Statutory or Regulatory Bar to Employment

Review Activity 2

Read the Scenarios below. Which additional consideration(s) is/are most applicable to the facts in each scenario?

Select the best response.

1 of 3:
Subject: Franklin Jones
Status: Applicant
Position: Chief Scientist
Position Grade: GS-14
Position Risk: High

Issue: Admission to prior arrest and conviction for embezzlement (Factor 2, Criminal or Dishonest Conduct)

Additional facts:

- Embezzlement occurred during his employment at a retail pharmaceutical sales company
- Arrest occurred 2 years ago and he served 6 months in jail

Additional Considerations:

- ☐ 1: Nature of the position
- ☐ 2: Nature and seriousness of the conduct
- ☐ 3: Circumstances surrounding the conduct
- ☐ 4: Recency of the conduct
- ☐ 5: Age at the time of the conduct
- ☐ 6: Contributing societal conditions
- ☐ 7: Rehabilitation

2 of 3:

Subject: Ted Morris
Status: Applicant
Position: Administrative Assistant
Position Grade: GS-11
Position Risk: Low

Issue: Admission to prior arrest for DWI (Factor 5, Alcohol Abuse)

Additional facts:

- Arrest occurred 20 years ago when he was 19
- Completed a court-mandated alcohol treatment program
- Has had no additional alcohol-related arrests or incidents

Additional Considerations:

- ☐ 1: Nature of the position
- ☐ 2: Nature and seriousness of the conduct
- ☐ 3: Circumstances surrounding the conduct
- ☐ 4: Recency of the conduct
- ☐ 5: Age at the time of the conduct
- ☐ 6: Contributing societal conditions
- ☐ 7: Rehabilitation

3 of 3:

Subject: Kathy Dunn

Status: Employee

Position: Operations Research Analyst
Position Grade: GS-14

Position Risk: High

Issue: Former roommate disclosed that Subject had close ties to a known terrorist group (Factor 7, Knowing and Willful Engagement in Acts/Activities Designed to Overthrow the U.S. Government by Force)

Additional facts:

- Position requires a Top Secret clearance
- Position requires frequent travel to agency offices overseas
- She was in college at the time
- She financed the group's purchase of explosives

Additional Considerations:

- ☐ 1: Nature of the position
- ☐ 2: Nature and seriousness of the conduct
- ☐ 3: Circumstances surrounding the conduct
- ☐ 4: Recency of the conduct
- ☐ 5: Age at the time of the conduct
- ☐ 6: Contributing societal conditions
- ☐ 7: Rehabilitation

Answer Key - Review Activities

Review Activity 1

Read the Scenario below. Which suitability factor(s) is/are most applicable to the facts in this scenario?

Select the best response.

1 of 4:
Subject: Jacob Fisher
Status: Applicant
Position: Contract specialist
Position Grade: GS-12
Position Risk: Moderate

Issue: Termination from previous employment

Additional facts:

- Terminated 18 months ago from position as auditing clerk
- Cause: frequent lateness; not reporting as scheduled twice in a month; not reporting reason for absence

Suitability Factors (5 CFR 731.202):

- ☑ 1: Misconduct or Negligence in Employment
- ☐ 2: Criminal or Dishonest Conduct
- ☐ 3: Material, Intentional False Statement or Deception or Fraud in Employment
- ☐ 4: Refusal to Furnish Testimony as required by 5 CFR 731 (Section 5.4)
- ☐ 5: Alcohol Abuse
- ☐ 6: Illegal Drug Use
- ☐ 7: Knowing and Willful Engagement in Acts/Activities Designed to Overthrow the U.S. Government by Force
- ☐ 8: Statutory or Regulatory Bar to Employment

Feedback: *Poor work attendance without cause falls under Factor 1.*

2 of 4:
Subject: Patrice Green
Status: Applicant
Position: Personnel Security Specialist
Position Grade: GS-12
Position Risk: Moderate

Issue: Termination from previous employment

Additional facts:

- Terminated 4 years ago from administrative assistant position
- Cause: theft of 2 computers and 4 calculators (value: $1800.00)

Suitability Factors (5 CFR 731.202):

- ☑ 1: Misconduct or Negligence in Employment
- ☑ 2: Criminal or Dishonest Conduct
- ☐ 3: Material, Intentional False Statement or Deception or Fraud in Employment
- ☐ 4: Refusal to Furnish Testimony as required by 5 CFR 731 (Section 5.4)
- ☐ 5: Alcohol Abuse
- ☐ 6: Illegal Drug Use
- ☐ 7: Knowing and Willful Engagement in Acts/Activities Designed to Overthrow the U.S. Government by Force
- ☐ 8: Statutory or Regulatory Bar to Employment

Feedback: *Theft of employer property falls under Factors 1 and 2.*

3 of 4:

Subject: Fred Martin
Status: Applicant
Position: Law Enforcement Officer
Position Grade: GS-12
Position Risk: High

Issue: Pending charges for domestic violence

Additional facts:

- Facing charges for domestic violence
- Position requires ability to carry a weapon, both on-duty and off

Suitability Factors (5 CFR 731.202):

- ☐ 1: Misconduct or Negligence in Employment
- ☑ 2: Criminal or Dishonest Conduct
- ☐ 3: Material, Intentional False Statement or Deception or Fraud in Employment
- ☐ 4: Refusal to Furnish Testimony as required by 5 CFR 731 (Section 5.4)
- ☐ 5: Alcohol Abuse
- ☐ 6: Illegal Drug Use
- ☐ 7: Knowing and Willful Engagement in Acts/Activities Designed to Overthrow the U.S. Government by Force
- ☑ 8: Statutory or Regulatory Bar to Employment

Feedback: *Conviction of misdemeanor crimes of domestic violence falls under Factor 2 and Factor 8. This issue applies to applicants for positions that require access to or possession of firearms.*

4 of 4:

Subject: Doris Brown
Status: Applicant
Position: Electrical Engineer
Position Grade: GS-12
Position Risk: Moderate

Issue: Lying on employment application

Additional facts:

- Listed master's degree in mechanical engineering on investigation paperwork
- Investigation revealed she did not receive a degree and had never even been enrolled

Suitability Factors (5 CFR 731.202):

- ☐ 1: Misconduct or Negligence in Employment
- ☐ 2: Criminal or Dishonest Conduct
- ☑ 3: Material, Intentional False Statement or Deception or Fraud in Employment
- ☐ 4: Refusal to Furnish Testimony as required by 5 CFR 731 (Section 5.4)
- ☐ 5: Alcohol Abuse
- ☐ 6: Illegal Drug Use
- ☐ 7: Knowing and Willful Engagement in Acts/Activities Designed to Overthrow the U.S. Government by Force
- ☐ 8: Statutory or Regulatory Bar to Employment

Feedback: *Intentional falsification of qualifications falls under Factor 3. Any issues related to this suitability factor must be referred directly to OPM for adjudication.*

Review Activity 2

Read the Scenarios below. Which additional consideration(s) is/are most applicable to the facts in each scenario?

Select the best response.

1 of 3:
Subject: Franklin Jones
Status: Applicant
Position: Chief Scientist
Position Grade: GS-14
Position Risk: High

Issue: Admission to prior arrest and conviction for embezzlement (Factor 2, Criminal or Dishonest Conduct)

Additional facts:

- Embezzlement occurred during his employment at a retail pharmaceutical sales company
- Arrest occurred 2 years ago and he served 6 months in jail

Additional Considerations:

- ☑ 1: Nature of the position
- ☑ 2: Nature and seriousness of the conduct
- ☐ 3: Circumstances surrounding the conduct
- ☑ 4: Recency of the conduct
- ☐ 5: Age at the time of the conduct
- ☐ 6: Contributing societal conditions
- ☐ 7: Rehabilitation

Feedback: *The fact that his arrest was just 2 years ago relates to the recency of his conduct. The 6-month jail term relates to the nature and seriousness of the conduct. The position is also a high risk chief scientist position which relates to the nature of the position.*

2 of 3:
Subject: Ted Morris
Status: Applicant
Position: Administrative Assistant
Position Grade: GS-11
Position Risk: Low

Issue: Admission to prior arrest for DWI (Factor 5, Alcohol Abuse)

Additional facts:

- Arrest occurred 20 years ago when he was 19
- Completed a court-mandated alcohol treatment program
- Has had no additional alcohol-related arrests or incidents

Additional Considerations:

- ☐ 1: Nature of the position
- ☐ 2: Nature and seriousness of the conduct
- ☐ 3: Circumstances surrounding the conduct
- ☐ 4: Recency of the conduct
- ☑ 5: Age at the time of the conduct
- ☐ 6: Contributing societal conditions
- ☑ 7: Rehabilitation

Feedback: *The long-ago arrest when he was 19 relates to his age and maturity at the time of the conduct. Completing a treatment program and having no additional alcohol-related arrests or incidents relates to rehabilitation.*

3 of 3:

Subject: Kathy Dunn

Status: Employee

Position: Operations Research Analyst
Position Grade: GS-14

Position Risk: High

Issue: Former roommate disclosed that Subject had close ties to a known terrorist group (Factor 7, Knowing and Willful Engagement in Acts/Activities Designed to Overthrow the U.S. Government by Force)

Additional facts:

- Position requires a Top Secret clearance
- Position requires frequent travel to agency offices overseas
- She was in college at the time
- She financed the group's purchase of explosives

Additional Considerations:

☑ 1: Nature of the position

☑ 2: Nature and seriousness of the conduct

☑ 3: Circumstances surrounding the conduct

☐ 4: Recency of the conduct

☑ 5: Age at the time of the conduct

☐ 6: Contributing societal conditions

☐ 7: Rehabilitation

Feedback: *The nature of her position would be an additional consideration. The fact that she was in college may relate to the circumstances surrounding the conduct and her age and maturity at the time of the conduct. The fact that she helped the group obtain explosives relates to the conduct's seriousness.*

Student Guide

Introduction to Suitability Adjudications for the DoD

Lesson 6: After the Adjudication

Introduction

Objectives

The post adjudication phase of the suitability process includes all of the activities that occur after an individual's suitability has been determined. This lesson will cover the different types of suitability actions, addressing the responsibilities of both the DoD and OPM in taking suitability actions and in reporting the outcome of the adjudication. It will describe the suitability appeals process. And it will discuss the various conditions that require suitability reinvestigations.

Here are the lesson objectives.

- Identify the different types of suitability actions
- Identify agency and OPM responsibilities in reporting and suitability action procedures
- Identify the role of the Merit Systems Protection Board (MSPB) in the suitability appeals process
- Identify conditions that do and do not require suitability reinvestigations

Suitability Actions

Introduction to Suitability Actions

All suitability determinations, whether favorable or unfavorable, must be reported to OPM and documented within the appropriate personnel system for your agency or component. If the suitability determination is favorable, then this is where your adjudicative responsibilities end. However, if the determination is unfavorable, then in addition to reporting the determination to OPM, you must also take a suitability action against the subject. Let's take a look at the various types of suitability actions and the procedures involved in taking them.

Types of Suitability Actions

A suitability action under 5 CFR 731 is an outcome taken against a subject in cases of unfavorable suitability determinations. There are several possible suitability actions.

Cancellation of eligibility applies to applicants and means that the individual has been found ineligible to hold the position for which he or she applied. Removal from employment applies to appointees and employees and requires that the individual be removed from Federal service. Cancellation of reinstatement eligibility applies to applicants for reemployment whose reinstatement eligibility was earned through a fraudulent appointment. And finally, debarment, the most serious of the suitability actions, may apply to anyone who is adjudicated for suitability, whether they are an applicant, an appointee, or an employee. Depending on the nature and seriousness of the disqualifying conduct, debarment may be imposed by OPM, by the DoD, or by the agency or component.

Recall that suitability is measured independently of job qualifications. This is important because in some cases, an individual may be found suitable for employment but still not be selected for the job. Likewise, further investigation of an individual's qualifications may result in the withdrawal of a job offer. Keep in mind that nonselection or withdrawal of a job offer is NOT a suitability action.

NOTE: The information in the box below will not be on the test but is included here as additional information that may provide useful background and insight.

Term	Definition/Explanation
NOT a suitability action	Nonselection or cancellation of eligibility for a specific position based on an objection to an eligible or passover of a preference eligible under 5 CFR 332.406 is not a suitability action even if based on suitability reasons. (5 CFR 731.203 (b))
Agency/ Component-wide debarment	Bans an individual from employment in specific covered positions across that particular agency or component
DoD-wide debarment	Bans an individual from employment across all agencies and components of the DoD
OPM debarment	Bans an individual from employment in all covered positions within the entire federal government

Debarment period

Whether imposed by OPM, by the DoD, or by a specific agency or component, the initial period of debarment can last for up to three years. The exact duration is

left to the discretion of the debarring agency or component. After the debarment expires, an additional period of debarment may be imposed. However, this can be done only if the individual again becomes an applicant, appointee, or employee subject to OPM or DoD suitability requirements.

Authority for Suitability Actions

Both OPM and the agency or component have responsibilities for suitability actions. These responsibilities overlap to some extent, but there are some distinct differences. In order for OPM or the agency or component to take a suitability action, the position must be subject to investigation under 5 CFR Part 731. OPM may take action against applicants and appointees based on any of the suitability criteria. OPM may also take action against employees who are found unsuitable due to falsification, refusal to furnish testimony, or a statutory or regulatory bar to employment.

In contrast, the agency or component may take action against applicants and appointees only. Under 5 CFR 731, the agency or component may not take action against any employees for any reason. Furthermore, the agency or component is prohibited from taking action under Factors 3 or 4, because that authority is reserved for OPM. Note that agencies and components may take action for character or conduct issues under other appropriate authorities.

NOTE: The information in the box below will not be on the test but is included here as additional information that may provide useful background and insight.

Term	Definition/Explanation
other appropriate authorities	5 CFR 315 applies to appointees 5 CFR 359 applies to Senior Executive Service 5 CFR 752 applies to employees

Suitability Action Procedures

As you know, suitability actions may be taken either by OPM or by the agency or component. Every suitability action begins with a notice of proposed action. The subject is then afforded a period of time in which to answer the notice. Finally, as appropriate, OPM or the agency or component issues a final suitability decision. Like the authority for taking suitability actions, the procedures for taking suitability actions also overlap somewhat between OPM and the agency or component. However, again there are some distinct differences.

Notice of proposed action

The first step in taking a suitability action is to notify the subject of the proposed action. This notice must be in writing and must contain several key pieces of

information. It must detail the charges against the subject. It must advise the subject of his or her right to review the materials that were used to reach the unfavorable determination. It must inform the subject of the 30-day time limit in which to respond. And it must inform the subject of his or her right to representation. The notice of proposed action must be served no less than 30 days before the effective date of the proposed action. Note that the process for notification is the same whether the notice is issued by OPM or by the agency or component. The only difference is that when OPM issues a notice of proposed action, it must also provide a copy of the notice to the employing agency or component. Employees and appointees may be retained in pay status during the notice period.

Answer

The second step in the suitability action procedure is to allow the subject the opportunity to answer the charges made in the notice of proposed action. This answer must meet several requirements. It must be in writing and may include documentation to support the subject's answer. Answers must be submitted within 30 days of the date of the notice. Like the process for notification, the process for answering is essentially the same whether the notice was issued by OPM or by the agency or component. The only difference is that answers to OPM notices may come from either the subject or the employing agency or component.

Decision

The final step in the suitability action procedures is the decision. This final decision must be in writing, must be dated, must explain the reasons for the decision, and must notify the subject of his or her appeal rights. If the final agency or component decision requires removal from the position, then the agency or component must remove the person from the rolls within five work days. If the final OPM decision requires removal from the position, then OPM must notify the agency or component of the decision, and the agency or component must remove the person from the rolls within five work days of receiving OPM's final decision.

Reporting the Determination

What, Why, and How to Report

Let's take a closer look at what is involved in reporting your final suitability determination. First, you will report to OPM the level and result of each background investigation, the final suitability determination, and any suitability actions that are taken against the subject. Recall that this step of reporting to OPM is the key to reciprocity. This is because all personnel information reported to OPM is stored in

OPM's centralized databases, where it is kept available to all agencies that may need access to it in the future. Consider, however, that these databases are only as strong as the information they contain. If you fail to report your findings to OPM, then the information will not be available to other agencies in the future.

It is critical to the efficiency of the civil service that you report your adjudicative results. Understanding the importance of reporting is only part of your final responsibility as an adjudicator. Knowing how to report is essential to ensuring that the reporting actually occurs. You may report to OPM using one of several methods. You may submit a hard copy of the Investigative Form 79A, Report of Agency Adjudicative Action on OPM Personnel Investigations. Alternately, if you have access, you may upload computerized batch files directly into OPM's Personnel Investigations Processing System (PIPS) or you may enter individual adjudicative determinations into PIPS using the agency menu. Finally, you may report the determination in OPM's Central Verification System (CVS).

Appeals to Suitability Determinations

Role of the MSPB

All subjects of suitability actions under 5 CFR 731 have the right to appeal the final suitability decision to the Merit Systems Protection Board (MSPB). The role of the MSPB is not to adjudicate the case and issue a new decision. Rather, the MSPB's role is to decide whether the original determination is sustainable. The MSPB will review the case file to determine whether the charges brought against the subject are sustainable. If the MSPB finds that all of the charges are sustainable, then it will affirm the original determination. If it finds that any of the charges are not sustainable, then it will remand the case back to the agency or component that issued the original suitability determination to review the case and determine whether the suitability action is appropriate. No matter what the agency or component decides in its final review, the decision is final. The individual has no further right to appeal to the MSPB. Any further appeals of the suitability determination must be pursued through the court system.

Reinvestigation

Overview of Reinvestigation Requirements

You learned earlier in this course that reinvestigations are required for various reasons. And like initial suitability investigations, all reinvestigations are conducted by OPM. But why are reinvestigations conducted? What conditions require a reinvestigation? Note that any time a reinvestigation occurs, a new adjudication must follow to review and assess any new information and issue a new suitability determination. Let's look at some conditions that may require a reinvestigation.

Conditions Requiring Reinvestigation

Civilian DoD employees may go through any number of personnel status changes during their federal careers. Some of these changes create conditions that may require reinvestigation; however, others do not. First, all positions of public trust are subject to mandatory periodic reinvestigations every five years. Reinvestigation may be required for position risk-level changes, reemployment, or new information that raises questions about an individual's suitability. Personnel changes that do not require reinvestigation include promotion, demotion, and reassignment, as long as the risk level remains the same. Other changes that do not require reinvestigation are conversion from a career-tenure to a career-conditional position, appointment to service of more than one year, and transfer to service of less than one year.

Risk-level changes

Risk-level changes may be due to an existing position being redesignated at a higher risk level or an existing employee being hired into a higher-risk position. Consider the example of Dan Hampton. Though he may have been found suitable for federal employment when he first came to the DoD four years ago, if he is promoted into a position that carries a higher level of risk or sensitivity, then he is subject to a new investigation at a level that matches the requirements of his new job.

Reemployment

Reemployment may require a reinvestigation depending on how long the applicant has been away from the civil service. Reemployment after a break in service of longer than two years requires a new investigation. Remember Carol Phelps? She had left her job as a recruiter for the Defense Acquisition University eight years ago to pursue family obligations. Now that her children are in school full time, she is applying to return to the DoD workforce. Because she has been away for more than two years, she must undergo a new investigation.

New information

A federal employee may be subject to reinvestigation if new information calls into question the individual's suitability. This information may be related to any of the suitability factors. Consider Joanie Hall. She may have been found suitable for employment when she first came to the DoD a decade ago, but what if evidence suddenly surfaced to reveal recent misconduct that casts her suitability in a different light?

Review Activity

Review Activity 1

Which of the following are types of suitability actions?

Select all that apply.

- ☐ Cancellation of eligibility
- ☐ Nonselection for position
- ☐ Cancellation of reinstatement eligibility
- ☐ Debarment from DoD employment
- ☐ Withdrawal of job offer
- ☐ Removal from position

Review Activity 2

Read the questions below. Select the best response for each.

1 of 4: Which of the following can issue a notice of proposed action?

- ○ OPM
- ○ Agency/component
- ○ Both OPM and the agency/component
- ○ Neither

2 of 4: Which of the following, in addition to the Subject, can file a response to an OPM notice of proposed action?

- ○ OPM
- ○ Agency/component
- ○ Both OPM and the agency/component
- ○ Neither

3 of 4: Which of the following can appeal the final suitability determination?

- ○ OPM
- ○ Agency/component
- ○ Both OPM and the agency/component
- ○ Neither

4 of 4: Which of the following is responsible for reporting a suitability determination?

- ○ OPM
- ○ Agency/component
- ○ Both OPM and the agency/component
- ○ Neither

Review Activity 3

Read the question below. Select the best response.

Which statement best describes the role of the Merit Systems Protection Board (MSPB) in appeals to suitability actions?

- ○ The role of the MSPB is to readjudicate unsustainable suitability determinations.
- ○ The role of the MSPB is to decide whether the original suitability determination is sustainable.
- ○ The role of MSPB is to affirm the original suitability determination.
- ○ The role of MSPB is to issue final suitability determinations.

Review Activity 4

For each employment condition listed below, decide whether it requires reinvestigation. Select Yes or No.

Employment Conditions	Yes	No
Demotion, with no change in risk level		
New information that raises suitability questions		
Reemployment after two year break in service		
Reassignment, with no change in risk level		
Risk level changes		
Promotion, with no change in risk level		

Answer Key - Review Activities

Review Activity 1

Which of the following are types of suitability actions?

Select all that apply.

- ☑ Cancellation of eligibility
- ☐ Nonselection for position
- ☑ Cancellation of reinstatement eligibility
- ☑ Debarment from DoD employment
- ☐ Withdrawal of job offer
- ☑ Removal from position

Feedback: *Cancellation of eligibility, cancellation of reinstatement eligibility, removal from position, and debarment from DoD employment are all types of suitability action. Nonselection for a position and withdrawal of a job offer are NOT suitability actions.*

Review Activity 2

Read the questions below. Select the best response for each.

1 of 4: Which of the following can issue a notice of proposed action?

- ○ OPM
- ○ Agency/component
- ⦿ Both OPM and the agency/component
- ○ Neither

Feedback: *Both OPM and the agency/component can issue a notice of proposed action. The only difference is that OPM notices must be sent to the agency/component as well as the subject.*

2 of 4: Which of the following, in addition to the Subject, can file a response to an OPM notice of proposed action?

- ○ OPM
- ⦿ Agency/component
- ○ Both OPM and the agency/component
- ○ Neither

Feedback: *Both the subject of the action and the employing agency/component can file a response to an OPM notice of proposed action.*

3 of 4: Which of the following can appeal the final suitability determination?

- ○ OPM
- ○ Agency/component
- ○ Both OPM and the agency/component
- ⦿ Neither

Feedback: *Only the subject of the suitability determination can appeal the final suitability decision.*

4 of 4: Which of the following is responsible for reporting a suitability determination?

- ○ OPM
- ⦿ Agency/component
- ○ Both OPM and the agency/component
- ○ Neither

Feedback: *Reporting to OPM is the key to reciprocity. The agency/component must report to OPM the result of the background investigation, the final suitability determination, and any suitability actions that are taken against the subject.*

Review Activity 3

Read the question below. Select the best response.

1 Which statement best describes the role of the Merit Systems Protection Board (MSPB) in appeals to suitability actions?

- ○ The role of the MSPB is to readjudicate unsustainable suitability determinations.
- ⦿ The role of the MSPB is to decide whether the original suitability determination is sustainable.
- ○ The role of MSPB is to affirm the original suitability determination.
- ○ The role of MSPB is to issue final suitability determinations.

Feedback: *The MSPB's role is to decide whether the original suitability determination is sustainable. It does not adjudicate cases or issue suitability determinations.*

Review Activity 4

Employment Conditions	Yes	No	Feedback
Demotion, with no change in risk level		**X**	Reinvestigation is not required for cases involving demotion as long as the risk level does not increase.
New information that raises suitability questions	**X**		Reinvestigation is required when new information arises that calls an individual's suitability into question.
Reemployment after two year break in service	**X**		Reinvestigation is required in cases of reemployment after a break in service of more than two years.
Reassignment, with no change in risk level		**X**	Reinvestigation is not required for reassignment to a new position at the same risk level.
Risk level changes	**X**		Reinvestigation is required when an existing position is redesignated at a higher risk level or an existing employee is hired into a higher-risk position.
Promotion, with no change in risk level		**X**	Reinvestigation is not required for cases involving promotion as long as the risk level does not increase.

Student Guide

Introduction to Suitability Adjudications for the DoD

Lesson 7: Course Conclusion

Course Conclusion

Course Summary

In this course you learned about suitability adjudications in the DoD and the role suitability plays in protecting the integrity of the federal civil service. You also learned about the four phases of the suitability process and the responsibilities of OPM and the agency or component during each of these phases.

Lesson Review

Here is a list of the lessons in the course.

- Course Introduction
- Lesson 1: Introduction to Suitability
- Lesson 2: Overview of the Suitability Process
- Lesson 3: Preinvestigative Activities
- Lesson 4: Investigations and Evidence Standards
- Lesson 5: Suitability Adjudications
- Lesson 6: After the Adjudication

Course Objectives

Congratulations. You have completed the Introduction to Suitability Adjudications for the DoD course.

You should now be able to:

- Identify the purpose of suitability adjudications
- Recognize the legal and regulatory framework that governs suitability adjudications
- Identify the responsibilities of OPM, the agency, and the adjudicator in determining suitability
- Identify the types of investigations used to support suitability adjudications

- Identify the basic evidence standards for suitability actions
- Identify the eight suitability factors and seven additional considerations used in suitability adjudications

To receive course credit, you MUST take the Introduction to Suitability Adjudications for the DoD examination. Please use the STEPP system from the Center for Development of Security Excellence to register for the online exam.

Glossary of Terms (for purposes of this course only)

Adjudication: The evaluation of pertinent data in a background investigation, as well as any other available information that is relevant and reliable, to determine whether a covered individual is suitable for Government employment.

Agency: The DoD Components.

Agency/Component-wide debarment: Bans an individual from employment in specific covered positions across that particular agency or component

ANACI: Access National Agency Check with Inquiries

Applicant: a person who is being considered or has been considered for employment.

Appointee: A person who has entered on duty and is in the first calendar year of a subject-to-investigation appointment.

Authorized management official: A management official delegated the authority for designating position sensitivity, position classification, approving recruitment, relocation, retention, or extended assignment incentives, student loan repayments, or foreign language proficiency pay

BI: An investigation conducted for high risk, public trust positions.

CAF: The central location for adjudicating decisions about personnel security, suitability for government employment, and eligibility for issuance of Common Access Cards in accordance with Homeland Security Presidential Directive 12 (Reference (q)).

Competitive service: Positions in the Federal competitive service defined by Title 5 USC Chapter 21 and 5 CFR Part 1. A competitive status shall be acquired by career-conditional or career appointment through open competitive examination upon satisfactory completion of a probationary period, or may be granted by statute, executive order, or the Civil Service Rules without competitive examination. A person with competitive status may be promoted, transferred, reassigned, reinstated, or demoted without taking an open competitive examination, subject to the conditions prescribed by the Civil Service Rules and Regulations.

Covered positions: A position in the competitive service, a position in the excepted service where the incumbent can be noncompetitively converted to the competitive service, and a career appointment to a position in the Senior Executive Service

Critical sensitive: A position sensitivity designation indicating the potential for exceptionally grave impact on the integrity or efficiency of the service or on the national security.

CVS: (Central Verification System) A central data repository for viewing and recording information on existing security clearances, background investigations, suitability, fitness, and HSPD-12 determinations that enables reciprocity among Federal agencies.

DCPDS: Defense Civilian Personnel Data System

Debarment: A prohibition from taking a competitive service examination or from being hired (or retained in) a covered position for a specific time period. Debarment can be issued by the Agency or OPM.

Derogatory information: Information which may unfavorably impact suitability adjudication because of the nexus between the issue or conduct and the core duties of the position.

DISS: Defense Information System for Security

DoD: Department of Defense

DoD-wide debarment: Bans an individual from employment across all agencies and components of the DoD.

Employee: a person who has completed the first year of a subject-to-investigation appointment.

e-QIP: Electronic Questionnaires for Investigations Processing

Excepted service: Federal excepted service positions are subject to rules established by the respective agencies and are not subject to federal competitive qualification requirements, appointment, pay, and classification rules.

Fitness: The reference to a person's level of character and conduct determined necessary for an individual to perform work for, or on behalf of, a Federal agency as an employee in the excepted service (other than in a position subject to suitability) or as a contractor employee.

High risk: A final Position Designation reflecting the potential for exceptionally serious impact critical to the DoD mission or program, or the integrity or efficiency of the service.

INV FORM 79A: Report of Agency Adjudicative Action on OPM Personnel Investigations

Investigative service provider: The company or agency authorized to perform background investigations on personnel on behalf of the agency.

JPAS: Joint Personnel Adjudication System

JVS: Joint Verification System

Low risk: A final Position Designation reflecting the potential for limited impact to the DoD mission or program, or the integrity or efficiency of the service.

MBI: Moderate Risk Background Investigation

Moderate risk: A final Position Designation reflecting the potential for moderate to serious impact on the DoD mission or program , or the integrity or efficiency of the service.

MSPB: Merit Systems Protection Board

NAC: National Agency Check

NACI: National Agency Check with Inquiries

NACLC: National Agency Check with LAW and Credit Check

National Security positions: As defined in part732 of Reference (c) and Reference (i)

Noncritical sensitive: A position sensitivity designation indicating the potential for moderate to serious impact on the integrity or efficiency of the service or on the National Security.

Nonsensitive: A position sensitivity designation indicating the potential for impact on the integrity or efficiency of the service, but very little impact on the National security.

OF 306: Declaration for Federal Employment

OPM: Office of Personnel Management

OPM debarment: Bans an individual from employment in all covered positions within the entire federal government.

PDS: Position Designation System

PDT: (Position Designation Automated Tool) An automated tool provided by the OPM to assist in determining the level of risk and sensitivity of positions in the competitive service, positions in the excepted service where the incumbent can be noncompetitively converted to competitive service, and initial career appointments in the SES. Position designation determines the type of investigation required and how closely an individual is screened for a position.

PIPS: Personnel Investigations Processing System

Position description: The official description of management's assignment of duties, responsibilities, and supervisory relationships to a position.

PPR: Phased Periodic Reinvestigation

PRI: Periodic Reinvestigation

Public trust: As described in part 731 of Reference (c). Positions of public trust are moderate- and high-risk positions that may involve access to, operation of, or control of: policy, programs, IT systems, public safety and health, law enforcement, financial or personal records, or other duties requiring a significant degree of public trust.

Qualifications: a person's experience, education, knowledge, skills, and abilities related to his or her ability to perform the duties of the job.

Reciprocity: Recognition of favorable fitness or suitability determinations when the determination was based on criteria equivalent to standards established by the OPM.

Request for personnel action: An automated form (e.g., Standard Form (SF) 52), submitted to the HRO by an authorized management official when seeking to appoint, separate, or make other personnel changes to civilian employees or encumbered civilian positions.

SAC: Special Agreement Checks

SF 85: Questionnaire for Nonsensitive Positions

SF 85P: Questionnaire for Public Trust Positions

SF 86: Questionnaire for National Security Positions

SII: Security/Suitability Investigations Index

Special sensitive: A Position Designation reflecting the potential for inestimable damage to the National Security.

SSBI: Single Scope Background Investigation

SSBI-PR: Single-Scope Background Investigation –Periodic Investigation

Suitability: Refers to a person's identifiable character traits and/or conduct that may have an impact on the integrity or efficiency of the service.

Suitability actions: An action described in 5 CFR 731.203. The actions taken include cancellation of eligibility for employment, removal, cancellation of reinstatement eligibility of employment, or debarment that may be taken by OPM or an agency with delegated authority under the procedures in 5 CFR 731 subparts C and D.

Suitability determination: A decision that a person is suitable or is not suitable for employment in a covered position within the Department of Defense.

APPENDIX TO ENCLOSURE 3

SUITABILITY AND FITNESS ADJUDICATION GUIDANCE

Table 1. Suitability Factors

SUITABILITY FACTORS	GENERAL APPLICATIONS/DISCUSSION
(1) Misconduct or Negligence in Employment	• Misconduct involves doing something wrong in the employer's estimation, while negligence is the failure to do something expected by the employer. • May or may not have resulted in a dismissal. If dismissed, primary emphasis should be on the act or conduct which prompted the dismissal. For military misconduct, the nature of the conduct is the governing factor, rather than the type of discharge. • Includes: poor attendance without cause, insubordination, or other suitability issues that occur in employment, such as theft, etc. • Does not include inability to perform or other qualification issues. • Misconduct or negligence in current Federal employment is not generally included unless it is part of a pattern of conduct. (Instead, part 315 or 752 of Reference (c) would normally apply for post-appointment misconduct issues.)
(2) Criminal or Dishonest Conduct	Criminal Conduct: • Primary emphasis is on the nature of the criminal conduct, which may or may not have resulted in a conviction: details/reasons for dismissal of the offense must be considered; expungement of/pardon for an offense would not nullify the conduct, unless granted on the basis of the person's innocence. • Pending charges (of a nature that would potentially be disqualifying) cannot be adjudicated until the case is disposed. Dishonest Conduct: • Dishonest conduct includes deliberate lies, fraud, or deceit for personal benefit (e.g., theft, acceptance of a bribe, falsification of records, falsification of employment documents, and deliberate financial irresponsibility with continuing, valid debts of a significant nature. Financial irresponsibility is only an issue if it rises to dishonesty.)

Table 1. Suitability Factors, Continued

SUITABILITY FACTORS	GENERAL APPLICATIONS/DISCUSSION
(3) Material, Intentional False Statement or Deception or Fraud in Examination or Appointment	• A "Material" statement (as used in the phrase "material, intentional false statement") is one that is capable of influencing, or has a natural tendency to affect an official decision. The test of materiality does not rest on whether the Agency actually relied on the statement. (Only OPM can cite this factor in a suitability determination as it retains jurisdiction in all competitive service cases involving evidence of material, intentional false statement or deception or fraud in examination or appointment.) • A deliberate attempt to withhold information, or furnish false information, that would have a material bearing on suitability or qualifications for employment, or gain the person an advantage over other applicants, which occurs during the examination, application, or appointment process. • Material false answers to questions on appointment documents concerning one or more recent, serious criminal offenses, employment terminations, etc., or failure to admit a series of minor issues which demonstrate a pattern of misconduct, OR omission of information clearly related to the position sought, such as a performance discharge from the same type of job, a conviction for drug use when applying for a job in the medical field, etc. • Falsifying qualifications needed for the job. • Impersonation/collusion, altering scores, etc.
(4) Refusal to Furnish Testimony as Required by 5 CFR 731, section 5.4	All competitive service applicants and employees are required to give OPM, MSPB, or the Special Counsel, or their authorized representatives, all information, testimony, documents, and material requested in regard to matters inquired of under the Civil Service laws, rules, and regulations, the disclosure of which is not otherwise prohibited by law or regulation.
(5) Alcohol Abuse of a nature and duration which suggests that the applicant or appointee would be prevented from performing the duties of the position in question, or would constitute a direct threat to the property or safety of others	Current continuing abuse would ordinarily be disqualifying. Does not apply for isolated alcohol-related offenses. Rehabilitation must be carefully considered (clear, lengthy break in pattern of abuse/strong evidence the abuse will not occur again).

Table 1. Suitability Factors, Continued

SUITABILITY FACTORS	GENERAL APPLICATIONS/DISCUSSION
(6) Illegal Use of Narcotics, Drugs, or Other Controlled Substances, without evidence of substantial rehabilitation	Current or recent use or possession of a serious nature would ordinarily be disqualifying. Rehabilitation claims must be clearly established. See comments for Alcohol Abuse. Criminal conduct would also be an applicable factor to consider.
(7) Knowing and Willful Engagement in Acts or Activities Designed to Overthrow the U.S. Government by Force	• Must be an overt act. • Membership in an organization, alone, is not disqualifying.
(8) Any Statutory or Regulatory Bar that prevents the lawful employment of the person involved in the position in question	There must be a specific legal restriction to employment.

Table 2. Additional Considerations

ADDITIONAL CONSIDERATIONS	DISCUSSION
(1) The NATURE OF THE POSITION for which the person is applying or in which the person is employed.	The more authority, responsibility, sensitivity and public trust associated with the position, the higher the risks involved and the more potential adverse impact there is to the efficiency and integrity of the service; thus the misconduct becomes more serious as a potentially disqualifying issue. However, certain kinds of conduct may result in disqualification regardless of the position.
(2) The NATURE AND SERIOUSNESS of the conduct.	The more serious the conduct, the greater the potential or disqualification.
(3) The CIRCUMSTANCES surrounding the conduct.	Full facts and circumstances are essential to insure justice to the person and to protect the interests of the Government.
(4) The RECENCY of the conduct.	The more recent the conduct is, the greater the potential for disqualification.
(5) The AGE of the person at the time of the conduct.	Offenses committed as a minor are treated as less serious than those committed as an adult, unless the offense is very recent, part of a pattern, or particularly heinous.
(6) Contributing SOCIETAL CONDITIONS.	Economic and cultural conditions might be a mitigating factor if the conditions are now removed. Generally considered in cases with relatively minor issues.
(7) The absence or presence of REHABILITATION or efforts toward rehabilitation.	Clear, affirmative evidence of rehabilitation is required for a favorable adjudication. Rehabilitation is a consideration in all cases, not just those involving alcohol and drug abuse. While formal counseling or treatment may be a consideration, other factors such as the individual's employment record, etc. may also be indications of rehabilitation. Some indicators of rehabilitation are: time elapsed since conduct last occurred (no set time frame – must be considered in tandem with other factors); results of treatment/counseling – prognosis and past history of treatment; and other aspects of the individual's life such as stable employment record, positive changes in personal life, etc.
* Additional considerations should be carefully considered as aggravating or mitigating conditions to the extent deemed pertinent to the individual case.	

Job Aid: Investigative Requirements

Special Sensitive	SSBI Form: SF86		
Critical Sensitive			
Noncritical Sensitive	ANACI Form: SF 86	MBI Form: SF 85P	
Nonsensitive	NACI Form: SF 85		BI Form: SF 85P
	Low Risk	**Moderate Risk**	**High Risk**

Source: *Requesting OPM Personnel Investigations* (Dec 2010), pp. 9-12

Types of Initial Investigations

	National Agency Check with Inquiries (NACI)*	**Access National Agency Check with Inquiries (ANACI)**	**Minimum Background Investigation (MBI)**	**Background Investigation (BI)**	**Single-Scope Background Investigation (SSBI)**
Uses	• LR positions designated NS	• LR positions designated NCS	• MR positions designated NS • MR positions designated NCS	• HR positions designated NS	• All SS or CS positions • All sensitive HR positions
Components	• NAC • Employment checks • Residence checks • Education checks • Law enforcement agency checks • Personal reference checks	• NAC • Employment checks • Education checks • Law enforcement agency checks • Personal reference checks • Credit checks • Residence checks	• NAC • Employment checks • Education checks • Law enforcement agency checks • Personal reference checks • Credit checks • Residence checks • Personal subject interview	• NAC • Employment checks • Education checks • Law enforcement agency checks • Personal reference checks • Credit checks • Residence checks • Personal subject interview • Reviews of court actions • Other source interviews	• NAC • Employment checks • Education checks • Law enforcement agency checks • Personal reference checks • Credit checks • Residence checks • Personal subject interview • Reviews of court actions • Other source interviews • Citizenship checks • Spouse or cohabitant NAC
	***Minimum investigation required for federal employees**				

Job Aid: Reinvestigative Requirements

Special Sensitive	SSBI-PR or Phased PR Form: SF86		
Critical Sensitive			
Noncritical Sensitive	NACLC Form: SF 86	NACLC Form: SF 86	
Nonsensitive	None	NACLC Form: SF 85P	PRI Form: SF 85P
	Low Risk	**Moderate Risk**	**High Risk**

Source: *Requesting OPM Personnel Investigations* (Dec 2010), pp. 9-12

Types of Reinvestigations

	National Agency Check with Law and Credit (NACLC)*	**Periodic Reinvestigation (PRI)**	**Single-Scope Background Investigation—Periodic Investigation (SSBI-PR)**	**Phased Periodic Reinvestigation (PPR)***
Uses	• LR or MR positions designated NCS • NS or NCS positions designated MR	• HR positions designated NS	• All SS or CS positions • All sensitive HR positions	• All SS or CS positions • All sensitive HR positions
Components	• NAC • Credit checks • Local law enforcement agency checks	• NAC • Credit checks • Local law enforcement agency checks • Personal subject interview • Written inquiries to references	• NAC • Credit checks • Local law enforcement agency checks • Personal subject interview • Spouse or cohabitant NAC • Other source interviews • Reviews of court actions	• NAC • Credit checks • Local law enforcement agency checks • Personal subject interview • Spouse or cohabitant NAC • Other source interviews • Reviews of court actions
	***Minimum investigation required for periodic reinvestigation*			**Alternative to SSBI—PR*