



Office of Personnel Management

Suitability Executive Agent Programs (SuitEA)

Suitability and Fitness Processing Manual

This manual provides implementing guidance to title 5, Code of Federal Regulations part 731 (5 C.F.R. part 731), *Suitability and Fitness*, which establishes requirements for position designation; reciprocity; investigations, including continuous vetting; criteria for making suitability and fitness determinations; and procedures for taking suitability actions.

Unless noted otherwise, agencies must consult OPM on approval for exceptions to the requirements set forth in 5 C.F.R. part 731 and this Manual.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

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Change Record

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Preamble

This Manual is for use by Office of Personnel Management (OPM) adjudicative staff and personnel of other Federal agency offices who handle suitability and fitness case processing and adjudication. This Manual provides a basis for governmentwide uniformity in suitability and fitness case processing and adjudication.

This Manual provides supplemental guidance referred to in 5 C.F.R. § 731.102(b). Additionally, agencies must exercise due regard to the applicable guidance on making fitness determinations within this Manual if determining fitness for employment as a contractor employee or as a nonappropriated fund (NAF) employee (5 C.F.R. § 731.101(c)). While this Manual provides guidance on 5 C.F.R. part 731, there are numerous policy and operational issuances by OPM and the Office of the Director of National Intelligence, as the Suitability and Credentialing and Security Executive Agents (EAs), respectively, that address personnel vetting policies and procedures. Agency vetting personnel must be familiar with and follow those issuances, as applicable to the work they perform.

The 5 C.F.R. part 731 regulation addresses the following:

- Aligned position designation requirements, investigative standards, and reciprocity for the civil service, contractor, and NAF fund positions.
- The requirement for continuous vetting of the low risk and non-sensitive public trust populations.
- Established the suitability and fitness criteria that must be applied to much of the civil service and may be applied to the contractor and NAF workforce.
- Specified procedures for suitability actions by OPM and agencies.

Public service requires high standards of integrity and trust to promote the interests of the public. Suitability and fitness refer to a decision by an agency that an individual does or does not have the required level of character or conduct necessary to perform work for or on behalf of a Federal agency. These determinations are based on whether a person's character or conduct may have an adverse impact on the integrity or efficiency of the service. The difference in terminology, as to suitability or fitness, is based on the type of position being adjudicated. Suitability determinations are made in reference to positions in the competitive service, positions in the excepted service that can noncompetitively convert to the competitive service, or career Senior Executive Service positions (hereinafter referred to as competitive service and career Senior Executive Service) whereas fitness determinations are made for excepted service positions, contractor positions, and NAF positions.

OPM established a suitability adjudication program in the Federal competitive service to reduce the potential for abuse of public trust and to ensure governmentwide uniformity and fairness for applicants, appointees, and employees, when determinations about their suitability for Federal employment are made. Additionally, OPM established minimum standards of fitness that apply to much of the excepted service and can be used for contractor and NAF positions.

Thorough knowledge of this Manual coupled with National Training Standards compliant training and understanding of Trusted Workforce 2.0 policies and requirements, helps with promoting efficient and effective vetting processing while also protecting the civil liberties and privacy of individuals undergoing vetting. The **Common Principles in Applying Federal Personnel Vetting Adjudicative Standards** (Common Principles) specify requirements that adjudicators must follow which for emphasis, are restated here (see Common Principles Section IV.A.5i-viii):

1. Adjudicators will use information that is relevant, timely, and as complete as is reasonably necessary to assure fairness to the individual to make trust determinations using the whole-person concept, where applicable.
2. Adjudicators will use the adjudicative criteria for trust determinations for the applicable vetting domain(s) (suitability, fitness, national security and/or personal identity verification credentialing) and adhere to the adjudicative process framework.
3. Adjudicators will treat all individuals undergoing personnel vetting with fairness, dignity, and respect by adhering to legal and ethical requirements. Adjudicators shall not engage in unlawful discrimination or take action that is contrary to applicable policy when making a trust determination. As adjudicators make trust determinations, they must ensure compliance with whistleblower protection statutes that prohibit retaliation against individuals who make protected disclosures.
4. Adjudicators will offer to recuse themselves from adjudicating cases where there may be an actual or perceived conflict of interest.
5. Adjudicators will request and collect relevant information in accordance with applicable guidance when needed to resolve outstanding matters necessary for adjudication.
6. Adjudicators will properly protect, use, share, transmit, and retain information in accordance with law, regulation, and policy.
7. Adjudicators will refer adjudicatively relevant information to law enforcement, counterintelligence, insider threat, and other mission partners, in accordance with applicable law, regulation, and policy.
8. Adjudicators will comply with quality oversight measures established by the Executive Agents including the following requirements:
 - a. Provide feedback to the authorized personnel vetting investigative service providers (ISP) on the quality of investigative products (for example, whether coverage requirements were met, the readability and thoroughness of the investigative product, etc.) using an appropriate quality assessment tool.
 - b. Promote the quality of adjudicative assessments (for example, peer review) as described in the **Federal Personnel Vetting Performance Management Standards**.

OPM-Retained Jurisdiction and Agency Authorities

While the responsibility for adjudicating the suitability of individuals is inherent to OPM, with certain exceptions OPM has delegated to the heads of agencies authority for making suitability determinations and taking actions in the case of applicants and appointees within their agency. The delegation is made in accordance with 5 United States Code section 1104(a)(2), as authorized by Congress, with established standards, including those created here within, that apply to agencies acting under authority delegated by OPM. The specifics of the delegations of authority are covered within 5 C.F.R. § 731.103 and elsewhere in this Manual. Agency heads may redelegate suitability related authorities to components within their agency. Agency records must show any redelegation and must be made available to OPM, upon request. An agency that does not wish to perform its delegated responsibilities may request OPM to provide assistance to the agency in performing the function. Such assistance may be performed on a reimbursable basis.

OPM retains exclusive authority to make suitability determinations and take suitability actions in certain categories of cases, even when agencies otherwise exercise delegated authority under 5 C.F.R. part 731. OPM retains jurisdiction in the following situations:

- **Material, intentional false statement, or deception or fraud in examination or appointment** for competitive service or career Senior Executive Service positions.
- **Knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force.**
- **Post-appointment- conduct** involving an individual who has obtained “employee” status as defined in 5 C.F.R. part 731.
- **Conduct that may warrant a governmentwide debarment**, once sufficient information exists to support that such a determination may be appropriate. Sufficient information means the agency has credible, verified, and relevant evidence that reasonably establishes the conduct occurred, that the information contains no material gaps, and that it is complete enough to be relied upon when assessing whether the conduct may warrant a governmentwide debarment.
- In addition, OPM may assume jurisdiction in any case where doing so is necessary to ensure consistency with law, regulation, Executive Agent issuances, or to safeguard the integrity and efficiency of the service.

Agency Authorities and Non-Suitability- Actions

While only OPM may take a suitability action against an employee based on post-appointment- conduct that falls within the suitability factors, agencies retain the authority to address the conduct under other applicable frameworks, such as:

- **5 C.F.R. part 752** (adverse actions)
- **5 C.F.R. part 359** (SES removals)

- Agency-specific conduct or performance procedures

When an agency takes, or intends to take, action under another authority involving post-appointment conduct that implicates the suitability factors, the agency **must notify OPM** in accordance with 5 C.F.R. § 731.103. This ensures proper coordination of suitability and non-suitability- processes.

OPM's Suitability Executive Agent Programs office routinely conducts oversight of agency performance of vetting related functions, including those which are delegated by OPM. In the case of OPM finding that an agency is performing contrary to law, rule, regulation, or standards, the agency must take corrective action.

The following includes responsibilities of agencies:

- Designating the sensitivity and risk level of each position subject to investigation as required by 5 C.F.R. § 731.106, and 5 CFR § 1400, Designating National Security Positions,
- Ensuring an effective adjudicative process within the agency,
- Initiating timely, commensurate investigations per the position's risk designation,
- Enrolling and unenrolling required individuals with compliant Continuous Vetting programs,
- Carrying out and enforcing any OPM suitability actions involving the agency,
- Adjudicating suitability, fitness and credentialing as outlined in regulations, Trusted Workforce guidance, this Suitability and Fitness Processing Manual and any future supplemental guidance,
- Complying with the suitability and fitness program administration requirements,
- Providing appropriate training for designating position risk and adjudicating suitability, and
- Establishing and maintaining an effective suitability and fitness program to ensure the employment of individuals will promote the efficiency and protect the integrity of the service.

Relevant Authorities: Suitability and Fitness

There are several authorities relevant to personnel vetting, and in particular suitability and fitness, including the following:

Basic Authorities. Section 3301 of title 5, United States Code (U.S.C.) authorizes the President to examine all civil service applicants as to fitness. The President delegated this authority for the competitive service to OPM in the Civil Service Rules authorized by Executive Order (E.O.) 10577 (as amended by E.O. 12107 and now codified in 5 C.F.R. 731. Additional authority includes 5 U.S.C. § 1103, authorizing OPM to execute, administer and enforce the civil service laws, rules and the March 20, 2025, Presidential Memorandum “Strengthening the Suitability and Fitness of the Federal Workforce.

OPM, as delegated by the President, has the authority to prescribe both qualification and suitability standards, and to conduct both examinations of applicants’ qualifications and investigations of suitability for appointment and continuing employment. (See 5 U.S.C. § 1104(a)(1)). However, the delegation was generally limited to positions in the competitive service. With amendments to the Civil Service Rules made by E.O. 13764 of January 17, 2017, “Amending the Civil Service Rules, Executive Order 13488, and Executive Order 13467 to Modernize the Executive Branch-Wide Governance Structure and Processes for Security Clearances, Suitability and Fitness for Employment, and Credentialing and Related Matters,” OPM was established as the Suitability and Credentialing Executive Agent and its responsibilities expanded to allow for establishing minimum standards of fitness based on character and conduct for appointment to positions in the excepted service of the executive branch. E.O. 13764 set forth requirements for the OPM Director to establish mutually consistent standards and procedures to determine the reliability, trustworthiness, and good character and conduct of those working for the Government in the executive branch regardless of appointment type. Additionally, E.O. 13764 expanded OPM’s responsibilities by making OPM responsible for establishing investigative standards, risk designation procedures, and reciprocity rules for this additional population.

On March 20, 2025, the President issued a memorandum titled *Strengthening the Suitability and Fitness of the Federal Workforce*. This memorandum formally delegated two new authorities to the OPM Director. First, it formally delegated authority to the OPM Director to make final suitability determinations and take suitability actions against federal employees based on conduct that occurs **after** they are hired. Second, it directed OPM to update its regulations to put that authority into practice. OPM responded by issuing a final rule that amended 5 CFR part 731, effective July 30, 2026. Before this amendment, when a federal employee engaged in serious misconduct on the job, agencies generally had to use a different authority such as a Chapter 75 action to address the conduct. This change does not affect how performance problems are handled. It applies only to conduct that falls within one or more of the specific suitability factors listed in 5 CFR 731.202. Only OPM can take the final suitability action in employee cases involving post-appointment conduct. See [Section 3.2](#) and [3.3](#) of this Manual for full guidance on OPM’s retained authority and how to make a referral.

E.O. 13488, as amended, “Granting Reciprocity on Excepted Service and Federal Contractor Employee Fitness and Reinvestigating Individuals in Positions of Public Trust,” establishes that

contractor employee fitness or NAF fitness is subject to the same position designation requirements and investigative standards, policies, and procedures as fitness determinations for civil service employees as prescribed by OPM under the Civil Service Rules. E.O. 13467, as amended, “Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Classified National Security Information,” establishes a requirement for continuous vetting for persons who perform, or who seek to perform, work for the executive branch in competitive service, excepted service, career Senior Executive Service, contractor employee, and NAF positions. Furthermore, E.O. 13467, as amended, (section 2.1(c)) establishes that “(t)he investigative and adjudicative standards for fitness shall, to the extent practicable, be consistent with the standards for suitability.” Consistent with this framework, per 5 CFR 302.108, an agency must make a fitness determination for excepted service positions in accordance with the applicable requirements of 5 CFR 731.

In May 2018, the OPM Director and the Director of National Intelligence, in their respective roles as Suitability and Credentialing Executive Agent and Security Executive Agent, launched an effort consistent with this direction, “Trusted Workforce 2.0,” (see <https://www.performance.gov/trusted-workforce/>) to transform workforce vetting by employing a modernized and more efficient process for ensuring that only trusted individuals enter and remain in the Federal workforce. Key goals of the initiative are to capitalize on information technology capabilities that allow for the integration of automation and take advantage of a wider spectrum of data, reduce time-intensive manual processing, and promote greater mobility of the workforce by providing vetting processes that enable each individual’s vetting status to be continuously up to date.

OPM is authorized by 5 U.S.C. §§ 1104 and 1303 and 5 C.F.R. § 5.2 to evaluate the effectiveness of agency compliance with suitability program requirements established by OPM. OPM is authorized by 5 U.S.C. § 1103 and 5 C.F.R. § 5.3 to take, or require an agency to take, corrective action in any case where OPM has jurisdiction.

Related Authorities. The many authorities concerned with suitability and fitness investigations and adjudications include **5 U.S.C. § 301** (authorizing heads of departments to prescribe regulations for the conduct of departmental employees) and the following:

- **5 U.S.C. 2 § 302(b)(2)(B)** (requiring recommendations, including evaluations of character, loyalty, or suitability, to be made on personal knowledge)
- **5 U.S.C. § 2302(b)(10)** (restricting the basis for unfavorable employment decisions to conduct that adversely affects performance, and convictions for crimes)
- **5 U.S.C. § 3301** (Presidential authority for standards of entry for the civil service)
- **5 U.S.C. § 7301** (Presidential authority for standards of conduct for the civil service)
- **5 U.S.C. § 7311** (loyalty and striking against the Government)
- **5 U.S.C. § 7313** (on riots and civil disorders) and other laws prescribing periods of ineligibility for government employment for certain offenses.

Glossary

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, eligible for logical and physical access, eligible for access to classified information, eligible to hold a sensitive position; or fit to perform work for or on behalf of the Government as a Federal employee, contractor, or non-appropriated fund employee. (E.O. 13467, section 1.3(a))
AGENCY	For purposes of this manual, unless otherwise specified, agency refers to any Department or Agency of the United States Government required to investigate and adjudicate positions whether for credentialing, suitability, fitness, or security purposes.
ANSWER	A respondent's written response to charges. Respondents may provide documentation, including affidavits, in support of their answers.
APPLICANT	An individual who is being considered or has been considered for employment in the competitive service or career Senior Executive Service.
APPOINTEE	An individual who has entered on duty and is in the first year of employment in a competitive service or career Senior Executive Service position when it is employment subject to investigation. When the individual is serving a probationary or trial period, the individual's status as an appointee will extend through the end of the initial probationary/trial period, if longer than one year.
CORE DUTY	Means a continuing responsibility that is of particular importance to the relevant position or the achievement of an agency's mission.
COMPETITIVE SERVICE OR CAREER SENIOR EXECUTIVE SERVICE	For the purposes of 5 C.F.R. part 731, "Competitive service or career Senior Executive Service" refers to a position in the competitive service, a position in the excepted service where the incumbent can be noncompetitively converted to the competitive service, or a career appointment to a position in the Senior Executive Service.

CONTINUOUS VETTING	A process that involves regularly reviewing a vetted individual's background to ensure they continue to meet suitability, fitness, and/or other eligibility requirements. Informs active and ongoing consideration of potential risk throughout an individual's affiliation and whether the individual continues to demonstrate the characteristics of a trusted person. Continuous vetting promotes timely detection of behaviors of concern allowing agencies to implement remediation activities to address potential issues or assist the individual before concerns escalate. (See Federal Personnel Vetting Guidelines and Federal Personnel Vetting Investigative Standards (FPVIS) and implementing guidance.)
DAYS	Calendar days.
DEBARMENT	A prohibition from taking a competitive service examination or from being hired (or retained in) a competitive service or career Senior Executive Service position for a specific time period.
DELEGATION (OF SUITABILITY ADJUDICATION)	The Office of Personnel Management's authorization for agency heads to adjudicate suitability cases involving applicants for, and appointees to competitive service and career Senior Executive Service positions within their agency unless jurisdiction has been reserved by OPM.
DEROGATORY INFORMATION	Information which potentially justifies unfavorable adjudication; such information may prompt a request for additional investigation or clarification for resolution of an issue.
EMPLOYEE	An individual who has completed the first year of an appointment in the competitive service or career Senior Executive Service when it is employment subject to investigation and is no longer serving the initial probation or trial period, if applicable. In the case of an appointee whose initial probation or trial period is for more than one year, the individual will be considered an employee at the completion of the initial probation or trial period.
EMPLOYMENT SUBJECT TO INVESTIGATION	Except as described elsewhere in 5 C.F.R. part 731, includes an appointment to the competitive service or career Senior Executive Service, an appointment to the excepted service, employment as a contractor employee, or employment as a nonappropriated fund employee.

EXCEPTED SERVICE	Any position of the executive branch either excepted from the competitive service, or which is not in the Senior Executive Service. For the purposes of this regulation, excepted service does not include (1) any position in an element of the intelligence community as defined in the National Security Act of 1947, as amended, to the extent that the individual is not otherwise subject to OPM appointing authorities, (2) any position where OPM is statutorily precluded from prescribing such standards, and (3) any position when filled by political appointment. Senior Executive Service noncareer, limited term, and limited emergency appointments are not subject to suitability actions under this part. For purposes of this definition, ‘excepted service’ excludes positions that may be noncompetitively converted to the competitive service. (See also 5 U.S.C. § 2103 – The excepted service.)
FEDERAL PERSONNEL VETTING RECORD	The totality of all personnel vetting-related information maintained on an individual, including vetting actions, investigations, and adjudicative information, and is maintained in the governmentwide repositories and/or agency internal records. (See Federal Personnel Vetting Management Standards, section XII).
FITNESS DETERMINATION	A decision by an agency that an individual has or does not have the required level of character and conduct necessary to perform work for a Federal agency in an excepted service position, as a contractor, or as a nonappropriated fund employee. These determinations are based on whether an individual’s character or conduct may have an adverse impact on the integrity or efficiency of the service.
HIGH RISK, (HR)	A final position designation assessment reflecting the potential for exceptionally serious impact, critical to an agency program or mission or the integrity or efficiency of the service.
HIGH TIER (HT)	Positions designated as high-risk public trust and/or critical sensitive or special sensitive. For critical or special sensitive positions, the level of investigation can be used to grant access to classified information at the Top-Secret level, access to Sensitive Compartmented Information, or Q access.
HIGH YIELD CHECKS (HYC)	A set of automated record checks, determined by investigative tier, the results of which may lead the agency to determine it can accept the risk of allowing an individual to enter on duty in advance of completion of the required level of investigation.

INITIAL VETTING	Initial vetting enables agencies to make well-informed decisions about whether those who have not been previously vetted present an acceptable risk to the Federal government regarding whether the individual will protect people, property, information, and mission. Information gathered during initial vetting provides insight and is used as a baseline for continuous vetting. (See Federal Personnel Vetting Guidelines, Federal Personnel Vetting Investigative Standards, and implementing guidance).
INVESTIGATIVE SERVICE PROVIDERS (ISP)	ISPs provide the requesting agency with a report of investigation containing both positive and negative information about the individual for an assessment against the characteristics of a trusted person to make a trust determination
INVESTIGATIVE TIERS	There are three investigative tiers aligned to support trust determinations for suitability, fitness, national security, and/or credentialing, as appropriate to the designations at each risk level and to permit mobility to the greatest extent possible. The investigation for each tier builds upon the tier below it, with coverage and complexity of each tier commensurate with designation of the position for which the individual is being vetting. The tiers are: Low Tier (LT), Moderate Tier (MT), and High Tier (HT). (Federal Personnel Investigative Standards and Federal Personnel Vetting Guidelines).
INV FORM 79A	Report of Agency Adjudicative Action on Personnel Investigations.
INV FORM 79C	Report of Agency Unfavorable Adjudicative Action on Non-Investigated Applicants or Appointees.
JURISDICTION	The limits within which authority can be exercised or asserted.
LOW RISK (LR)	A final position designation assessment reflecting the potential for limited impact on an agency program or mission or the integrity or efficiency of the service.
LOW TIER (LT)	Positions designated as low-risk, non-sensitive, and the minimum tier for eligibility for physical and/or logical access or credentialing determinations.
MATERIAL	In reference to a statement, one that affects, or has a natural tendency to affect, or is capable of influencing, an official decision even if OPM or an agency does not rely upon it.
MODERATE RISK (MR)	A final position designation assessment reflecting the potential for moderate to serious impact on an agency program or mission or the integrity or efficiency of the service.

MODERATE TIER (MT)	Positions designated as moderate-risk public trust and/or non-critical sensitive. For non-critical sensitive positions, the level of investigation can be used to grant access to classified information at the Confidential or Secret level, or L access.
NEXUS	A direct or logical connection between a person's character or conduct and the integrity or efficiency of the service.
NONAPPROPRIATED FUND EMPLOYEE (NAF)	An employee paid from nonappropriated funds of an instrumentality of the United States under the jurisdiction of the Armed Forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Armed Forces as described in 5 U.S.C. 2105.
NOTICE OF PROPOSED ACTION	The written notification outlining the specific and detailed reasons for a proposed suitability action against an individual, the individual's rights, and other information.
NOTICE PERIOD	The numbers of days allowed to answer information relied on before a final determination.
ORDER OF OPERATIONS	The sequence in which trust determinations, as applicable to the position, are made. (See Common Principles in Applying Federal Personnel Vetting Adjudicative Standards).
POLITICAL APPOINTMENT	An appointment by Presidential nomination for confirmation by the Senate, an appointment by the President without Senate confirmation (except those appointed under 5 C.F.R. § 213.3102(c)); an appointment to a position compensated under the Executive Schedule (5 U.S.C. § 5312 through 5316); an appointment of a White House Fellow to be assigned as an assistant to a top-level Federal officer (5 C.F.R. § 213.3102(z)); a Schedule C appointment (5 C.F.R. § 213.3301, 213.3302); a noncareer, limited term, or limited emergency Senior Executive Service appointment (5 C.F.R. part 317, subpart F); an appointee to serve in a political capacity under agency-specific authority; and a provisional political appointment.
PUBLIC TRUST	The category of positions, at the moderate or high-risk levels involving a significant degree of public trust (such as policy making or major program responsibilities, fiduciary responsibility, law enforcement positions, public safety and health duties).

RE-ESTABLISHMENT OF TRUST	Occurs after a break in service. In accordance with policy and guidance, an agency will determine the appropriate level of vetting. (See Federal Personnel Vetting Guidelines and Federal Personnel Vetting Investigative Standards and implementing guidance.)
RISK DESIGNATION	An assessment (Low, Moderate, or High) of a position to determine its potential for adverse impact to the integrity or efficiency of the service, its effect on the agency or on the agency's mission.
SENSITIVITY	A position assessment designation indicating the degree of damage an individual in the position could affect the National Security.
SUBSTANTIATED CONDUCT	Conduct that the agency has confirmed, through credible and verifiable evidence, that the conduct in question occurred. Agencies must obtain corroborating evidence before making a suitability determination or referring the case to OPM.
SUFFICIENT INFORMATION	The agency has credible, verified, and relevant evidence that reasonably establishes the conduct occurred, that the information contains no material gaps, and that it is complete enough to be relied upon when assessing whether the conduct may warrant a governmentwide debarment.
SUITABILITY	A person's identifiable character traits and conduct which are sufficient to decide whether an individual's employment or continued employment would or would not protect the integrity or promote the efficiency of the service.
SUITABILITY ACTION	One or more of the following outcomes: (1) Cancellation of eligibility; (2) Removal; (3) Cancellation of reinstatement eligibility; and (4) Debarment.
SUITABILITY DETERMINATION	A decision by OPM or an agency with delegated authority that an individual is suitable or is not suitable for employment in the competitive service or career Senior Executive Service in the Federal Government or a specific Federal agency. A suitability determination is based on whether an individual's character or conduct may have an adverse impact on the integrity or efficiency of the service.

TRANSFER OF TRUST	Occurs when an individual moves between positions from one agency to a new agency and involves an agency determining if reciprocity of prior investigations and/or adjudications may be applied. (See Federal Personnel Vetting Guidelines and Federal Personnel Vetting Investigative Standards and implementing guidance.)
TRUST DETERMINATION	A trust determination is a suitability, fitness, national security (eligibility for or continued access to classified information or to hold a sensitive position), and/or credentialing determination that an individual can be trusted to protect people, property, information, and mission, as appropriate under relevant adjudicative standards. (See Federal Personnel Vetting Guidelines, section III.)
VETTING SCENARIOS	There are five personnel vetting scenarios: Initial Vetting, Continuous Vetting, Upgrades, Transfer of Trust, and Re-establishment of Trust. (See Federal Personnel Vetting Guidelines.)
UPGRADES	A selection to a new position or assignment of new duties may require an upgrade if the new position or revised position description requires a higher tier investigation. (See Federal Personnel Vetting Guidelines and Federal Personnel Vetting Investigative Standards and implementing guidance.)

Volume 1: Position Designation, Reciprocity, and Individual Engagement

Change Record

[illegible]

1.1 – Vetting Overview

Effective Government operations require that the Federal Government’s workforce be trusted to deliver the mission, provide excellent service, and demonstrate effective stewardship of taxpayer funds.¹ There are a number of elements of personnel vetting which are addressed in the **Trusted Workforce 2.0 Federal Personnel Vetting Guidelines** and defined in detail in subordinate policy issuances on investigative, adjudicative, and performance management requirements. These elements are:

Position Designation

Position designations use standard criteria and business rules to make uniform and consistent position sensitivity and risk determinations to ensure that the individual holding that position undergoes an appropriate investigation commensurate with the identified risk of the position. OPM and the Office of the Director of National Intelligence (ODNI) jointly issue the Position Designation System (PDS), which is used by agencies to designate a position’s risk and sensitivity level. Position designation is critical in vetting because through it, an agency determines the appropriate level of vetting for the position. In accordance with 5 C.F.R. § 731.106, agencies must use the PDS, or associated Position Designation Tool (PDT) which is available within the National Background Investigations Services (NBIS)², to designate position risk for civil service, contractor, and NAF positions. Part 1400 of title 5 C.F.R. addresses the requirement by agencies for using the PDS to designate position sensitivity. The requirement for using the PDS is reiterated in the Trusted Workforce 2.0 Federal Personnel Vetting Management Standards as is the requirement for recordkeeping and the responsibility of agencies for ensuring proper training of personnel tasked with doing position designation.

Determining Previous Vetting

Agencies must review governmentwide high- and low-side record repositories to determine if an individual has been previously vetted for a trust determination. Agencies must review whether the prior level of personnel vetting meets or exceeds the investigative requirements of the position and determine what, if any, additional personnel vetting is required. In addition to policy requirements and guidance issued jointly by OPM and ODNI, 5 C.F.R. § 731.104 specifies requirements for reciprocally accepting prior investigations and adjudications.

Vetting Questionnaire

An initial collection of relevant background information by the individual is required, as well as an updated collection of relevant background information, if necessary, together with relevant investigative information, to make a trust determination. OPM, working closely with ODNI, sponsors the Personnel Vetting Questionnaire (PVQ) information collection, and predecessor Standard Forms, which are used in conducting personnel vetting investigations. Responses to the questionnaire are used to make trust determinations associated with an individual’s initial and ongoing suitability or fitness and/or eligibility to hold a sensitive

¹ See the [Federal Personnel Vetting Core Doctrine, January 13, 2021](#).

² [NBIS](#) is the Federal Government’s IT system for end-to-end personnel vetting.

position, access classified information, or for physical or logical access to federally controlled facilities or information systems.

Screening

Screening involves reviewing information available to the agency through the application, hiring, and vetting process to identify information of potential adjudicative concern. Agencies may conduct screening prior to an investigation and up to the point of receiving high yield checks (HYC) through the investigative process. HYCs are a set of automated record checks, determined by investigative tier, the results of which may lead the agency to determine it can accept the risk of allowing an individual to enter on duty in advance of completion of the required level of investigation. If through screening the agency identifies information that may lead to the individual being unsuitable, unfit, or ineligible to hold a sensitive position, access classified information, or hold a personal identity verification credential, the agency may act upon it in accordance with applicable laws, regulations, and policies. This manual provides implementing guidance in the form of a model process, for agencies to address suitability or fitness issues that may develop prior to the required investigation (see 5 C.F.R. § 731.106(c)(3)).

Preliminary Determination

A preliminary determination is an internal agency decision based upon the results of HYCs conducted during the initial vetting process. For the purpose of suitability or fitness, preliminary determinations are made by agencies in the same fashion as are trust determinations, meaning that agencies making preliminary determinations do so by applying the adjudicative criteria in 5 C.F.R. § 731.202 and as addressed within this Manual.

Investigation

Investigative service providers (ISPs) provide the requesting agency with a report of investigation containing both positive and negative information about the individual for an assessment against the characteristics of a trusted person to make a trust determination. Part 731 of title 5, section 106 establishes subject to investigation requirements for civil service, contractor, and NAF positions. OPM and ODNI jointly issue Investigative Standards which establish the scope and coverage of investigative products conducted by authorized ISPs.

Adjudication

Adjudication employs a whole-person concept, where applicable, to make a risk-based decision regarding whether an individual demonstrates the characteristics of a trusted person to protect people, property, information, and mission for the position they occupy or seek to occupy. The adjudication process centers on identifying and evaluating an individual's behaviors and past conduct. Part 731 of title 5 section 202 establishes the criteria for making suitability and fitness determinations for the civil service. In accordance with E.O. 13488, as amended, agency heads retain discretion for establishing fitness standards for the contractor and NAF workforce but with due regard to 5 C.F.R. § 731 and other OPM issuances, including this Manual. For agencies to make fitness determinations on the contractor and NAF

workforces in an equivalent manner to suitability and fitness determinations on civil service positions, they should follow the guidance outlined within this Manual.

Federal Personnel Vetting Record

Agencies must record personnel vetting determinations, to include investigative items and adjudicative information, in the governmentwide repositories and the agency's internal records for increased mobility and transparency. OPM and ODNI have established timeliness measures via the Trusted Workforce 2.0 Performance Management Standards and subordinate documents. Additionally, 5 C.F.R. § 731.203 establishes timeliness expectations for reporting suitability actions.

Continuous Vetting

Agencies must enroll each individual in the appropriate continuous vetting capability for the corresponding investigative tier based on the position designation. Section 106(d) of part 731 establishes the requirement for continuous vetting for individuals occupying non-sensitive low risk and public trust positions. Other vetting policies, including the Federal Personnel Investigative Standards and the Performance Management Standards, and implementing guidance, specify conditions and requirements for continuous vetting enrollment. Agencies will use the suitability and fitness criteria in 5 C.F.R. part 731 and the implementing guidance here within, to adjudicate continuous vetting alerts and make appropriate referrals to OPM as required.

Personnel Vetting Engagement

Effective personnel vetting engagement ensures two-way communication between the individual and the Government at all appropriate points in the process. This results in improved accuracy, validity, transparency, and efficiency at each step of the process.

Review Proceeding

The personnel vetting process reflects existing rights for applicants' and employees' review proceedings for the applicable adjudicative determination type.

Information-sharing

Information sharing, to the extent permitted by law, in Federal personnel vetting relies on sharing of validated relevant information across and within agencies to eliminate unnecessary duplication and reduce waste. Information sharing will improve transparency of the process, ensure quality, and maximize efficiency, while ensuring proper safeguarding and handling of sources and methods, protecting privacy rights, and ensuring fair and consistent treatment to all individuals.

1.2 - Position Designation

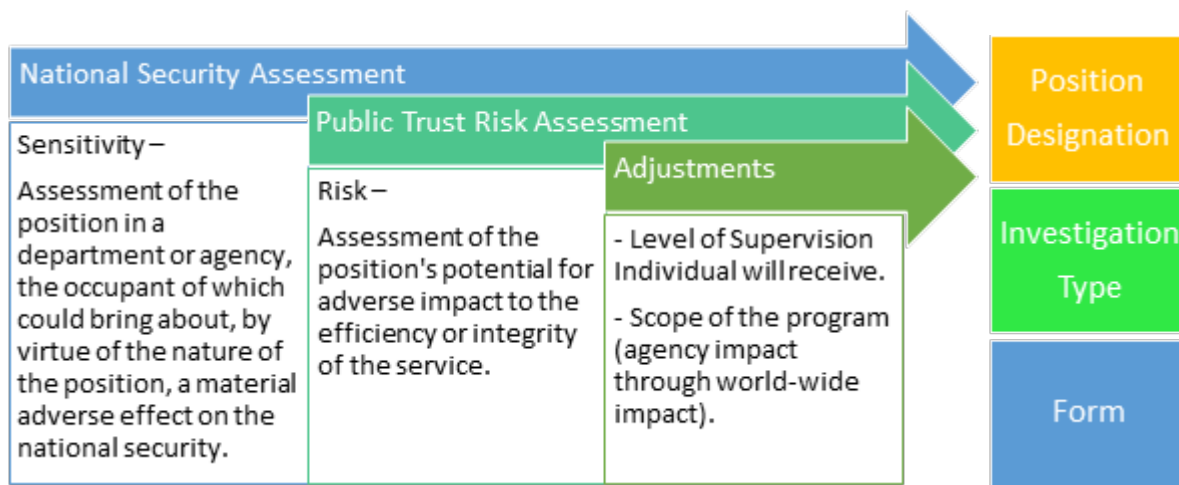
The first step in the personnel vetting process is to assess what investigation level is required for the position. To determine the investigation level required, the risk and sensitivity levels must be assessed for each position. Positions are to be designated using standard criteria and

business rules to make uniform and consistent sensitivity and risk determinations to ensure the individual holding the position undergoes appropriate vetting. The specific set of duties of the position, as outlined in a position description, job description, or equivalent are used in accordance with the PDS. The PDS is issued jointly by OPM as the Suitability and Credentialing Executive Agent and ODNI as the Security Executive Agent. OPM and ODNI coordinate with the Defense Counterintelligence and Security Agency (DCSA) to provide the PDS in the format of an automated tool for convenience and consistency. The PDT is available at: <https://pdt.nbis.mil/>.

Over-designating a position and requesting a level of vetting that is higher than required wastes Federal tax dollars, while under-designating a position and requesting a level of vetting lower than required could put the Federal Government's people, property, information, and mission at risk. Therefore, ensuring that the documentation used to designate the position is accurate and up to date is imperative to the process.

ELEMENTS OF POSITION DESIGNATION

Figure 1 VI



The public trust risk assessment of a position is the assessment of the degree of potential damage to the efficiency or integrity of the service that could arise from misconduct by the incumbent in the position. A national security assessment evaluates the potential material adverse effect on national security that an incumbent could cause by virtue of the position and determines the position's national security sensitivity. The PDS provides the designator the national security sensitivity, public trust risk and correlating minimum investigation level appropriate for the position.

A position designation may incorporate multiple position titles and position descriptions provided there are no differences in duties or required access to information and/or facilities. The Position Designation Record (PDR) should clearly list each position title and position description numbers to which the designation applies. Example: An agency has an administrative position's duties designated as Non-Sensitive, Low Risk, Tier 1; however, multiple offices have created distinct position titles and position description numbers for positions performing those same duties. Position Titles (i.e., Secretary; Office Assistant;

Program Support Assistant) may be listed with their respective position description numbers to generate a single position designation record. This method of recording position designations requires that the position descriptions all be accurate and up to date to ensure that that duties for those positions are the same.

To understand the process, it is recommended to read through the PDF version of the PDS before attempting to use the tool. Attending training is also highly recommended.

Table 1 V1 below identifies the minimum required investigation by risk/sensitivity designation and the associated investigative form as: Standard Form (SF) 85, 85P and 86 or the Personnel Vetting Questionnaire (PVQ). The table includes investigative tiers from the 2012 Federal Investigative Standards (FIS) and 2022 FPVIS.

The PVQ aligns the information collected within the SF 85, 85P, 85P-S, and 86. The form is divided into 4 Parts:

- A – Mandatory for all Positions
- B – Mandatory for all Positions except Low Risk
- C – Mandatory for all National Security Positions
- D – Mandatory for certain law enforcement positions at the discretion of the hiring agency. Part D equates to the Supplemental form to the SF 85P /SF 85P-S which may be used for certain positions as authorized by OPM.

MINIMUM REQUIRED INVESTIGATION LEVELS AND INFORMATION COLLECTION FOR POSITIONS

Table 1 V1

Position Designation	2022 FPVIS Required Inv. Level	2012 FIS Required Inv. Level	SF	PVQ
Non-Sensitive / Low Risk	Low Tier	Tier 1	SF 85	Part A
Non-Sensitive / Moderate Risk	Moderate Tier	Tier 2	SF 85P	Part A and B
Non-Critical Sensitive / Moderate Risk	Moderate Tier	Tier 3	SF 86	Part A, B and C
Non-Sensitive / High Risk	High Tier	Tier 4	SF 85P	Part A and B
Non-Critical Sensitive / High Risk	High Tier	Tier 5	SF 86	Part A, B and C
Critical Sensitive / High Risk	High Tier	Tier 5	SF 86	Part A, B and C
Special Sensitive / High Risk	High Tier	Tier 5	SF 86	Part A, B and C

Before initiating individuals to fill out an investigative form and initiating a new background investigation on an individual, it is required to validate the need by determining previous vetting. It may be possible to reciprocally accept a prior investigation and/or adjudication. See [section 1.3](#) – Reciprocity below for additional information on determining need and reciprocity.

Credentialing Note: Although the minimum requirement for a credential is a Tier 1/Low Tier investigation, agencies must submit an individual for the appropriate personnel vetting investigation based on the PDS.

1.3 – Reciprocity

To determine if an individual entering a position is subject to investigation, an agency must first determine whether the individual has done previous vetting. Upon the acceptance of a tentative job offer, including in the case of promotion, demotion, reassignment, or transfer, the agency will query the governmentwide repository(ies) to determine if the individual's investigation meets or exceeds the investigative tier required for the new position, whether the individual is or was enrolled in continuous vetting, and if a suitability or fitness determination is available for reciprocity.³

1.3.1 – Reciprocity of Investigations

The following matrix, from the **Trusted Workforce 2.0 Implementation and Operational-Level Guidance for Departments and Agencies and Authorized Investigative Service Providers-Upgrades, Transfer of Trust, and Re-establishment of Trust Vetting Scenarios** issued in December 2023, is used to identify whether a new investigation is required. By identifying the designation of the current position and designation of the new position, using the matrix, the agency will know the required investigative level. Within the matrix, risk designations are labeled as low, moderate, or high and sensitivity designation are marked as “NSS” (National Security Sensitive). The matrix includes investigative tiers from the 2012 FIS and 2022 FPVIS.

³ Current governmentwide repository capabilities do not fully support recording multiple trust determination types for the same individual. As a result, a previously vetted individual may appear to be missing a required suitability, fitness, national security, or credentialing determination, even when other trust determinations are recorded. When this occurs, agencies should follow the risk-management approach described in the OPM SuitEA memorandum, *Missing Suitability or Fitness Determinations in Transfer of Trust and Re-establishment of Trust Vetting Scenarios*, dated September 2, 2025. See Section III, “Resolving Missing Suitability and Fitness Determinations When Transferring Trust and Re-establishing Trust in Transitional States of Trusted Workforce 2.0.”

DETERMINING WHEN A NEW INVESTIGATION IS REQUIRED

Table 2 V1

		Current Position Designation				
		Low Risk	Moderate Risk / Non-NSS	Moderate Risk / NSS	High Risk / Non-NSS	High Risk / NSS
New Position Designation	Low Risk	N/A	N/A	N/A	N/A	N/A
	Moderate Risk / Non-NSS	Moderate Tier / T2	N/A	N/A	N/A	N/A
	Moderate Risk / NSS	Moderate Tier / T3	Investigate Triggers, if Applicable	N/A	Investigate Triggers, if Applicable	N/A
	High Risk / Non-NSS	High Tier / T4	High Tier / T4	High Tier / T4	N/A	N/A
	High Risk / NSS	High Tier / T5	High Tier / T5	High Tier / T5	Investigate Triggers, if Applicable	N/A

If the prior investigation meets or exceeds the required level, the agency will determine if the individual is enrolled in continuous vetting. If so, the individual's investigation is current and must be reciprocally accepted. If the individual is not enrolled, the agency must refer to policy and implementation guidance on the vetting scenarios and continuous vetting for the next course of action.

If the investigation is not at the correct level, meaning it is lower than what is required for the new position, the **Trusted Workforce 2.0 Implementation and Operational-Level Guidance for Departments and Agencies and Authorized Investigative Service Providers – Upgrades, Transfer of Trust, and Re-establishment of Trust Vetting Scenarios** provide requirements for conducting the upgrade.

If there was a break in service, refer to the **Trusted Workforce 2.0 Implementation and Operational-Level Guidance for Departments and Agencies and Authorized Investigative Service Providers – Upgrades, Transfer of Trust, and Re-establishment of Trust Vetting**

Scenarios. That guidance addresses processing breaks in service of less than 36 months, 36 months to five years, or more than five years.

If a prior investigation was not conducted, the individual is subject to investigation, and the agency will initiate initial vetting. In accordance with 5 C.F.R. § 731.106(c), the investigation should be initiated before the individual is appointed or otherwise becomes employed. Agencies should also keep in mind the requirements for issuing a personal identity verification credential, which as specified in OPM guidance⁴, requires the agency to initiate a background investigation and ensure a fingerprint check is completed before issuing an identity credential. As an ideal process, agencies should also make a preliminary determination ahead of an onboarding decision. See preliminary determination in [Volume 2](#) of this Manual.

Of note, the positions that are intermittent, per diem, or temporary in nature, not to exceed an aggregate of 180 days per year in either a single continuous appointment or series of appointments, do not require a background investigation for suitability or fitness; however, the agency must conduct such checks as it deems appropriate to ensure the suitability or fitness of the person. OPM may prescribe specific checks for these positions, and any such requirements will be made available in a separate issuance.

Additionally, acceptance of a prior investigation does not prevent suitability review. If an individual is moving from another type of position into the competitive service or career SES, OPM or the agency may still take a suitability action when warranted, even when the prior investigation is accepted through reciprocity under 5 CFR 731.104(a).

1.3.2 – Reciprocity of Suitability/Fitness Determinations

When an agency determines via a check of the governmentwide repository(ies) that they can reciprocally accept a prior investigation, they will need to determine if a prior favorable suitability or fitness determination is available for reciprocity. If the record does not reflect a suitability or fitness determination, the agency may contact the prior adjudicating agency to determine if one was made. Additionally, in the absence of a record of a favorable suitability or fitness determination, the agency must consider the following, **all of which must be true** for reciprocity to apply:

1. The individual has an initial or upgrade investigation, regardless of date, at the same or higher tier required for the new position based on the new position's risk and sensitivity designations;
2. The individual has a favorable national security determination;

⁴ See **Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD-12**, July 2008, and **Credentialing Standards Procedures for Issuing Personal Identity Verification Cards under HSPD-12 and New Requirement for Suspension or Revocation of Eligibility for Personal Identity Verification Credentials**.

3. Any exceptions that are present in the individual's adjudicative history have been mitigated in a subsequent investigation and adjudicated favorably without an exception; and,
4. There is no information that would require a core duty determination, such as a subsequent unadjudicated open CV alert.

Otherwise, they will review the prior investigation for the purpose of making a suitability or fitness determination.

If the repository(ies) reflects a prior favorable suitability or fitness determination with no exceptions, the agency must reciprocally accept the determination unless any of the following apply:

1. The record reflects evidence of conduct that may cause a core duty concern. For this to be true, the record must show evidence of conduct that is incompatible with the new duties of the relevant position or mission of the agency. For example, evidence of driving violations may raise a core duty concern for a position requiring operation of Government vehicles. Likewise, evidence of prior criminal conduct may warrant a new review for a position with law enforcement responsibilities, even if the conduct was not disqualifying for the individual's current position.
2. If the new position is in the excepted service, NAF, or a contractor position, thus requiring a fitness determination, and the agency has prescribed additional factors as permitted under 5 C.F.R. § 731.202(b) that were not addressed in the prior favorable adjudication, the agency may review the record and make a new fitness determination using only the additional factors.

Pending OPM Suitability Actions — Reciprocity Must Not Be Applied

When an agency conducts a reciprocity check and the record reflects that OPM has a pending suitability investigation, the agency **must not apply reciprocity** to any prior favorable suitability or fitness determination on file for that individual.

A pending OPM suitability action means OPM has accepted a referral and is actively reviewing whether the individual's conduct warrants an unfavorable suitability determination under 5 C.F.R. part 731. While that review may result in removal, debarment, or both, the existence of a pending action does not constitute a finding of unsuitability, nor does it obligate OPM to maintain the case or pursue a suitability action. OPM may, upon review of the evidentiary record, determine whether the matter does not meet the threshold for an unfavorable suitability determination, including instances in which the information is insufficient, unsubstantiated, or otherwise mitigated. Accordingly, agencies must not apply reciprocity to a prior favorable suitability or fitness determination while an OPM action remains pending. Doing so would be inconsistent with the requirements of 5 C.F.R. part 731 and could result in appointment of an individual whose eligibility for Federal employment is under active review.

What to Do When a Pending Action Is Reflected in the Repository

If the governmentwide repository reflects a pending OPM suitability investigation on an individual, the receiving agency must take the following steps:

1. **Stop the reciprocity process.** Do not make a final suitability or fitness determination based on a prior favorable record. Do not appoint the individual or extend a final job offer until the pending matter is resolved.
2. **Contact OPM SuitEA.** Contact OPM's SuitEA office to determine the status of the pending action and receive guidance on how to proceed.
3. **Document your inquiry.** Record the date you contacted SuitEA, the name of the person you spoke with, and any guidance provided. Maintain this documentation in the agency's internal suitability or security file.
4. **Wait for OPM's determination before proceeding.** Do not appoint the individual or finalize the reciprocity decision until OPM confirms the outcome of its review. OPM will notify the agency when a final determination has been made or when the case has been closed.

1.4 – Individual Engagement

It is important that individuals are notified of certain events during the vetting process. It is best practice to notify individuals when:

- A favorable suitability or fitness determination is made.
- An unfavorable suitability determination or unfavorable fitness determination is made.
- The individual's case is referred to OPM for governmentwide debarment consideration.

Note, if taking a suitability action, the agency will need to provide written notifications to the individual in accordance with the procedures specified in 5 C.F.R. part 731 and this Manual. Likewise, for excepted service positions, when an agency makes an unfavorable fitness determination, 5 C.F.R. § 302.108(b) requires the agency, upon request, to inform the individual of any additional factors the agency considered under 5 C.F.R. § 731.202.

Volume 2: Preliminary Determinations, Trust Determinations, and Exceptions

Change Record

Date	Page(s) Affected	Description of Revision(s)
6/30/2026	30-31	Updated HYC, FPVIS, repository(ies), and suitability/fitness trust-determination terminology; revised the trust-determination description; expanded required fitness determinations; made minor wording edits to the exceptions section while retaining the existing exception-reporting categories.

2.1 – Preliminary Determinations

Preliminary determinations are addressed in numerous policies, including the **Federal Personnel Vetting Guidelines**, February 2022; **Federal Personnel Investigative Standards (Investigative Standards)**, May 2022; and **Common Principles in Applying Federal Personnel Vetting Adjudicative Standards (Common Principles)**, July 2022. Considering the results of HYC, using the suitability and fitness criteria as addressed in [Volume 3](#) of this Manual, agencies make a risk-based decision of whether to allow an individual to enter on duty prior to completion of initial vetting. HYCs are automated record checks and are identified in the FPVIS, by investigative tier.

In the ideal process of making preliminary determinations, agencies determine via the results of the HYCs if they will accept the risk of allowing an individual to enter on duty in advance of completion of the remainder of required coverage for the respective investigative tier. Preliminary determinations are reported into the governmentwide repository(ies).

2.2 – Trust Determinations

Suitability, fitness, national security, and credentialing determinations are collectively referred to as “trust determinations.” The nature of a trust determination depends on the legal requirements for each vetting program. For suitability and fitness determinations, the trust determination assesses whether an individual’s character and conduct support appointment to the position sought in a manner that promotes the efficiency of the service. [Volume 3](#) of this Manual provides guidance for making suitability and fitness determinations. All trust determinations must be reported to the governmentwide repository(ies).

2.2.1 – Requirement to Make Suitability/Fitness Determinations

In accordance with the Order of Operations specified in the **Common Principles in Applying Federal Personnel Vetting Adjudicative Standards** (Common Principles), trust determinations are to be made in the following sequence:

1. Suitability or fitness trust determination, if applicable.
2. National security trust determination, if applicable.
3. Credentialing trust determination, if needed. Note, individuals adjudicated favorably for suitability, fitness, or national security are eligible for a credential without a separate determination; however, the credential trust determination and issuance must also be recorded in the Federal personnel vetting record.

Regardless of position risk or sensitivity designation, suitability determinations are required for all positions in the competitive service, positions in the excepted service that may non-competitively convert to the competitive service, and career appointments to the Senior Executive Service and fitness determinations must be made for each appointment in the excepted service, contractor and NAF positions. When a person has a prior favorable

suitability or fitness determination, an agency must determine if it can be reciprocally accepted (see [Volume 1](#)).

2.3 – Exceptions

Agencies must reciprocally accept favorable suitability or fitness determinations in accordance with the guidance provided in [Volume 1](#) of this Manual but are not required to apply reciprocity to determinations when there is an exception. Exceptions may apply when an agency makes a risk-based decision to bring an individual onboard who may otherwise be found unsuitable or unfit, in accordance with the process outlined in [Volume 3](#) of this Manual, or for whom the agency may not have sufficient information to determine if they are suitable or fit. For example, the individual was previously terminated from a prior employment based on misconduct. They have filed an appeal of the termination, disputing the misconduct. The misconduct, if proven, would be a basis for finding the person unsuitable or unfit, but because it is under dispute, the agency cannot make a finding of suitability or fitness. In this case, they may decide to bring the individual onboard with an exception. Once the litigation is resolved, the agency could reassess and adjudicate, as appropriate.

The Common Principles provides requirements for reporting exceptions. There are two options for reporting suitability/fitness exceptions.

- Favorable-5 C.F.R. part 731 or equivalent do not apply. This option is appropriate when issues would render the individual unsuitable or unfit under the adjudicative criteria in 5 C.F.R. part 731, but the agency decides to accept the risk and make a favorable determination. This option is also appropriate when the investigation does not meet standards, but the agency decides to make a favorable determination using the results.
- Letter of counseling/advisement/warning. If the agency determines a warning regarding conduct is appropriate, but the individual is entered on duty or remains on duty, this option is appropriate.

Trust determinations with exceptions must be reported to the governmentwide repository(ies).

Documentation Requirements for Exceptions

When an agency grants an exception, it must create and maintain a written record that supports its decision. This record ensures the decision can be understood and defended, particularly during OPM oversight reviews and during any future suitability action involving the individual. The documentation must include:

- The name and position of the individual receiving the exception.
- The specific issue or conduct that prompted the exception decision.
- The suitability or fitness factor(s) applied.
- The reason the agency decided to proceed favorably despite the concern(s) (for example, the individual has an outstanding debt but has entered into a payment plan and is actively working to resolve it).
- The type of exception granted (see reporting options above).
- The date the exception was granted and the name and title of the authorizing official.

- Any conditions placed on the individual as part of the exception (for example, a letter of counseling).
- Any expected follow-up action, for example reassessment at a defined interval (for example, every six months) to confirm that debt payments have continued and the individual remains on track with their repayment plan.

This documentation must be maintained in the agency's adjudicative or security file. It must not be filed in the electronic Official Personnel File (eOPF). Refer to [Volume 7](#) for additional recordkeeping requirements.

Retention Period

Agencies must retain all exception documentation for a **minimum of two years** from the date the exception was granted, consistent with the retention requirements for other adjudicative records in this Manual ([see Volume 7.2.2](#)). If OPM later takes over jurisdiction related to the individual the agency must retain all related documentation until that action is fully resolved, including any appeal period.

Destruction of exception records must follow prescribed procedures such as shredding and recycling, consistent with applicable National Archives requirements.

Disclosure to OPM During Oversight

Agencies must make exception documentation available to OPM upon request. Agencies should be prepared to explain:

- Why the exception was granted instead of a favorable or unfavorable determination.
- What follow-up action, if any, was taken after the exception was recorded.
- Whether the individual's status has changed since the exception was granted.

If OPM identifies that an exception was improperly granted or inadequately documented, the agency must take corrective action as directed. See [Volume 7.2](#) for a full list of materials agencies must retain for OPM appraisals.

Important – Exceptions Do Not Limit OPM's Authority

Exceptions granted by an agency apply only to that agency's suitability or fitness determination and do not limit OPM's retained jurisdiction in cases involving post-appointment conduct. If an agency refers post-appointment conduct to OPM, the individual's resignation, transfer, or attempt to obtain employment at another agency does not negate OPM's authority to adjudicate the matter, including the authority to impose governmentwide debarment when warranted. Agencies gaining such individuals should not apply reciprocity or exceptions until OPM completes its action.

Volume 3: Factors, Additional Considerations, and the Determination Process

Change Record

Date	Page(s) Affected	Description of Revision(s)
6/30/2026	33-44; 46-49; 52-63; 67-70	OPM and Agency Authorities expanded into three subsections: 3.2.1 OPM-Retained Adjudication Authority; 3.2.2 Agency-Delegated Adjudication Authority; 3.2.3 How to Process a Continuous Vetting Alert. Referrals to OPM expanded into three subsections: 3.3.1 Required Referrals; 3.3.2 Post-Appointment Conduct Referrals; 3.3.3 Agency Responsibilities After Referral. Revised OPM and agency authority, referral, and post-appointment conduct guidance, including CV alerts, misconduct, criminal conduct, ethics violations, misuse of government resources, legal-obligation violations, agency use of other authorities with OPM notification, and OPM's exclusive authority to take suitability action based on post-appointment conduct. Updated the suitability/fitness factor framework from 9 to 10 factors by adding new financial and civil legal obligation requirements, adding government-resource and nondisclosure-obligation language under misconduct/negligence, and renumbering the remaining factors. Expanded guidance for several factors, including falsification in the broader Federal personnel vetting process, dishonest conduct, marijuana-related controlled-substance issues, alcohol and drug rehabilitation, protected speech versus overthrow-by-force conduct, violent conduct, and statutory/regulatory or other bars to lawful employment. Revised referral procedures to require substantiated conduct and complete referral packages, and added roadmap, visual map, cover sheet, checklist, FAQ, and example-based referral tools. Made terminology and clarity edits to ISP issue characterization, additional considerations, unresolved issue guidance, and PIV credential recording/CV review requirements. Added 3.9.1 <i>Effect of a Post-Appointment Suitability Action on PIV Credentials</i>

3.1 – Adjudicative Standard

Public service requires high standards of integrity and trust to promote the interests of the public. The objective of the suitability and fitness adjudicator is to establish a reasonable expectation that employment or continued employment of an individual either would or would not protect the integrity and promote the efficiency of the service. When there is a reasonable expectation employment would not do, the individual should be found unsuitable or unfit. This expectation is established when an adverse nexus or connection can be shown between the character or conduct in question and the integrity of the service or the individual's capacity and fitness for employment.

3.2 – OPM and Agency Authorities

The responsibility for making fitness determinations lies with agencies. For excepted service positions that do not convert to the competitive service and are not covered by 5 C.F.R. part 731, agencies must make fitness determinations for each appointment unless reciprocity may be applied to a prior favorable suitability or fitness determination. Agencies must apply the suitability and fitness criteria in 5 C.F.R. § 731.202 as the minimum standard for making fitness determinations and may apply additional job-related factors consistent with business necessity.

For positions in the competitive service, positions in the excepted service where the incumbent can be noncompetitively converted to the competitive service, and a career appointment to positions in the career Senior Executive Service (hereinafter referred to as competitive service and career Senior Executive Service), OPM is responsible for making suitability determinations and taking suitability actions, except to the extent the authority has been delegated to agencies. Section 731.103 of title 5 C.F.R. outlines the delegation to agency heads for making suitability determinations and taking suitability actions for applicants and appointees of the agency while 5 C.F.R. § 731.105 addresses authorities to take suitability actions. The following specifies OPM and agency responsibility for suitability determinations or actions. All uses of "employee," "appointee," and "applicant" in this manual refer to the definitions in 5 C.F.R. § 731.101 unless explicitly stated otherwise.

3.2.1 OPM-Retained Adjudication Authority

Consistent with the Preamble of this Manual and 5 C.F.R. part 731, agencies have delegated authority to adjudicate suitability for applicants and appointees except in cases that fall within OPM's retained jurisdiction. Agencies **must** refer such cases on applicants, appointees, and employees as those included below to OPM in accordance with the referral procedures in this Manual. These include, but are not limited to:

- Evidence of material, intentional false statement or deception or fraud in examination or appointment;
- Evidence of knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force;
- Conduct that may warrant a governmentwide debarment.

The authority to take a suitability action continues even if an application is withdrawn, an offer of employment is withdrawn, or the individual separates from employment after appointment.

Notably, for employees, as indicated in this Manual, OPM retains authority to take a suitability action against an employee under 5 CFR 731 regarding post-appointment conduct, should an individual's ability to meet the suitability standards required for Federal employment fall under question. If the basis for action is post-appointment conduct, the agency may refer the matter to OPM for review and any appropriate suitability action. Post-appointment conduct may be discovered because of the following events:

- Continuous vetting (CV) information,
- Misconduct investigations,
- Criminal conduct,
- Violations of Government ethics requirements,
- Misuse of Government resources, or;
- Noncompliance with legal obligations.

If the conduct is substantiated, agencies **may** refer post-appointment conduct cases to OPM, who may proceed with taking a suitability action by charging one or more of the pertinent factors established by the evidence. If an agency knew about certain conduct before it made a favorable suitability determination, that same conduct cannot later be used as the sole basis to take a suitability action against them.

3.2.2 Agency-Delegated Adjudication Authority

Agencies exercise delegated authority for applicants and appointees except in cases where OPM retains jurisdiction, as described in the Preamble of this Manual and above in this section. When those conditions exist, the agency must refer the matter to OPM.

Suitability and fitness determinations on applicants and appointees are made upon investigative results regardless of the vetting scenario (initial vetting, continuous vetting, transfer of trust, upgrades, re-establishment of trust). For unfavorable determinations, the agency will determine the appropriate process for action. Should the suitability issues in a case warrant a suitability action against the individual, but the situation does not warrant a suitability action by OPM, the agency is authorized to take its action in accordance with 5 CFR 731. However, agencies may also consider other authorities for possible action, such as 5 C.F.R. parts 11, 359, or 752, depending on the individual's status.

The authority to take an action continues when an application is withdrawn, when an offer of employment is withdrawn, or when an individual appointed separates from employment.

If suitability issues occur post-appointment, such as identification through a continuous vetting (CV) alert, the agency may address the conduct under other authorities (e.g., 5 C.F.R. parts 11, 359, or 752) to properly handle the situation but must notify OPM when they intend to

do so. Otherwise, agencies may, in its sole and exclusive discretion, make a proper and sufficient referral to OPM. A proper and sufficient referral includes the documentation and evidentiary support described in the referral guidance in this Manual. Under 5 C.F.R. part 731, only OPM may take suitability action based on post-appointment conduct.

3.2.3 How to Process a Continuous Vetting Alert

When a continuous vetting (CV) alert comes in, the decision is not always straightforward — the right course of action depends on whether the conduct is substantiated, which suitability factor it implicates, and whether the individual is an appointee, or employee. Substantiated conduct means the agency has confirmed, through credible and verifiable evidence, that the conduct in question occurred. A CV alert alone is not evidence. Agencies must obtain corroborating information before making a suitability determination or a referral to OPM. Examples of corroborating evidence include court records, law enforcement records, official agency investigative findings (e.g. OIG report), employment records, financial records, IT or badge access records. Getting this wrong can either leave an unsuitable individual in employment or result in an agency taking an action it does not have the authority to take. The diagram on the next page walks through each decision point in order, from the moment an alert is received through final documentation and reporting. Adjudicators should use it as a quick reference alongside the detailed guidance in Sections 3.3 through 3.5. If you have any questions or concerns, contact OPM SuitEA before acting.

How to Use This Diagram

The diagram on the following page walks adjudicators and personnel security staff through the steps to take when a continuous vetting (CV) alert is received. Follow the numbered steps in order. At each diamond, answer the yes or no question and follow the arrow.

Before starting, keep three things in mind: a CV alert is not evidence on its own — you must gather corroborating evidence such as court records, OIG findings, or employment records before making any determination or referral; the correct path depends on whether the conduct is substantiated and whether the individual is an appointee (first year or probationary period) or an employee (past that period); and getting this wrong has real consequences — either an unsuitable person remains on the job, or your agency takes an action it does not have authority to take.

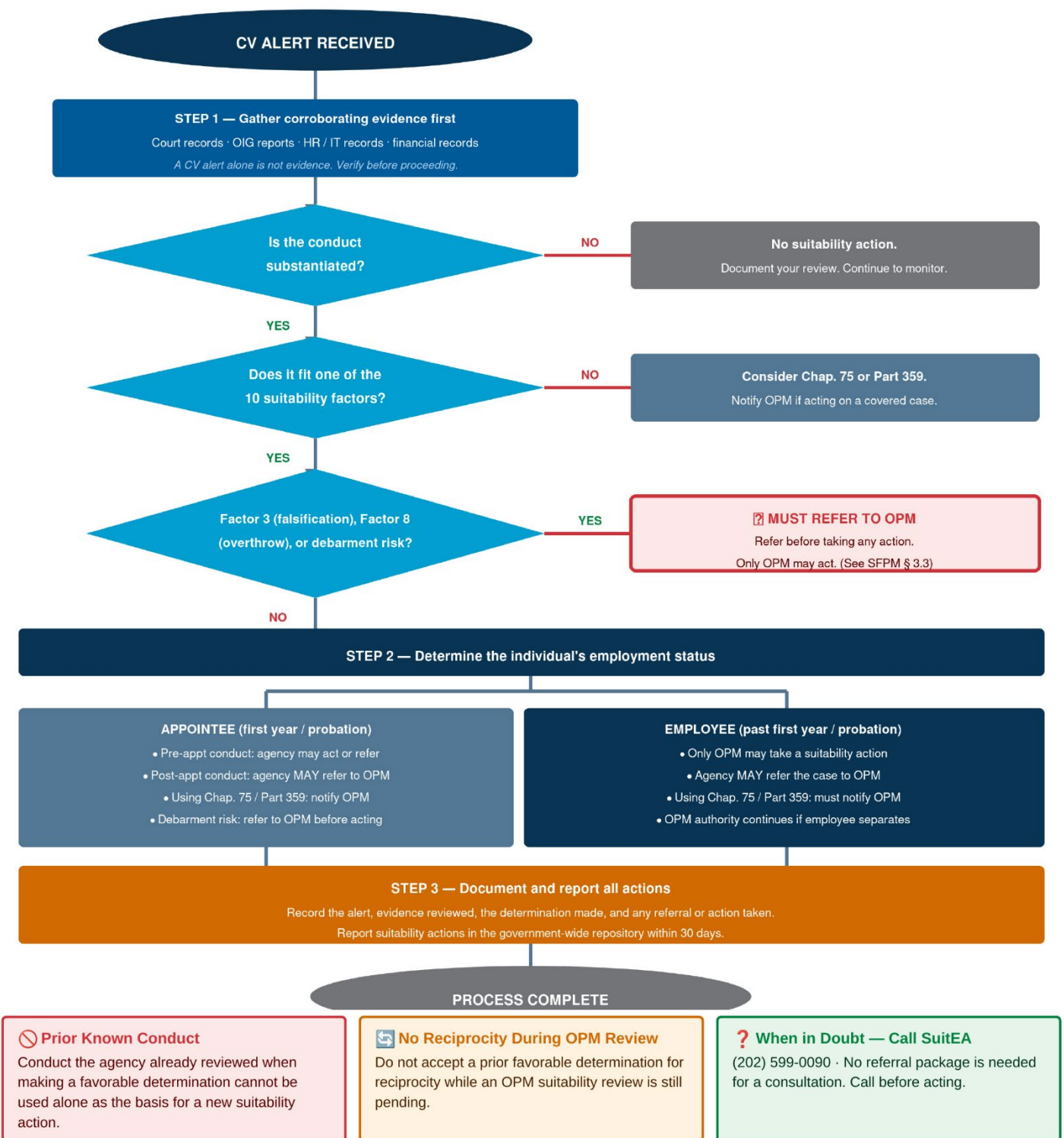
Detailed guidance is in Sections 3.3 through 3.5. If you are unsure which path applies, call OPM SuitEA at (202) 599-0090 before acting. No referral package is needed to ask a question.

How to Process a Continuous Vetting (CV) Alert

OPM Suitability Executive Agent Programs · SFPM Section 3.2.3 · 5 CFR Part 731

SFPM § 3.2.3

Rule 1 Final · 5 CFR Part 731



3.3 – Referrals to OPM

3.3.1 Required Referrals to OPM

As addressed in the prior section, agencies have limited jurisdiction for making suitability determinations and taking actions for applicants, appointees, and employees in the competitive service and career Senior Executive Service. When an agency encounters a case containing evidence of conduct falling within one of the following scenarios, it must refer the matter to OPM and notify OPM if it is wanting to take, or has taken, action under another authority:

- There is evidence of falsification or fraud relating to examination or appointment at any point when information giving rise to such a charge is discovered.
- There is evidence of knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force.
- A governmentwide debarment may be appropriate, and the agency has secured sufficient information in support of the issue to determine whether the debarment appears warranted but has not yet issued a proposed suitability action.

3.3.2 Post-Appointment Conduct Referrals to OPM

If an agency identifies post-appointment conduct on employees that may warrant an unfavorable suitability determination and decides to refer the case to OPM to take action under 5 CFR 731, the head of the agency or designee will, in its sole and exclusive discretion, make a **proper and sufficient referral** to OPM for consideration. A proper and sufficient referral includes the documentation and evidentiary support described in the referral guidance in this Manual. Under 5 C.F.R. § 731.103, **only OPM may take a suitability action against an employee based on post-appointment conduct**. Agencies may address the conduct under other authorities (e.g., parts 752 or 359), as appropriate, but must **notify OPM** when they intend to do so. An individual's resignation does not preclude OPM from acting on post-appointment conduct.

Additionally, suitability determinations with exceptions granted by an agency apply only to that agency's suitability or fitness determination and do not limit OPM's retained jurisdiction in cases involving post-appointment conduct. If an agency refers post-appointment conduct to OPM, the individual's resignation, transfer, or attempt to obtain employment at another agency does not negate OPM's authority to adjudicate the matter, including the authority to impose governmentwide debarment when warranted. Agencies gaining such individuals should not apply reciprocity or exceptions until OPM completes its action. If the individual transfers into a position that falls outside of OPM's suitability jurisdiction – such as a non-convertible excepted service, contractor, or NAF position– OPM cannot initiate a new suitability action for conduct occurring solely in that non-covered role. However, if the individual was covered by 5 CFR part 731 at the time of the conduct or consideration, OPM retains authority to complete a pending suitability action, including governmentwide debarment, even after the individual separates or transfers. Any debarment imposed would apply to future applications for covered positions, but not to non-covered roles.

Although prior approval is not required, notification to OPM is required if the agency takes, or intends to take, action under its own authority (such as 5 CFR part 359 or 752) in cases involving employee post-appointment conduct. OPM may, in its discretion, exercise its jurisdiction in any case it deems necessary even if the agency has taken an action under another authority.

Referrals, or consultations, can be made in matters involving uninvestigated applicants, cases in which the background investigation has been completed, or situations where post-appointment conduct has been identified. Visit [SuitEA's](#) website for guidance on how to make a referral, the form for notifying OPM of any agency actions, or call the SuitEA helpline on 202-599-0090.

3.3.3 Agency Responsibilities After Referral

After referring a case to OPM, the agency determines the appointee's or employee's duty status using its own authorities. Agencies should base that decision on the seriousness of the conduct, whether the employee poses an ongoing risk, and the employee's access to sensitive information, systems, or vulnerable populations. Common approaches include administrative leave, detail to lower-risk duties, or restricted access. Document any action taken separately from the suitability referral. Once OPM issues a proposed action, the employee must remain in paid status for the full 30-day notice period.

OPM is responsible for issuing the proposed action notice, reviewing the employee's response, issuing the final decision, and imposing any governmentwide debarment. The agency is responsible for delivering the proposed action notice to the appointee or employee, obtaining a signed transmittal and returning it to OPM, managing the appointee or employee's duty status throughout the review period, removing the appointee or employee from the rolls within 5 workdays of OPM's final decision, providing the separation SF-50 to OPM, reporting the action in the governmentwide repository, and enforcing any debarment within the agency.

If OPM takes no action: The pending flag is removed from the repository. The agency may proceed under its own authorities if appropriate. An OPM decision not to act is not a finding of suitability.

If the employee separates before OPM's final decision: Notify SuitEA immediately. OPM's authority to complete the action continues after separation. Do not apply reciprocity to a new application from the same individual until OPM closes the case.

3.3.4 Recording Post-Appointment Conduct Referrals in the Repository

When an agency refers post-appointment conduct to OPM, the agency must also record a flag in the governmentwide personnel vetting repository. This record ensures that if the employee resigns, retires, or transfers before OPM completes its review, any receiving agency will know a concern is pending before it applies reciprocity or makes a new hiring decision. Agencies must not apply

reciprocity or grant an exception to an individual who has an open post-appointment conduct referral pending with OPM.

How to Record the Referral

The process for recording in the repository depends on how the conduct was discovered. If a continuous vetting alert record (CVAR) already exists in the system for the individual, the agency should locate that open CVAR and report an adjudication code 11 on it to indicate the matter has been referred to OPM and is pending review. The CVAR must remain open and should not be closed as favorably adjudicated until OPM issues a final determination.

If the conduct was discovered through an internal agency source — such as an HR investigation, misconduct inquiry, or other agency records — and no CVAR exists in the system, the agency will need to create an incident record (or equivalent) in the repository to document the concern and then report an adjudication code on that record to flag the matter as referred to OPM and pending review.

In either scenario, the record entry should include enough information to clearly connect it to the referral package submitted to OPM, such as the referral date, the nature of the conduct, and the suitability factors implicated.

3.4 – How to Make a Suitability or Fitness Determination

When an issue(s) is present in a person's background, the adjudicator will need to assess the issue(s) to determine its impact on the individual's suitability or fitness. Regardless of the vetting scenario, the process for assessing suitability or fitness is the same. The adjudicative process is an examination of a number of variables of an individual's life over a sufficient period of time to make an affirmative determination that the individual is suitable or fit. The process is a tiered approach to making the determination which involves identification of concerning conduct as related to the factors followed by assessment of the additional considerations and evaluation of other relevant information to render a determination. As appropriate, decisions are based on the whole-person concept, which means the adjudicator will consider positive and negative aspects from the individual's background in concluding if employment will have an adverse impact on the integrity and efficiency of the service. Adjudicators should take into consideration, to the extent possible or reasonable, all available information in the individual's background that may speak to their character. This occurs through the process of assessing the additional considerations. Through this process, many aspects of the individual's background are evaluated. In some instances, this may lead to mitigation of known conduct. However, in other instances, favorable aspects of the person's background may not be sufficient to reach a decision that the individual is suitable or fit.

The determination of whether one is or is not suitable or fit must be an overall common-sense judgment based upon careful consideration of any issue(s) fitting within the following factors found under 5 C.F.R. § 731.202. These are the only factors that may be considered in the case of competitive service and career Senior Executive Service positions. For fitness determinations on excepted service positions, contractors, and NAF positions, these factors are the minimum factors that agencies must consider:

- (1) Misconduct or negligence in employment
 - i. Theft or misuse of government resources and equipment, or negligent loss of material government resources and equipment during employment with, or on behalf of the Federal government or a state, territorial, or local government;
 - ii. Refusal to certify compliance with any applicable non-disclosure obligations consistent with 5 U.S.C. 2302(b)(13) and failure to adhere to those compliance obligations in the course of Federal employment
- (2) Criminal conduct;
- (3) Material, intentional false statement, or deception or fraud, in examination or appointment;
- (4) Dishonest conduct;
- (5) Failure to comply with financial obligations or generally applicable civil legal obligations, such as timely filing of tax returns.
- (6) Excessive alcohol use, without evidence of rehabilitation, of a nature and duration that suggests the individual would be prevented from performing the duties of the position in question, or would constitute a direct threat to the property or safety of the individual or others;
- (7) Illegal use of narcotics, drugs, or other controlled substances without evidence of rehabilitation;
- (8) Knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force;
- (9) Violent conduct; and
- (10) Any statutory or regulatory bar or any other provision, of law, regulation, Executive order, or other binding legal authority, that prevents the lawful employment of the individual in the position in question, such as citizenship or nationality requirements.

Following is a description of each of the factors including why these types of conduct may present suitability or fitness concerns as well as a discussion of the general applicability.

3.5 – Suitability and Fitness Factors

The following is a description of each of the factors including why these types of conduct may present suitability or fitness concerns as well as a discussion of the general applicability.

Important Note: Terms such as “infrequent,” “pattern,” or “passage of time” are deliberately not quantified in this Manual. These concepts must be evaluated holistically in context using the whole-person approach and must not be interpreted as requiring or prohibiting a specific number of incidents or a fixed timeframe. What constitutes a pattern, history, or sufficient passage of time will vary depending on the nature, severity, and circumstances of the conduct and must always be weighed alongside all pertinent additional considerations outlined in [section 3.7](#) of this Manual.

FACTOR 1: MISCONDUCT OR NEGLIGENCE IN EMPLOYMENT

- i. Theft or misuse of Government resources and equipment, or negligent loss of material Government resources and equipment during employment with, or on behalf of the Federal Government or a state, territorial, or local government;
- ii. Refusal to certify compliance with any applicable non-disclosure obligations consistent with 5 U.S.C. 2302(b)(13) and failure to adhere to those compliance obligations in the course of Federal employment

Concern

Conduct involving questionable judgment, unreliability, dishonesty, or unwillingness to follow rules or regulations raises questions about whether an individual's employment or continued employment would adversely impact on the integrity or efficiency of the service.

General Application / Discussion

- Misconduct involves intentionally doing something wrong in the employer's estimation, while negligence is an act or omission that a reasonable person in the employee's circumstances should know is contrary to the employer's expectations. For example, repeated unexcused absences or using a company vehicle to run personal errands while on the clock are examples of misconduct whereas accidentally failing to turn on the security system upon being the last to leave is an example of negligence.
- Conduct may or may not have resulted in a disciplinary action, including dismissal. If dismissed, primary emphasis is on the act or conduct which prompted the dismissal.
- For military misconduct, the nature of the misconduct is the governing guideline, rather than the type of discharge.
- A favorable litigation decision, including receiving unemployment benefits, would not necessarily nullify the conduct.
- Conduct does not include performance (or inability to perform), failure to complete training, or other qualification issues.

Potential Suitability/Fitness Concerns

Examples of conditions that could raise a concern and may lead to an unfavorable determination include:

- Conduct considered inherent to employment such as attendance issues without cause and/or insubordination.
- Breach of employer's trust.
- Intentionally and/or reckless unauthorized disclosure of nonpublic information in violation of the Privacy Act of 1974.
- Refusing to certify compliance with any applicable non-disclosure obligations, as per 5 U.S.C. 2302(b)(13), and not following these obligations during Federal employment.
 - Federal employees are entrusted with sensitive information necessary to perform official duties for or on behalf of the Government, such as protecting personally

identifiable information, proprietary information, or information prohibited from public disclosure. Federal employees are required to safeguard such information in accordance with agency policies, applicable laws, regulations and nondisclosure requirements. Nothing in this factor is intended to restrict or discourage disclosures protected by law, including lawful whistleblower disclosures or disclosures to Congress, the Office of Special Counsel, Inspector Generals, or other authorized authorities. Individuals who knowingly and intentionally violate nondisclosure obligations in a manner not protected by law reflect poor judgment, unreliability and disregard for Federal responsibilities and may undermine public trust in the Federal government's ability to protect sensitive information. Likewise, a refusal to acknowledge or certify compliance with applicable nondisclosure obligations demonstrates conduct inconsistent with the character and reliability of Federal service.

- For example, a Program Analyst is entrusted with access to a draft internal policy document designated For Official Use Only (FOUO) which is not approved for public release. The employee discloses details of the proposal to a friend outside the Federal government who is not authorized to receive this information. That friend later publicly shares the information before the agency completes the internal review and finalizes the proposal. As a result, the agency receives significant complaints and public criticism, and leadership delays implementation of the policy. Such conduct may reflect failure to comply with applicable nondisclosure obligations and poor judgment regarding the handling of protected information.
- Another example is a Contracting Officer, who regularly handles proprietary information as part of his or her job. If he or she gives any unauthorized disclosure of that information, it could give one company an unfair advantage in the contract process and damage public trust in the Federal government's ability to conduct fair competitions. If concerns arise about a possible unauthorized disclosure and the Contracting Officer refuses to certify compliance with applicable nondisclosure obligations, that refusal alone could call the integrity of the procurement process into question and result in delays, lost productivity, or legal challenges.
- Stealing, misusing, or carelessly losing government property or equipment while working for (or representing) the Federal government.
 - Federal employees are expected to properly use and protect Federal government property and equipment. Misusing Federal government resources for personal or financial benefit may show poor judgment, dishonesty, or unwillingness to follow workplace rules.
 - For example, an employee may improperly use a Federal government email account to operate or advertise a personal business. Similarly, intentionally failing to follow established procedures for handling Federal government equipment or property may result in loss, damage, or unauthorized use of those resources. Such conduct may undermine public trust and damage the integrity and efficiency of the service.
- Misuse of employer's information technology system as defined by employer's rules, procedures, guidelines, or other regulations.

- Several minor infractions, that when viewed as a whole call into question the individual's judgment, reliability, honesty, or willingness to follow rules and regulations.
- Employment history shows a pattern of rule violations.
- Pending litigation involving employment misconduct or negligence that may be adjudicatively relevant cannot be adjudicated until the case is disposed. However, agencies may determine the appropriateness of making a risk-based decision to grant an exception. (See guidance in [Volume 2](#) of this Manual and the **Common Principles in Applying Federal Personnel Vetting Adjudicative Standards**.)

Mitigating Conditions

Examples of conditions that could mitigate concerns, as determined by applying pertinent additional considerations:

- The conduct is minor. Example: An employee is absent from work on one occasion without proper notice but upon return promptly notifies their supervisor and has no prior history of attendance issues.
- So much time has passed since the conduct.
- The behavior was infrequent. Example: An employee used a government vehicle for a personal errand on one occasion, self-reported the incident to their supervisor, and has no prior history of similar conduct or other rule violations.
- The conduct happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's character or suggest the individual's employment would adversely impact the integrity or efficiency of the service.
- There exists no increased concern based on the authority, responsibility, sensitivity, and public trust associated with the position or a direct nexus to the core duties of the position or agency mission.
- There is reasonable belief that the individual unknowingly engaged in conduct that was wrong or negligent, and the individual made intentional, actionable and prompt corrective efforts.
- There is evidence of successful rehabilitation, including, but not limited to, passage of time without reoccurrence of employment misconduct or negligence, compliance with terms of employment improvement plan, job training or good employment record.

FACTOR 2: CRIMINAL CONDUCT

Concern

Criminal conduct creates doubt about an individual's judgment, reliability, and trustworthiness and calls into question an individual's willingness to comply with laws, rules, and regulations. This type of conduct may not promote the efficiency of the service or protect its integrity.

General Application / Discussion

- Criminal conduct could include, but is not limited to:

- o Offenses involving danger to a person.
 - o Sexual behavior of a criminal nature.
 - o Arson, criminal mischief, and other property destruction.
 - o Offenses involving weapons.
 - o Theft and related offenses.
 - o Offenses against public order and decency.
 - o Drug and alcohol offenses.
- Primary emphasis is on the nature of criminal conduct, which may or may not have resulted in arrests, charges, or convictions. When the individual has been arrested or charged with an offense but has not been convicted, the adjudicator must make an independent determination that the individual engaged in the criminal conduct based on sufficient evidence to make that decision. An individual's explanation is of special relevance, as well as whether the explanation is corroborated by other sources. Example: An individual is charged with assault with a deadly weapon. The individual explains that the incident occurred during a home robbery and that they acted in self-defense. In situations like this, law enforcement may charge all parties involved regardless of who was the aggressor. The adjudicator must carefully consider the individual's explanation, review all available evidence including police reports and witness statements, and determine whether the explanation is credible and corroborated before concluding that disqualifying criminal conduct occurred.
- Details and reasons for the dismissal of a charge must be considered; expungement of records and pardons for an offense would not nullify the conduct, unless granted based on the person's innocence.
- Pending charges involving conduct that can potentially result in an unfavorable determination cannot be adjudicated until the case is disposed. However, agencies may determine the appropriateness of making a risk-based decision to grant an exception. (See guidance in Volume 2 of this Manual and the **Common Principles in Applying Federal Personnel Vetting Adjudicative Standard.**)
- Cases involving Marijuana: As more state laws regarding medical and recreational use of marijuana have changed, Federal agencies increasingly encounter individuals with knowledge, skills, and abilities that make them well-qualified for a position, but have used marijuana, which may be of concern. Marijuana is categorized as a controlled substance under Schedule I of the Controlled Substances Act. An individual's disregard of Federal law pertaining to marijuana remains adjudicatively relevant to suitability determinations. OPM's supplemental guidance via Memorandum "[Assessing the Suitability/Fitness of Applicants or Appointees on the Basis of Marijuana Use; Maintaining a Drug-Free Workplace](#)," February 25, 2021, further addresses the adjudication of marijuana usage. Past marijuana usage may be considered under this factor as well as factor 6, illegal use of narcotics, drugs, or other controlled substances without evidence of rehabilitation. Agencies may not automatically find individuals unsuitable for Federal employment based on either factor. Past marijuana use, including recently discontinued marijuana use, should be viewed differently from ongoing marijuana use. The nature and seriousness of the use and the nature of the specific position for which the person is applying are also likely to be important considerations. It is also necessary to assess all possible indicators of rehabilitation, which may include, among other things, evidence that use will not occur again, the passage of time without use, or

completion of (or current participation in) treatment or counseling. A commitment to not use marijuana going forward may represent evidence of rehabilitation which may be mitigating, even in cases of recent use, when considering the totality of the information regarding the individual's use. Consideration of criminal conduct related to possession of marijuana under 5 C.F.R. § 731.202(b)(2) may be the basis for an unfavorable suitability determination. However, agencies should exercise special care before making a determination of unsuitability for criminal conduct based on marijuana possession. Agencies must consider whether the employment of an individual with a criminal history related to the possession of marijuana would adversely impact "the integrity . . . or efficiency of the service." Agencies must also apply the considerations under 5 C.F.R. § 731.202(c) where pertinent. Depending on the circumstances, a marijuana possession offense might not be incompatible with employment in the position sought. In states where marijuana use has been decriminalized or legalized as a matter of state law, individuals could reasonably be confused or misinformed about whether their use of the drug constitutes criminal conduct. The exception is for cannabis-based products that do not exceed .3% THC (once dried) concentration. The Agriculture Improvement Act of 2018 classified such items as hemp, not marijuana, and therefore not illegal under the CSA. Federal employees should be aware, however, that the FDA does not certify the level of THC in these products and the percent of THC cannot be guaranteed. Use of a mislabeled product actually containing greater than .3% THC could create a risk of a positive results on drug tests, for positions that require them. (See SAMHSA, Memorandum to Federal Agency Drug Program Coordinators, Federal Medical Review Officers, and Federal Partners, Marijuana, Marijuana Oils, Marijuana Infused Products and Hemp Products (July 24, 2019), at [hemp-products-csap-memo-072419.pdf](#).) In addition, recent Department of Justice and DEA action has placed certain FDA approved marijuana derived or marijuana- related medications into Schedule III of the Controlled Substances Act. (See [Schedules of Controlled Substances: Rescheduling of Food and Drug Administration Approved Products Containing Marijuana From Schedule I to Schedule III; Corresponding Change to Permit Requirements](#)). This reclassification applies *only* to FDA approved products meeting the criteria of the final rule. These medications remain- controlled substances, and their lawful use is limited to situations in which they are properly prescribed and used consistent with Federal law. This rescheduling does not change the illegal status of marijuana or marijuana derived products that are not FDA- approved-, nor does it affect the continued Schedule I status of most forms of marijuana under the CSA. Likewise, 41 U.S.C. §§ 8102 and 8103 continue to impose drug-free workplace requirements for Federal contractors and grant recipients.

Potential Suitability/Fitness Concerns

Examples of conditions that could raise a concern and may lead to an unfavorable determination include:

- A single serious offense.
- A pattern of minor offenses, any one of which on its own would be unlikely to affect a suitability decision, but in combination cast doubt on the individual's judgment, reliability, or trustworthiness. Example: An individual has received over 50 speeding tickets within a single

year. While one speeding ticket would not typically raise a suitability concern, this volume of violations within a short period demonstrates a consistent disregard for traffic laws and public safety that, when viewed as a whole, casts serious doubt on the individual's judgment and willingness to comply with laws and regulations. **Other Potential examples of minor offenses (used for illustration, not as an exhaustive list):**

- A single instance of disorderly conduct or trespass under mitigating circumstances
- A low-level alcohol offense that did not involve harm, violence, or safety critical duties
- Shoplifting of minimal value where the behavior appears isolated and mitigated
- A curfew violation or local ordinance violation
- An old misdemeanor with no recurrence and strong evidence of rehabilitation

But not considered minor when:

- The conduct reflects dishonesty, violence, or risk to safety
- There is a pattern of similar behavior
- The circumstances reflect poor judgment relevant to core duties
- The offense directly conflicts with the position's mission (e.g., theft for a cashier role)

Mitigating Conditions

Examples of conditions that could mitigate concerns, as determined by applying pertinent additional considerations:

- The conduct is minor.
- So much time has passed since the conduct.
- The behavior was infrequent.
- The conduct happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's character or suggest the individual's employment would adversely impact the integrity or efficiency of the service.
- There exists no increased concern based on the authority, responsibility, sensitivity, and public trust associated with the position or a direct nexus to the core duties of the position or agency mission.
- There is reasonable belief that the individual unknowingly engaged in conduct that was wrong or negligent, and the individual made intentional, prompt corrective efforts.
- There is evidence of successful rehabilitation, including, but not limited to, passage of time without reoccurrence of employment misconduct or negligence, compliance with terms of employment improvement plan, job training or good employment record.

FACTOR 3: MATERIAL, INTENTIONAL FALSE STATEMENT, OR DECEPTION OR FRAUD, IN EXAMINATION OR APPOINTMENT

Concern

Providing intentional false statements or engaging in deception or fraud in the competitive hiring process, or the Federal Vetting Process as a whole, circumvents the Federal hiring procedures

created to ensure fair and open competition. OPM retains jurisdiction in competitive service and career Senior Executive Service positions if the case involves evidence of material, intentional false statement, or deception or fraud in examination or appointment. **Agencies must refer these cases to OPM for adjudication, and provide required notification to OPM, if the agency wants to take or has taken action under another authority (such as 5 C.F.R. part 11, 5 C.F.R. part 359, or 5 C.F.R. part 752).** For excepted service, contractor, or NAF positions, agencies may cite this factor, as applicable.

Although falsification may be considered dishonest conduct, material, intentional falsification applies when the falsification occurs during the Federal Personnel Vetting process. If the falsification is in connection with examination or appointment to a competitive service or career Senior Executive Service position, the case must be referred to OPM for adjudication. In accordance with 5 C.F.R. § 731.103(g), OPM retains jurisdiction to make final determinations and take actions in all suitability cases where there is evidence that there has been a material, intentional false statement, or deception or fraud in examination or appointment for competitive service or career Senior Executive Service, and only OPM may apply this factor for those positions.

If the falsification occurs in connection with an excepted service appointment, contractor position, or NAF position, the agency may cite this factor as part of an unfavorable fitness determination. Agencies must apply the factors in 5 C.F.R. § 731.202 as the **minimum** standards for making fitness determinations and may apply additional factors as permitted under § 731.202(b). Falsification should be evaluated consistently across competitive service, career Senior Executive Service, excepted service, contractor, and NAF positions. Regardless of the position, the assessment of falsification and applicability of which factor involves determining that the falsification is both material (capable of influencing official decisions) and intentional (with knowledge and purpose).

General Application / Discussion

Materiality of Falsification. A material statement, as defined in 5 CFR part 731 and used in the phrase “material, intentional false statement,” is one that affects, or has a natural tendency to affect, or is capable of influencing, an official decision even if OPM or an agency does not rely upon it. Examples of official decisions:

- Individual meets qualifications (experience, education, etc.) requirements of the job.
- Individual meets medical requirements of the job.
- Individual meets suitability or fitness requirements for Federal employment.
- Individual is eligible for Veteran’s preference, student trainee program, etc. (applies to any special programs or opportunities limited to certain individuals).
- Individual is a “better” candidate for a particular position than others who have applied (i.e., responses during interview process, etc.).
- Decision to select one applicant over other applicants.
- Individual will meet requirements for security clearance (or public trust position or any other special conditions of the job).

When the matter falsified would have been capable of influencing an official decision about the individual's suitability or fitness for employment, because of its recency and severity, it is material at face value. Additionally, when there is a nexus between the position and the matter falsified, it is material. Consider the nature of the unadmitted issue as it relates to position sensitivity and public trust. Falsification is material if the undisclosed issue can influence or has a natural tendency to affect, or affects, decisions concerning the assessment and selection of the person for the position to be filled, or the person's ability to meet ongoing conditions of employment in the position. Failure to admit prior conduct having a direct relation to the duties required in the position sought is considered material falsification. The following are examples:

Position Nexus Falsification Examples

Position	Unadmitted Information	Discussion
Data Transcriber	Termination from recent Secretary position for poor performance - could not type fast enough	It is reasonable to conclude anyone making a hiring decision for this position, given the choice, would select someone with favorable performance references over someone who could not meet the expectations of a position similar to the position sought.
Nurse	Full extent of past drug use not admitted	Potential access to narcotics is a concern given their past history.
Professional Accountant	Fired for absenteeism/tardiness from another professional position in a different line of work	Although position is not identical, need for a high standard of dependability as a professional is the same.
Criminal Investigator	DWI conviction	Personal disregard for the law could affect an official decision when the position is in law enforcement.
Driver	Reckless Driving/Speeding	Potential impact on safety.
Supervisor	Resigned in lieu of discharge while under investigation for allegations of Sexual Harassment	Supervisory duties include potential for influence over others.
Store Worker	Shoplifting	Access to goods and money could be a concern if the person had any evidence of dishonesty in their background.
Mid-level manager	An individual claims on their resume and application that they hold a Bachelor's degree in Accounting. During pre-employment reference checks, the hiring official contacts the university and discovers the institution has no record of the	Whether or not the degree was a requirement for the position, it is reasonable to conclude someone with a degree would likely be given more consideration for the position than a candidate without a degree.

	individual ever enrolling or graduating. The individual fabricated the degree to appear more qualified for the position.	
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Agency Mission Falsification Examples

Position	Unadmitted Information	Discussion
IRS positions	Theft conviction	Mission is to uphold the taxpayers' confidence in the agency. Honesty is of paramount importance.
Cook for a correctional facility	Assault with a Deadly Weapon (Firearms)	Correctional facilities are responsible for overseeing and protecting the inmate population. All positions within the facilities must be able to carry firearms and be responsible in their use.

Public Trust Falsification Examples

Position	Unadmitted Information	Discussion
Customer Service Representative (access to Social Security records)	Fired for selling government information to a company	Dishonesty presents a risk that private or protected information could potentially be compromised.
Computer Specialist	Conviction for selling child pornography via the internet	Potential misuse of technology would be a concern.
Food Inspector	Claims prior experience that is not substantiated	Integrity is questionable – risk that food supply could be compromised if individual does not have the experience claimed.

Position Sensitivity Falsification Examples

Position	Unadmitted Information	Discussion
Air Force worker requiring a Secret clearance	Prior clearance revoked	A prior clearance revocation would reasonably affect a decision to hire someone into a position requiring a clearance.
Administrative Assistant requiring Top Secret clearance	Currently residing with a Foreign National	Potential foreign influence or allegiance would be a concern and could impact on a hiring or clearance decision.

These examples illustrate how the materiality analysis depends on the nature of the conduct, the position's duties, and the surrounding circumstances. They are not exhaustive or determinative. Adjudicators must apply the whole-person concept and additional considerations to evaluate each case individually. In making this decision, there is no formula or black and white methodology to apply.

It is entirely appropriate that actions be taken against falsifiers whether or not they succeed in their attempts to deceive. The Court of Appeals for the Federal Circuit held in *Kissner v. OPM*, 792 F.2d 133, 134 (Fed. Cir. 1986) that falsification of records, is a type of misconduct from which a nexus between the employee's misconduct and the efficiency of the service is presumed. As the nexus is with the integrity or efficiency of the service, not with a particular position, OPM may take a suitability action based on an individual's prior conduct of falsification unrelated to the position he or she currently occupies or for which he or she is currently applying. When the falsification is discovered after appointment, the above determination applies regardless of whether the selecting official erroneously failed to apply suitability standards or simply chose to ignore them.

If a selecting official relied on a false statement when choosing an individual for a position, or if the false statement could reasonably have affected the selection decision, the false statement is considered material, even if the statement alone would not have made the person ineligible for the position. For example, while a job may not have a specific education requirement, a selecting official may be influenced by an applicant's falsified educational background and decide to select that person. In this situation, the false education claim is material. Similarly, an applicant with a minor criminal record might not have been selected for a particular job over applicants with no criminal record. In this situation, a false statement in response to the criminal record question on the appointment document is material.

With respect to determining intent, an incorrect response cannot control the question of intent. Instead, OPM, or the agency (if this factor is being used in a fitness determination), must establish that the false or deceptive answer or information was given with intent to deceive or mislead. There is seldom direct evidence of intent to deceive or mislead, and circumstantial evidence may generally be relied upon. This may involve considering the available information as a whole to infer the requisite intent of the individual. For example, if an individual omits a termination in response to a question asking if one has been fired, intent is not established by proving only that the firing took place, and the individual knew about it. Rather, there must also be evidence that the individual gave the negative response with the intent to mislead the agency. The individual's intent to falsify can also be inferred when they make the misstatement or omission with reckless disregard for the truth, when they reasonably should have known in the circumstances not to respond the way they did, or when the individual's explanation of the omission is incredible or implausible under the circumstances.⁵ Agencies need not establish evidence of intent prior to referring these matters to OPM but must consider whether there is any evidence to the contrary. For example, if an individual fails to admit a termination on the OF 306, but at the same time as submitting the OF 306, provides a copy of the termination notice from the prior employment to the agency, they are not hiding the termination from the agency. Or, if the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts, this is an indicator they were not intentionally trying to mislead or avoid discovery of the information.

⁵ See *Devitto v. Office of Personnel Management*, 61 M.S.P.R. 297, 302 (1994); *McClain v. Office of Personnel Management*, 76 M.S.P.R. 230, 235-41 (1997); *Pappas v. Office of Personnel Management*, 76 M.S.P.R. 152, 159-60 (1997), affirmed 155 F.3d 565 (1998).

Potential Suitability/Fitness Concerns

Examples of conditions that could raise concern and may lead to an unfavorable determination include:

- An intentional attempt to withhold information or furnish false information that is capable of influencing decisions about the individual's suitability, qualifications, or other matters related to the appointment process.
- Material, intentional omission of information clearly related to the position sought (such as a performance discharge from the same type of job or a conviction for drug use when applying for a job in the medical field).
- Materially, intentionally falsifying experience, education, etc. that could influence an official decision (the experience or education does not have to be required for the position; it only needs to have a natural tendency to influence the decision).

Mitigating Conditions

- Material, intentional false statements, or deception or fraud, in examination or appointment cannot be mitigated.

Guidance For Cases Involving False or Inflated Education Credentials

Overview

In 1986, OPM alerted Federal agencies to the FBI's investigation of questionable educational institutions that sell fraudulent college degrees and other professional credentials (commonly known as diploma mills). Diploma mills are defined as "unregulated institutions of higher education, granting degrees with few or no academic requirements" (Merriam-Webster Collegiate Dictionary, 10th Edition). These institutions exist, and individuals continue to claim degrees from diploma mills on Federal employment forms. OPM shares responsibilities with agencies for dealing with this problem. Agency human resource and personnel security personnel have an important role in detecting and dealing with diploma mill degree claims. Credentials received from diploma mills cannot be considered for student loan repayment, academic degree training program, tuition reimbursement, or employee training. They also cannot be used to meet position qualification requirements. Therefore, agencies are urged to review this material carefully and to take appropriate action to assist in minimizing this problem.

When reviewing diploma mill degree claims, agencies must carefully distinguish between qualification issues, suitability issues, and disciplinary issues, as each requires a different course of action:

- If the diploma mill claim constitutes a material, intentional false statement in examination or appointment for a competitive service or career SES position, the case must be referred to OPM. Agencies do not have delegated authority to take a suitability

action under 5 CFR 731 for this factor in these positions. See [Section 3.3](#) of this Manual for referral requirements and procedures.

- If the diploma mill claim is a qualifications issue only – meaning the individual does not meet the position’s education requirements – the matter should be returned to the human resources office for processing under applicable qualification standards. This is not a suitability action.
- If the position is not a competitive service or career SES position – such as excepted service position, a contractor position or NAF position – agencies must address diploma mill degree claims under their own applicable authorities, such as 5 CFR parts 315, 752, or 359, or agency-specific conduct and performance procedures. These actions are not suitability actions under 5 CFR 731.

Qualification Requirements

Generally, education must be from accredited institutions when used to qualify for positions with positive education requirements. Vacancy announcements in USAJOBS will specify this requirement. Regardless of a positive education requirement, USAJOBS vacancy announcements also contain information regarding the consequences for misrepresenting experience or education or providing false or fraudulent information in or with the application.

Identifying Fraudulent Degrees

When reviewing education claims, there is typically a progression to successively higher degrees (bachelor’s, master’s, doctoral). Also, there is usually a certain period of time it takes to obtain each degree (three to four years for an undergraduate degree, one to two years for a master’s, etc.). Inconsistencies with the norm may indicate education fraud.

The following list shows some of the inconsistencies an agency might observe during the application process that might reveal education fraud:

- Application/résumé shows advanced degrees, but no undergraduate degree
- One or more degrees received in a short period of time
- Multiple degrees received in the same year at the same school
- Unfamiliar school name
- Same or similar name to a legitimate school, but located in a different state
- Application/résumé shows full-time employment during period of college attendance, particularly if the employment and college were in different locations
- No residence shown on the investigation form in the area where the college is located
- School located in a foreign country, but individual does not show foreign travel
- Education claims on application/résumé are different from claims on the investigation forms

When verifying the legitimacy of a college or university or an accrediting institution, it is important to rely on reputable sources. Accrediting institutions can be as fraudulent as the schools they claim to accredit, so there may be a need to verify both the school and accrediting institution. The U.S. Department of Education provides information on its website at

<https://ope.ed.gov/dapip/#/home> on post-secondary educational institutions and programs accredited by accrediting agencies and state agencies recognized by the U.S. Secretary of Education. The Department of Education recommends using databases as one source of qualitative information and that additional sources be consulted. The website also provides information on nationally recognized accrediting institutions and links to their websites.

Sometimes a fraudulent education claim is not identified during the screening process, and the background investigation process is initiated. When reviewing the education coverage in an investigation, watch for results of “no record” or “undeliverable,” as these might signal a suspect education institution or some other type of fraud. At a minimum, it means the education claims have not been verified. Resolution of the issue can be accomplished by following the Adjudicative Processing section of this [Volume](#).

For a list of possible “red flags” that may signal a diploma mill, see the [Red Flags of Fraudulent Education Credentials](#) section below.

Falsification/Deception/Fraud

Claiming false education credentials may be a material, intentionally false statement. Individuals may claim degrees to meet the qualification requirements for a position or to enhance their credentials. In either situation, the false statement may be considered material even if the position did not require a degree. As discussed earlier in this volume, when material, intentional falsification is identified, referral of the matter should be made to OPM.

Agencies take actions when OPM does not have authority to do so, such as when the position is not covered by the suitability rules, as defined in 5 C.F.R. part 731, or the position is not subject-to-investigation, such as a transfer or promotion. In these situations, the agency can consider the following actions:

Falsification and Corrective Action Examples

Table 1 V3

Diploma Mill Degree Claimed	Appropriate Corrective Action*
Individual did not necessarily intentionally falsify the application but is not qualified because the qualification determination was based on the diploma mill degree.	Refer to the procedures already in place for processing individuals who do not meet the qualification requirements for positions for which they apply. Advise the individual that the education claim should not be claimed in the future.
Individual did not necessarily intentionally falsify the application but qualified without the claimed education.	Advise the individual the education should not be claimed in the future.
Individual intentionally falsified the application but qualified without the claimed education.	Actions range from not hiring an applicant, reprimanding, suspending, reassignment, change to lower grade, or removing the employee. OPM recommends not hiring or

	removal. Also, advise the individual the education should not be claimed in the future.
Intentional falsification is clearly established, and education was needed to qualify.	Actions range from not hiring an applicant, reassignment, change to lower grade, or removing the employee. OPM recommends not hiring or removal. Also, advise the individual the education should not be claimed in the future.

**When it is established that the individual knowingly claimed a diploma mill degree, not hiring the applicant or removing the employee is generally the appropriate action since the individual's actions were both dishonest and an attempt to violate the merit system.*

Agencies should consider the following whenever they detect diploma mill degree claims and need to decide upon the appropriate response:

- Individuals who know a degree is fraudulent yet intentionally misrepresent their educational qualifications and credentials in the hope of gaining an unfair advantage over others for jobs, promotions, reassignment, or other forms of advancement, lack trustworthiness and integrity, and attempt to violate the merit system.
- When the individuals hold a security clearance or a responsible position, such as a Public Trust position, where standards of trustworthiness and integrity are particularly high, agencies may seriously consider whether that person should continue to hold a security clearance or remain in the position even when the diploma mill degree claimed was not material in the initial employment decision.

NOTE: Under 18 U.S.C. section 1001, a material, intentional false statement on any part of the application may be punished by fine or imprisonment.

Red Flags of Fraudulent Education Credentials

The following “red flags” may signal a diploma mill. Check the school’s website or catalog, the application or investigation forms, or the results of the background investigation for these “red flags.” They may show the individual claiming the degree was aware the degree was associated with a diploma mill institution.

The Name and Location of the School

- Name is the same as, or like, a well-known college or university but in a different location
- Operating in a state with few or no education licensing laws
- Existed for only a short time or previously existed under another name
- Operates from a single room in a private home or office in a commercial building
- Mail is received at a postal box or mail-forwarding service
- Postmark and return address from different states
- Operates online from foreign locations

The Accreditation of the School

- Not accredited by a legitimate accrediting institution recognized by the U.S. Department of Education
- Non-recognized accrediting agency may be connected to the school
- Instead of saying the school is accredited, it uses words like pursuing accreditation, licensed, authorized, (state) approved, recognized, chartered
- Legitimate institutions in the same area, when asked, would not accept transfer credits from the school

The Faculty and Staff of the School

- Few, if any, full-time staff
- Wide variety of functions performed by one person
- Faculty lacks advanced degrees from recognized college or university
- Part-time staff used to provide instructions or academic services
- Faculty not listed in catalog
- Preoccupation with degree-identification (long list of degrees follow the name of officials)

Admission Policy and Cost

- Little or no selectivity in admission policy
- Offers “finder’s fee” for new students
- Offers discounts for students who pay cash
- Tuition and fees are typically on a per-degree basis rather than a per-semester, per-quarter, or per-course basis

The Degree and Transcript

- Few, if any, or unspecified degree requirements
- Degrees or credits based solely on work life experience or with little coursework
- Offers backdated degrees or “experience date” degrees
- Pictures of the degree, transcript, and/or accreditation appear in a catalog or on website
- Degrees can be obtained in a short time frame

Self-Promotion

- Advertises through unsolicited commercial email (spam) or pop-up ads
- Advertises products and services unrelated to education on websites (e.g., credit card offers)

FACTOR 4: DISHONEST CONDUCT

Concern

Dishonest conduct creates doubt about an individual’s reliability and trustworthiness and calls into question an individual’s willingness to comply with laws, rules, norms, and standards.

General Application / Discussion

Dishonest conduct such as lying, cheating, fraud or deceit shows poor judgment, a lack of integrity, and reduces the trustworthiness of the individual. Federal employees and contractors are entrusted with public funds, sensitive information, and responsibilities that have a direct impact on the public

and the Government's operations. Because of this, agencies must be confident that individuals will act honestly and follow laws, regulations, and ethical standards.

A history or pattern of dishonest behavior, such as falsifying documents, lying on forms or to investigators, cheating on exams, or misusing government resources and then attempting to hide their misconduct, raises serious concern about whether an individual can be trusted to protect the integrity and efficiency of the service. Dishonest conduct may also create risks of fraud, waste, abuse, and misuse of information or access.

When an individual is dishonest to gain an unfair advantage or avoid responsibility for their misconduct, that behavior is serious and may be disqualifying. This factor applies to dishonest conduct occurring outside of the Federal hiring examination or appointment process.

Potential Suitability/Fitness Concerns

Examples of conditions that could raise concern and may lead to an unfavorable determination include:

- Illegal dishonest activities (such as theft, acceptance of a bribe, falsification of claims and business records, perjury, forgery, etc.).
- Deliberate lies, fraud, or deceit on documents not related to a position subject to a suitability or fitness determination.
- Plagiarism or cheating.
- Altering or falsifying official records (such as case files, reports, timesheets, or logs).
- Misuse of government property or funds with deception (personal use of purchase cards or submitting false reimbursement claims).

Mitigating Conditions

Examples of conditions that could mitigate concerns, as determined by applying pertinent additional considerations:

- The conduct is minor.
- So much time has passed since the conduct.
- The behavior was infrequent.
- The conduct happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's character or suggest the individual's employment would adversely impact the integrity or efficiency of the service.
- There exists no increased concern based on the authority, responsibility, sensitivity, and public trust associated with the position or a direct nexus to the core duties of the position or agency mission.
- There is reasonable belief that the individual unknowingly engaged in conduct that was wrong or negligent, and the individual made intentional prompt corrective efforts.

- There is evidence of successful rehabilitation, including, but not limited to, passage of time without reoccurrence of dishonest conduct.

FACTOR 5: FAILURE TO COMPLY WITH FINANCIAL OBLIGATIONS OR GENERALLY APPLICABLE CIVIL LEGAL OBLIGATIONS, SUCH AS TIMELY FILING OF TAX RETURNS

Concern

Meeting personal financial obligations reflects reliability, honesty, and sound judgment. When individuals manage their debts responsibly, pay taxes on time, and avoid patterns of delinquency, they demonstrate that they can be trusted with public resources, sensitive information, and the public's confidence. An individual's unwillingness to honor their financial and/or civil legal obligations can undermine confidence in an individual's trustworthiness, ability to uphold fiduciary responsibilities, adhere to ethical standards, and promote the integrity and efficiency of the federal service.

General Application / Discussion

Failure to meet civil legal obligations – whether failure to file or pay taxes, breach of contract, unwillingness to satisfy fiduciary obligations, unwillingness to satisfy financial obligations, or violation of statutes - can raise serious concerns regarding an individual's judgment, reliability, and trustworthiness. A civil legal obligation is a duty imposed by law that requires a person or entity to do something (or refrain from doing something) in relation to another person or entity under civil law – as opposed to criminal law. These obligations stem from statutes (laws that impose duties, such as tax requirement or employment laws), torts (civil wrongs), regulations, contracts (e.g., the duty to pay rent or deliver goods), or common law and encompass a wide range of actions, such as fiduciary obligations, paying taxes, following court orders, or honoring contractual requirements. An individual's failure to comply with financial or civil legal obligations raises concerns about an individual's unwillingness or inability to follow laws, rules, and regulations, and indicates that the individual's employment may not promote the efficiency or protect the integrity of the service. Federal personnel are often responsible for the oversight and/or enforcement of civil legal obligations applicable to the public. As such, they are expected to demonstrate consistent willingness to comply with these obligations in both their professional and personal life. An individual who fails to comply with civil legal obligations as part of their employment exhibits a disregard for the responsibilities entrusted by the employing agency, potentially damaging the agency's reputation. Furthermore, failure to comply with personal civil legal obligations demonstrates a disregard for rules and regulations and displays behavior that goes against what is expected from the public. However, it is important to assess if the individual's non-compliance was intentional or due to circumstances beyond their control.

Evidence of deliberate financial irresponsibility - such as unwillingness to satisfy just debts, accumulation of significant delinquent debt due to frivolous or irresponsible spending, a history of not meeting financial obligations, or an absence of willingness or intent to repay the debt or establish

a viable repayment plan - may raise concerns regarding an individual's suitability or fitness. However, applicants cannot be found unsuitable or unfit solely based on experiencing financial difficulties through no fault of their own, provided there is substantiated evidence of a good-faith effort to meet their financial obligations.

When reviewing conduct under this factor, adjudicators must determine whether the individual deliberately failed to meet their obligations or whether circumstances outside of their control played a role. An individual does not have to be proven to have acted intentionally before this factor can be considered. Instead, whether the individual acted on purpose, made an honest mistake, or faced a situation beyond their control is one of many things the adjudicator should weigh when applying the additional considerations at 5 C.F.R. § 731.202(c). For example, an individual who failed to file tax returns because of a serious illness that caused significant financial hardship should be viewed differently than an individual who had the money and ability to comply but repeatedly chose not to. The fact that someone did not intend to fall short of their obligations does not automatically clear the concern, but it is an important factor in deciding whether the conduct reflects a pattern of disregard for the law or an isolated mistake made under difficult circumstances.

Potential Suitability/Fitness Concerns

Examples of conditions that could raise concern and may lead to an unfavorable determination include:

- Unwillingness to satisfy just debts. Unwillingness refers to an individual who has the financial means to establish a repayment plan or satisfy a debt but deliberately chooses not to pay it, makes no effort to establish a repayment plan, or repeatedly avoids or ignores attempts by creditors to resolve the obligation. This is distinct from an individual who is genuinely unable to pay due to circumstances beyond their control, such as a medical emergency or job loss, and is making a good-faith effort to address the debt.
- Credit delinquencies caused by frivolous or irresponsible spending, and the absence of any evidence of willingness or intent to pay the debt or establish a realistic plan to resolve the debt through other means. Frivolous or irresponsible spending refers to situations where an individual accumulates significant debt as a result of unnecessary, excessive, or impulsive spending or financial decisions that is beyond their means – such as repeatedly spending beyond one's income on non-essential items, accumulating large amounts of consumer debt with no plan or effort to repay it, or making financial decisions that demonstrate a consistent pattern of poor judgment with money.
- History of not meeting financial obligations.
- Unwillingness to file tax returns and/or pay taxes. These types of evidence can support the finding of unwillingness:
 - Filing or paying only after enforcement, wage garnishment, levy, or employer involvement.
 - Repeatedly ignoring IRS notices, state tax notices, or delinquency warnings despite having the means to act.
 - Making no attempt to submit required returns for multiple tax years, even when the individual has stable employment, accessible documentation, or the means to file.

- Choosing discretionary spending over legally required tax obligations while making no effort to work with taxing authorities.
- Being offered installment plans or hardship options but taking no action to pursue or maintain them.
- Providing inconsistent or implausible explanations for not filing or paying.
- Violations of statutes that impose civil legal duties, such as tax requirements, financial disclosure requirements, or other obligations imposed by law on the individual personally. For example, a federal employee with contracting authority or fiduciary responsibilities who violates civil legal obligations such as: Federal Acquisition Regulations (FAR), governing procurement and performance; ethics and conflict-of-interest statutes (18 U.S.C. §§ 208, 209; 5 CFR part 2635); or financial disclosure laws (5 U.S.C. App. 101 et seq., "Ethics in Government Act").
- Failing to comply with a court order or judgment, such as failure to pay child support or other repayment orders.
- Failing to adhere to a business contract or business laws to include - permits, licenses, or registrations.

Mitigating Conditions

Examples of conditions that could mitigate concerns, as determined by applying pertinent additional considerations:

- The conduct is minor.
- So much time has passed since the conduct.
- The behavior was infrequent.
- The conduct happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's character or suggest the individual's employment would adversely impact the integrity or efficiency of the service.
- There exists no increased concern based on the authority, responsibility, sensitivity, and public trust associated with the position or a direct nexus to the core duties of the position or agency mission.
- There is reasonable belief that the individual failed to comply because of being unaware of their financial or legal obligations, and the individual made prompt corrective efforts.
- There is evidence of successful rehabilitation, including, but not limited to, passage of time without failure to comply with legal obligations, debts or judgments have been repaid or the individual has/is establishing a viable plan to resolve debt, paid/paying restitution, etc.

FACTOR 6: EXCESSIVE ALCOHOL USE, WITHOUT EVIDENCE OF REHABILITATION, OF A NATURE AND DURATION THAT SUGGESTS THE INDIVIDUAL WOULD BE PREVENTED FROM PERFORMING THE DUTIES OF THE POSITION IN QUESTION, OR WOULD CONSTITUTE A DIRECT THREAT TO THE PROPERTY OR SAFETY OF THE INDIVIDUAL OR OTHERS

Concern

An individual's excessive use of alcohol may impact on their ability to complete the duties of the job and/or cause them to behave or act in a manner that puts their own safety or the safety of others at risk, thus indicating employment would not promote the efficiency or protect the integrity of the service.

General Application / Discussion

Excessive alcohol use is alcohol consumption that results in impaired judgment, reduced reliability, workplace or safety risks, absenteeism, poor performance, or lapses in judgment that may cause the individual to be unable to perform their job duties. Excessive alcohol consumption may cause individuals to engage in risky behavior, such as operating motor vehicles while under the influence, that can put themselves and others at serious risk of injury or death. Disqualifying conditions are not dependent on whether the individual has been diagnosed with an alcohol use disorder. Since it is inherent in the factor to prove the conduct would prevent the individual from performing the duties of the position, in instances in which the individual has already been appointed when the issue of excessive alcohol comes to light, performance of duties without incident may be a consideration and agencies may consider whether an approach under an authority other than 5 C.F.R. part 731 may be more appropriate. Rehabilitation cannot be established if the conduct is ongoing.

Potential Suitability/Fitness Concerns

Examples of conduct that could raise concern and may lead to an unfavorable determination include:

- Current, continuing excessive use of alcohol.
- Regular binge or heavy drinking that causes trouble in the individual's personal or professional life (e.g., missed work or chronic tardiness, declining performance, domestic disturbances, safety violations or workplace accidents, financial irresponsibility, etc.).
- A pattern of alcohol-related arrests.⁶
- Disciplinary actions, counseling, write-ups or other disciplinary actions stemming from alcohol-related behavior (e.g., reporting to work intoxicated, consuming alcohol in prohibited settings, etc.).

⁶ Examples illustrate potential applicability but must not be applied in a manner inconsistent with merit system principles, statutory protections or anti-discrimination laws.

- Pattern despite prior intervention. An employee has received prior Employee Assistance Program referrals and a last chance agreement for alcohol-related incidents and is now found reporting to work intoxicated again.
- Problematic misuse of alcohol, such as binge drinking or heavy drinking, over a period of time to the point that it would prevent the individual from performing the duties of the position or constitute a direct threat to property or safety or that of others.
- Serious safety incident. A transportation employee is found operating a government vehicle while intoxicated during a work shift, causing an injury to a member of the public.
- Failure to follow treatment recommendations.

Mitigating Conditions

Examples of conditions that could mitigate concerns, as determined by applying pertinent additional considerations:

- So much time has passed since the conduct without recurrence.
- First offense or the behavior was infrequent.
- Positive behavioral changes. This means the individual has made real, observable changes in how they live and act since the alcohol problems occurred. Examples include:
 - Voluntarily stopping drinking without being required to do so by a court or employer
 - Regularly attending Alcoholics Anonymous (AA) or a similar support group
 - Completing an alcohol treatment or counselling program and continuing with follow-up care
 - No longer socializing in settings centered around alcohol
 - Obtaining letters or statements from a sponsor, counselor, supervisor, or doctor confirming the change in behavior
- The conduct happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's character or suggest the individual's employment would adversely impact the integrity or efficiency of the service (e.g., a single incident such as a DUI after a death of a close family member).
- Successful completion of treatment or counseling, or participation in support programs.
- There exists no increased concern based on the authority, responsibility, sensitivity, and public trust associated with the position or a direct nexus to the core duties of the position or agency mission.
- Rehabilitation will always be a consideration with this factor. There is evidence of successful rehabilitation, including, but not limited to, passage of time without reoccurrence of employment misconduct or negligence, compliance with terms of employment improvement plan, job training or good employment record.

Important note: No single item on this list automatically proves rehabilitation. The whole picture matters. A person who checked into treatment once, but continued drinking would not meet this standard. Look for a pattern of consistent change over time, not just a single good act.

FACTOR 7: ILLEGAL USE OF NARCOTICS, DRUGS OR OTHER CONTROLLED SUBSTANCES, WITHOUT EVIDENCE OF REHABILITATION

Concern

Illegally using drugs or other controlled substances can raise questions about an individual's reliability and trustworthiness and/or willingness to comply with laws, rules, and regulations, thus indicating their employment would not promote the efficiency or protect the integrity of the service.

General Application / Discussion

Rehabilitation cannot be established if conduct is ongoing; however, a commitment to stop using may be sufficient evidence of rehabilitation. For this factor, the extent or duration of the illegal use need not be established to determine whether one is unsuitable or unfit; however, the circumstances surrounding the usage, and/or its nature or seriousness, may be relevant to determining whether it will cause one to be unsuitable or unfit. For example, use of marijuana while hanging out with friends in a state where recreational marijuana use has been legalized may be viewed differently than use of heroin, which has not been legalized. In this example, the use of marijuana may be mitigated when considering the setting and the individual's understanding of the state level law whereas, the latter, the use of heroin, was done with an understanding that it was in violation of the law. If the person is a current user, the conduct may still be sufficiently serious to cause general concern, but rehabilitation is not confined to a set timeframe. Some individuals may demonstrate rehabilitation within a short period of time, whereas others may not. Therefore, a commitment to stop using may be sufficient evidence of rehabilitation. However, each case must be assessed on the merits and considering what is known about the situation and the individual.

Examples of evidence of conduct that may warrant a determination of unsuitable or unfit under this factor include:

- Testing positive for a drug(s) without a medically acceptable reason for doing so.
- Failure to successfully complete a drug treatment program.
- Expressed intent to continue to illegally use drugs.
- A pattern of drug-related arrests.
- Write ups, counseling, or other disciplinary actions that clearly stem from problems in employment that are related to drug use.

Cases involving Marijuana: As more state laws regarding medical and recreational use of marijuana by adults have changed, federal agencies are increasingly encountering individuals whose knowledge, skills and abilities make them well-qualified for a position, but whose marijuana use may or may not be of concern when considering the suitability or fitness of the individual. OPM's regulations do not permit agencies to automatically find individuals unsuitable or unfit unless there is a nexus between the conduct and the integrity or efficiency of the service. Past marijuana use, including recently discontinued marijuana use, should be viewed differently from ongoing marijuana use. In addition to other additional considerations deemed pertinent, agencies must

consider all possible indicators of rehabilitation, such as whether there is evidence that use will not occur again, there is a passage of time without use, the individual has completed or participated in treatment or counseling, and/or the individual has made a commitment to not use marijuana going forward. Agencies should also consider the requirements set forth in Executive Order 12564, Drug Free Federal Workplace, which mandates that Federal employees are to refrain from use of illegal drugs; the use of illegal drugs by Federal employees, whether on or off duty, is contrary to the efficiency of the service; and persons who use illegal drugs are not suitable for Federal service. However, the E.O. emphasizes that discipline is not required for employees who voluntarily seek counseling or rehabilitation and thereafter refrain from using illegal drugs. See [Assessing the Suitability/Fitness of Applicants or Appointees on the Basis of Marijuana Use; Maintaining a Drug-Free Workplace](#) for more information.

Potential Suitability/Fitness Concerns

Examples of conditions that could raise concern and may lead to an unfavorable determination include:

- Current or recent illegal drug use (e.g., misuse of prescription medications, etc.).
- A pattern of drug-related criminal conduct.
- Testing positive for an illegal drug or failure to comply with drug testing or treatment requirements
- Evidence of impaired judgment or reliability caused by drug use (e.g., unsafe behavior, workplace misconduct, use while in sensitive positions or circumstances, etc.)
- Failure to successfully complete a drug treatment program prescribed by a duly qualified professional.
- Expressed intent to continue illegal drug involvement.
- There is increased concern based on authority, responsibility, sensitivity, and public trust associated with the position or a direct nexus to the core duties of the position or agency mission.

Mitigating Conditions

Examples of conditions that could mitigate concerns, as determined by applying pertinent additional considerations:

- So much time has passed since the conduct.
- The behavior was infrequent or limited, or of experimental nature.
- Negative drug test history and sustained abstinence.
- The conduct happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's character or suggest the individual's employment would adversely impact the integrity or efficiency of the service.
- There exists no increased concern based on the authority, responsibility, sensitivity, and public trust associated with the position or a direct nexus to the core duties of the position or agency mission.
- Rehabilitation will always be a consideration with this factor. There is evidence of successful rehabilitation, including, but not limited to, passage of time with sustained abstinence or

controlled use, compliance with treatment recommendations, participation in support or recovery programs, and evidence of improved judgment and stability over time.

FACTOR 8: KNOWING AND WILLFUL ENGAGEMENT IN ACTS OR ACTIVITIES DESIGNED TO OVERTHROW THE U.S. GOVERNMENT BY FORCE

Concern

All Federal personnel must be loyal to the United States. OPM retains jurisdiction to make suitability determinations and take suitability actions in competitive service positions, positions in the excepted service that may noncompetitively convert to the competitive service, and career appointments to the Senior Executive Service if the case involves evidence of conduct falling within this factor.

Agencies must refer these cases to OPM for adjudication, and provide required notification to OPM, if the agency wants to take or has taken action under another authority (such as 5 C.F.R. part 11, 5 C.F.R. part 359, or 5 C.F.R. part 752). For excepted service, contractor, or NAF positions, agencies may cite this factor, as applicable.

General Application / Discussion

Disqualifying acts must be overt, defined illegal acts. Disqualifying advocacy must be the incitement or indoctrination to commit defined illegal acts. Disqualifying association requires the individual to know of the organization's unlawful goals, and for the individual to be an active member of the organization or to have the specific intent to further its unlawful goals. Membership in organizations, alone, is not disqualifying.

Adjudicators generally must distinguish between:

- Constitutionally protected political beliefs, speech, protest, or dissent; and
- Knowing, intentional involvement in unlawful or violent actions aimed at overthrowing or attacking the government.

Potential Suitability/Fitness Concerns

Examples of conditions that could raise concern and may lead to an unfavorable determination include:

- Credible evidence that the individual has knowingly engaged in acts or activities that advocate, threaten, incite rebellion or resistance, use force or violence, or use any other illegal or unconstitutional means, in an effort to overthrow the government of the United States by force. Evidence may include the individual's own statements, communications, participation in organized planning, recruitment of others, or other conduct showing intentional involvement in activities designed to achieve that objective by force. This factor should not be applied based solely on political opinions, unpopular viewpoints, lawful speech

and protest activity, or membership in an organization. The record must support a conduct-based finding that the individual knowingly and willfully engaged in acts or activities designed to overthrow the U.S. Government by force.

- Providing material support to groups or individuals engaged in anti-government activities (e.g., funding, weapons, training, logistics, etc.).
- Attempting to unlawfully seize government facilities, interfere with governmental functions or obstruct constitutional processes through force or intimidation.

Mitigating Conditions

Examples of conditions that could mitigate concerns, as determined by applying pertinent additional considerations:

- The individual was involved in an organization that aimed to overthrow the government, however, was unaware of the unlawful aims of the organization and severed ties upon learning of these.
- Involvement in the activities occurred for only a short period of time and was attributable to curiosity or academic interest.
- Renunciation of prior involvement.
- Demonstrated commitment to constitutional processes and lawful conduct.
- The involvement or association with such activities occurred under such unusual circumstances, or so much time has elapsed, that it is unlikely to recur and does not cast doubt on the individual's character or loyalty that would suggest the person's employment would adversely impact the integrity or efficiency of the service.

FACTOR 9: VIOLENT CONDUCT

Concern

Generally, this factor accounts for violent behavior that does not fall squarely under another factor, such as violent conduct that occurs outside of the workplace or that which may not have resulted in criminal charges. For example, sexual or physically violent conduct of a nature that leads to a civil protection order but not criminal charges, may fall under this factor. Violent means using or involving forceful, threatening, intimidating, or coercive force intended to hurt, damage, or kill someone or something.

General Application / Discussion

Primary emphasis is on the nature of the violent conduct, which though perhaps not criminal, is also not behavior that is socially acceptable or otherwise legal. For example, participation in organized martial arts tournaments involves physical force and controlled combat; however, this conduct would not fall under the violent conduct factor, as these events are legally sanctioned, consensual, and regulated and conducted within established safety and ethical standards. If a person participates and follows all applicable rules, that is not the type of conduct that this factor is intended to address. However, engaging in spousal abuse, which may not result in criminal charges but leads to a protection from abuse order, with proper evidence, could be cause for suitability or fitness concern.

Another example would be if an individual is reported having violent outbursts, such as punching holes in walls, throwing objects at others, or breaking items, this exhibits violent conduct, and with sufficient evidence, it could be grounds for a suitability or fitness concern. If evidence demonstrates an individual engages in forceful, threatening, intimidating, or coercive behavior towards others, including but not limited to physical fights, stalking, excessive force, brutality, threats of harm, or conduct creating a credible risk of harm, this type of behavior could warrant consideration under this factor. The adjudicator must make an independent determination that the individual engaged in the violent conduct to justify their decision. This determination must be based on a preponderance of evidence standard - meaning the evidence, taken as a whole, makes it more likely than not that the conduct occurred. This standard does not require absolute certainty. A reasonable person, considering the full record, must be able to conclude that the contested conduct is more likely true than untrue.

Potential Suitability/Fitness Concerns

Examples of conditions that could raise concern and may lead to an unfavorable determination include:

- A single serious offense.
- A pattern of minor offenses, any one of which on its own would be unlikely to affect a suitability decision, but in combination cast doubt on the individual's suitability or fitness. Minor offenses under this factor may include:
 - A single push or shove during an argument
 - A verbal altercation that escalated briefly to physical contact
 - An incident where an individual verbally threatened someone
 - Road rage incident where no injuries or property damage occurred
- Evidence of violent outbursts or unlawful aggression, reckless or harmful acts towards others, conduct demonstrating a disregard for safety, assaultive behavior, threats or intimidation, or acts to cause damage or kill someone or something that may or may not have led to criminal charges.

Mitigating Conditions

Examples of conditions that could mitigate concerns, as determined by applying pertinent additional considerations:

- The conduct is minor.
- So much time has passed since the conduct.
- The behavior was infrequent.
- The conduct happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's character or suggest the individual's employment would adversely impact the integrity or efficiency of the service.
- There exists no increased concern based on the authority, responsibility, sensitivity, and public trust associated with the position or a direct nexus to the core duties of the position or agency mission.

- There is evidence of successful rehabilitation, including, but not limited to, passage of time without recurrence of the same or similar behavior, or compliance with terms and conditions of court order/direction, as applicable.
- There is evidence that the individual's conduct was violent, however, it was performed within the parameters of their official duties (i.e., police, security) or an act of plausible self-defense.

FACTOR 10: ANY STATUTORY OR REGULATORY BAR OR ANY OTHER PROVISION OF LAW, REGULATION, EXECUTIVE ORDER, OR OTHER BINDING LEGAL AUTHORITY, THAT PREVENTS THE LAWFUL EMPLOYMENT OF THE INDIVIDUAL IN THE POSITION IN QUESTION, SUCH AS CITIZENSHIP OR NATIONALITY REQUIREMENTS

Concern

Federal statutes and/or regulations may prevent lawful employment. Statutory and regulatory debarments, depending on the specific regulation, can apply to general employment with the Government, specific positions within the Government or performance of particular duties within the Federal Government. For example, there may be a bar against employment for a previous Federal employee who participated in a strike against the government or for not being registered for the Selective Service. Another example is a bar from holding positions that require carrying a gun or possessing ammunition if the individual has been convicted of certain crimes of domestic violence. Additionally, under Executive Order 11935, an individual may not be admitted to a competitive examination or appointed to the competitive service unless the individual is a U.S. citizen or national. A foreign national may be appointed in exceptional circumstances, including certain temporary appointments under 5 CFR § 316.601, when necessary to promote the efficiency of the service and not prohibited by statute. Agencies must also follow any statutory citizenship requirements that apply to particular agencies or positions, including certain national security positions.

General Application / Discussion

- In most situations the agency is in the best position to know if there is a statutory or regulatory bar for employment in certain positions. These laws can be very specific to particular agencies' missions and often the agency is likely the only entity with a working knowledge of the relevant restrictions.
- Statutory/regulatory bars can also be viewed as qualification or eligibility issues. If a statute or regulation precludes someone from holding a position, then that person is not eligible.
- Conduct forming the basis of a statutory debarment can also fall under one or more of the other factors discussed.
- It is possible that some statutory or regulatory bars may allow the agency to apply waiver provisions, but they cannot be mitigated through application of the suitability or fitness additional considerations.

3.6 – Investigative Service Provider – Issue Characterization

Authorized Investigative Service Providers (ISP) are required by the **Federal Personnel Vetting Investigative Standards** to label the seriousness of issue information from each data source and to categorically identify the overall case seriousness. ISPs develop their own methodology for categorizing issue seriousness, which is assigned at face value, as information is gathered through the investigative process. The methodology, which ISPs must share with their customers, aligns with the following parameters:

- The issue seriousness categorization must provide enough specificity to clearly track the concern. For example, if substance abuse is identified, the categorization must identify if alcohol or drugs were used or if criminal conduct was involved. The categorization must be specific as to the type of behavior such as violent behavior like assault.
- ISPs must identify evidence of false or dishonest statements. For example, if the individual does not report any criminal convictions, but the investigation uncovers convictions, there is evidence of potential false statement by the individual, and the ISP must label that issue within the investigative results in the appropriate place(s) (i.e., in the report of the individual's personal interview).
- The methodology must support eAdjudication business rules.
- The methodology must align to the overall case characterization.

Using issue seriousness categorization, the ISP assigns an overall case seriousness category, as follows:

- **No Issues:** The case contains no issues or no inconsistent information.
- **Minor:** The case only contains conduct or issue(s) that are minor in nature.
- **Moderate:** The case contains the conduct or issue(s) that could be of moderate concern when making an adjudicative determination.
- **Substantial:** The case contains conduct or issue(s) that could likely be of substantial concern when making an adjudicative determination.
- **Major:** The case contains conduct or issue(s) that could be of major concern when making an adjudicative determination.

Agencies may wish to use the issue seriousness and case categorization to triage cases. Regardless of issue coding and case seriousness levels assigned by the ISP, agencies are ultimately responsible for making the trust determination.

3.7 – Additional Considerations

In evaluating the relevance of an individual's conduct, the adjudicator must consider the following additional considerations as outlined in 5 C.F.R. § 731.202(c), but only to the extent they deem each one pertinent to the individual case. These additional considerations, when applied to negative conduct (issues) may be determined to be aggravating or mitigating. It is possible the adjudicator may need to seek additional information about the position or a known issue, such as by requesting it from the subject or requesting it through an investigative service provider, in order to give full consideration to the pertinent additional considerations.

- (1) The nature of the position for which the individual is applying or in which the individual 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 or integrity of the service; thus, the misconduct becomes more serious as a potentially disqualifying issue.

For example:

- Housekeeping Aid vs. Nurse
- Director vs. Clerk
- Immigration Inspector vs. Secretary

The nature of the position may also be pertinent when a direct nexus between the conduct and the core duties or responsibilities of the position exists and should also be considered pertinent if the conduct is directly opposed to the agency's mission.

For example:

- Individual has multiple traffic offenses and is applying for a driving position.
- Individual has several recent convictions for shoplifting and is applying for a store clerk position.
- Individual has a history of non-compliance with tax law and is applying for a position with an agency whose mission is to enforce these laws.

- (2) The nature and seriousness of the conduct. The more serious the conduct, the greater the potential for a negative suitability or fitness determination. The assessment is based upon the actual conduct that occurred, and not upon the disposition or outcome.
- (3) The circumstances surrounding the conduct. Full facts and circumstances are essential to ensure fairness to the person and to protect the interests of the Government. When the circumstances surrounding the conduct make it more serious or less serious than on face value, this may be a pertinent consideration. For example, a school bus driver is involved in an accident while driving a bus full of students, and it is determined the bus driver was driving while intoxicated. The detail of knowing the bus driver was intoxicated is an important aggravating circumstance.
- (4) The recency of the conduct. The more recent the conduct, the greater the potential for concern. As a point of reference, conduct occurring within three years of review can generally be considered recent⁷; however, it is ultimately the adjudicator who will decide if the age of the conduct is mitigating or aggravating based upon the individual circumstances of the case.
- (5) The age of the individual involved at the time of the conduct. Conduct that can be attributed to a youthful indiscretion may be viewed less seriously.
- (6) Contributing societal conditions. Economic and cultural conditions might be relevant factors to consider, especially if the conditions are now removed.

⁷ See Buhl v. Office of Personnel Management, 37 M.S.P.R. 305, 313 (1988)

(7) The absence or presence of rehabilitation or efforts toward rehabilitation.

Rehabilitation may be a consideration for all conduct, not just alcohol and drug abuse. While formal counseling or treatment may be a consideration, other factors, such as the individual's employment record, may also be indications of rehabilitation.

Rehabilitation is not confined to a set time frame. The assessment of efforts toward rehabilitation is independent of consideration of the recency of the conduct. Some individuals may demonstrate rehabilitation within a short time period, while others may not demonstrate rehabilitation from similar conduct over a lengthy time period.

3.8 – Adjudicative Determination Process Guide

The following guide is intended to illustrate a comprehensive approach to making an adjudicative determination discussed in this Volume, and to provide general application/discussion information specific to each suitability factor. Disqualifying conduct may be a concern for more than one factor. For example, embezzlement would be considered criminal conduct, dishonest conduct, and evidence of misconduct or negligence in employment if the conduct occurred on the job. This guide is not intended to be all inclusive or replace careful evaluation of all available information that may have a bearing on an individual's suitability or fitness.

It is important for the adjudicator to be able to identify falsification. Falsification is of major concern since it calls into question a person's integrity and honesty. Simply stated, falsification can manifest in many different ways. The most obvious type of falsification is an omission or concealment of relevant information; however, falsification also includes providing misleading information, exaggerating education or qualifications, and in some instances, submission of altered or fraudulent documents. Agencies may wish to use the *Issue Identification and Assessment Job Aid* to assist the adjudicator in identifying issues and evaluating pertinent factors and other relevant information.

Issue Identification and Assessment Job Aid - Figure 1 V3

Issue Identification and Assessment Job Aid			
Reviewed by:	Date of Review:	Case Number:	Case Type:
Position:	Appointment Date:	Date of Forms/Interviews:	
Issue and corresponding suitability guideline(s):			
Date of Conduct:			
Pertinent Factors (Additional Considerations)	Select the pertinent factor for listed <u>issue</u>		
	Aggravating	Mitigating	
☐ Position ☐ Seriousness ☐ Circumstances ☐ Recency ☐ Rehab ☐ Societal ☐ Age	If the issue is aggravated after assessment of the factors, then a <u>brief summary of reasoning</u> should appear in this area. The reasoning should be relevant and reflective of the factors selected.	If the issue is mitigated after assessment of the factors, then a <u>brief summary of reasoning</u> should appear in this area. The reasoning should be relevant and reflective of the factors selected.	
Issue and corresponding suitability factor(s):			
Date of Conduct:			
Pertinent Factors (Additional Considerations)	Aggravating	Mitigating	
☐ Position ☐ Seriousness ☐ Circumstances ☐ Recency ☐ Rehab ☐ Societal ☐ Age			
Other Information Considered Relevant to the Determination:			

3.8.1 – Adjudicative Determination – Issues of Concern Remain

If upon application of this process, there remain unmitigated issues of concern, then a favorable suitability/fitness determination cannot be made. For suitability, if the case involves an applicant, meaning an individual who is being considered or has been considered for a competitive service or career Senior Executive Service position, or an appointee, meaning an individual who is in their first year of a subject to investigation appointment to a competitive service or career Senior Executive Service position or is on an initial or trial period beyond the first year, the agency has the option to pursue a suitability action. The agency also has the option for making a risk-based decision to grant an exception following the guidance addressed in [Volume 2](#) of this Manual.

For suitability determinations, if an applicant or appointee case, and employee case involves certain types of conduct, the case must be referred to OPM for consideration of a governmentwide debarment. If an employee case involves post-appointment conduct, the case may be referred to OPM. After applying the guidance outlined above, to include the application of any pertinent additional considerations, if the adjudicator determines the issue(s) cannot be mitigated, the job aid can be used to help lend objectivity and consistency to the process of determining if the case should be referred to OPM. At any point the agency may consult with OPM-SuitEA to determine if referral should occur. No referral package is required for consults.

3.8.2 – Suitability Referral Job Aid

Understanding When and How to Refer a Case to OPM

Before an agency can decide what to do about a suitability concern, three basic questions need to be answered: Who is the person? When did the conduct happen? And how serious is it? These questions matter because the answer to each one determines who has the legal authority to act. Under the updated 5 CFR Part 731 rule, that authority is divided between agencies and OPM — and getting it wrong can mean taking an action the agency isn't allowed to take or missing a mandatory referral entirely.

When an employee's post-appointment conduct falls under one of the ten suitability factors, only OPM can take a formal suitability action — but OPM can only take an action if an agency refers the case. Agencies still retain the authority to handle applicants and appointees under delegated authority, and they can still use Chapter 75 or other authorities for employee misconduct, but they must notify OPM when they do. The decision guide on the next page is intended to help agencies ask the threshold questions needed to determine whether conduct may be handled under delegated agency authority, must be referred to OPM, or may warrant discretionary referral to OPM.

How to Use This Decision Guide

When a suitability concern comes up, it can be hard to know right away what the agency is supposed to do — and who is allowed to do it. This guide walks you through that decision in four steps. Each step builds on the one before it, so work through them in order from top to bottom. Do not skip ahead. The answer at each step tells you where to go next.

What the colors mean. Every box in the chart is color-coded to show you what kind of action is involved. Red means OPM has exclusive authority — the agency cannot take a suitability action on its own and must refer the case. Orange means the agency has discretion to refer the case to OPM but is not required to. Green means the agency can handle the matter under its delegated authority without involving OPM. Dark blue means the agency must notify OPM — even if it is not making a referral and even if it is taking action under a different authority like Chapter 75.

What the steps cover. Step 1 asks you to identify who the person is — an applicant, an appointee, or an employee. This matters because the rules are different depending on whether someone has completed their probationary period. Step 2 asks when the conduct happened — before or after the person started work. This determines which authorities apply. Step 3 checks for three specific situations that always require a mandatory referral to OPM, no matter what. If any of those three apply, stop and refer immediately. Step 4 is only reached if none of the mandatory triggers in Step 3 apply. At that point, you weigh how serious the conduct is using the whole-person concept and the additional considerations listed in 5 CFR § 731.202(c).

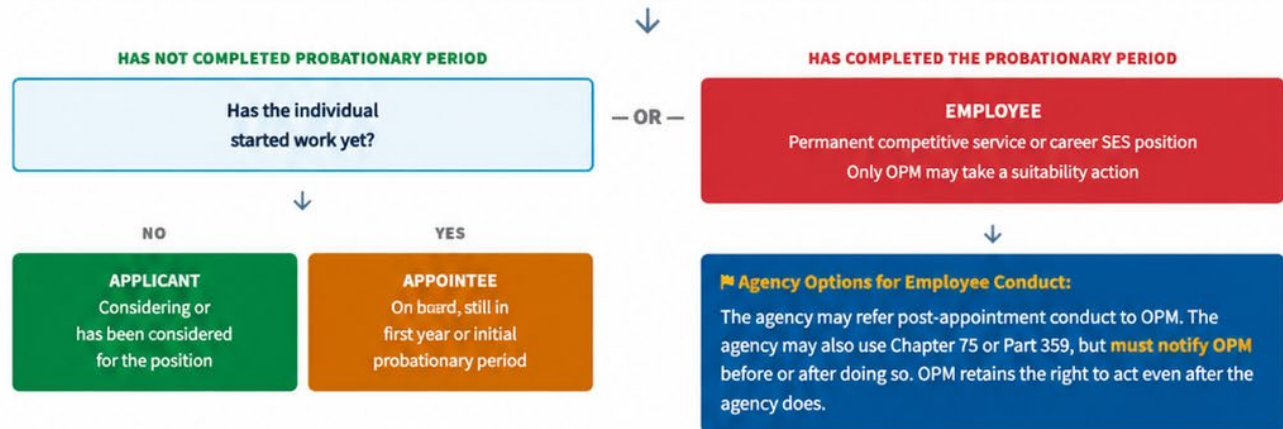
A few things to keep in mind before you start. First, an individual's status — applicant, appointee, or employee — is defined in 5 CFR § 731.101, and those definitions control how this chart applies. Second, if you are unsure at any step, contact OPM's Suitability Executive Agent Programs office before taking action. You do not need a formal referral package just to ask a question. Third, this chart covers suitability actions under 5 CFR Part 731 only. It does not replace or limit an agency's authority to take action under Chapter 75, Part 359, or other applicable authorities — but those authorities have their own rules, and using them on a covered case may still require notifying OPM. When in doubt, call SuitEA at (202) 599-0090.

SUITABILITY REFERRAL DECISION GUIDE

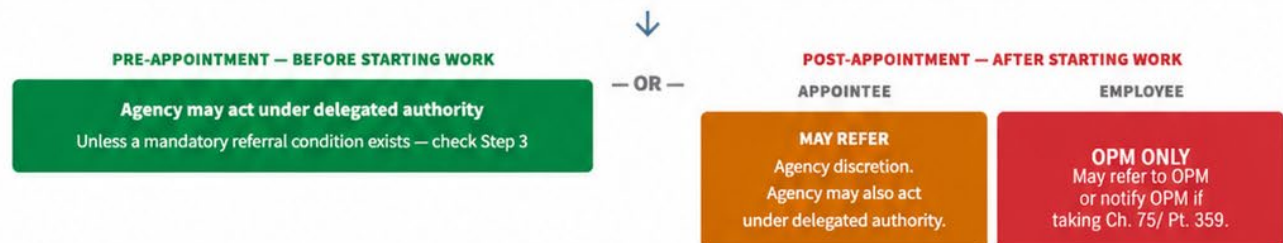
5 CFR Part 731 • For HR, Personnel Security, ER/LR Staff, and Supervisors • Effective 30 days after Federal Register publication

 **Must Refer — OPM Exclusive Authority** |  **May Refer — Agency Discretion** |  **Agency Acts — Delegated Authority**
 **Notify OPM — Required Even Without Referral**

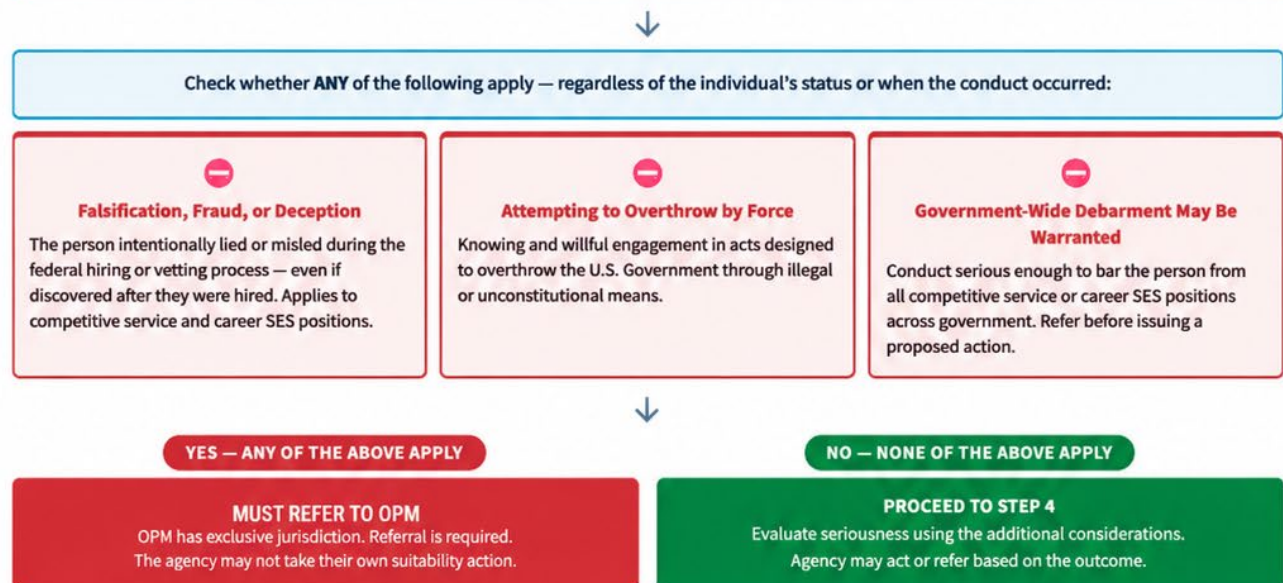
STEP 1 — What is the individual's status?



STEP 2 — When did the conduct occur?



STEP 3 — Does the conduct trigger a MANDATORY referral to OPM?



STEP 4 — How serious is the conduct?



Apply the **whole-person concept**. Weigh the conduct against all pertinent additional considerations from 5 CFR § 731.202(c): the nature and seriousness of the conduct, how recent it was, the circumstances surrounding it, the individual's age at the time, contributing societal conditions, and any evidence of rehabilitation or corrective action. Also consider whether the conduct connects directly to the duties of the position. No single factor decides the outcome — adjudicators evaluate everything together.

◆ CONDUCT APPEARS SERIOUS OR UNMITIGATED

The conduct raises concerns that cannot be mitigated by the additional considerations. It may be recent, involve a pattern of behavior, or relate directly to the duties or mission of the position.

→ Consider Referring to OPM

Agency may refer the case to OPM. No referral package is needed just to ask a question — contact SuitEA for guidance on borderline situations before submitting a formal referral.

✓ CONDUCT APPEARS MINOR OR MITIGATED

The additional considerations - such as passage of time, an isolated incident, prompt corrective action, or demonstrated rehabilitation - mitigates the concern. The conduct does not appear to pose a meaningful risk to the integrity or efficiency of the service.

→ Agency Acts Under Delegated Authority

Handle independently. Even so — if the case involves an employee's post-appointment conduct and the agency takes action under another authority, the agency must notify OPM.

Key Rules That Apply in Every Case | Resignation or transfer does not stop OPM — authority to complete a suitability action continues after separation. · Do not apply reciprocity while an OPM review is active. · Conduct the agency already reviewed and made a favorable determination on cannot be the sole basis for a new action. · **Questions?** (202) 599-

0090 · SuitEA@opm.gov · opm.gov/suitability

3.8.3 – Making Referrals to OPM-SuitEA

Agencies must refer a matter to OPM when substantiated conduct implicates one or more suitability factors and may warrant an unfavorable suitability determination, or when the conduct falls within OPM retained jurisdiction (see [Preamble](#) and [Section 3.2](#)). Unsubstantiated or anonymous allegations alone are not sufficient for referral.

Referrals may involve:

- Applicants who have not yet been investigated
- Individuals for whom a background investigation has been completed
- Post-appointment conduct when the agency decides to have OPM take action under 5 CFR 731

For post-appointment matters, OPM may take a suitability action only upon receipt of a proper and sufficient referral from the employing agency. When an agency plans to take disciplinary action under other authorities (e.g., 5 C.F.R. parts 752 or 359), the agency must notify OPM in accordance with- 5 C.F.R. 731.103.

A complete referral package must include documentation and evidence that:

1. Substantiate the conduct at issue, and
2. Explain why OPM review is required, including alignment with OPM referral criteria.

Guidance for preparing complete and supportable referrals is provided in the *Addendum*. The Addendum includes examples, documentation expectations, and tools to ensure agencies prepare consistent and timely submissions.

Once a referral is received, the Suitability Executive Agent (SuitEA) will review the submission to determine whether:

- The matter meets OPM's jurisdictional criteria, and
- The referral contains sufficient information for adjudication.

SuitEA will notify the agency of its determination and whether the case has been accepted for adjudication.

Agencies must use the SuitEA Guide for Referring to OPM, Referral Package Cover Sheet, and Referral Checklists (all included in the *Addendum*) to prepare and submit referral packages. Separate checklists are provided to address the distinct requirements for:

- **Initial vetting matters**, and
- **Post-appointment- conduct cases**

These tools help agencies ensure completeness, accuracy, and consistency across all referrals. Agencies are also encouraged to review the Frequently Asked Questions (FAQ) and examples included in this Manual for additional support, especially when situations are complex, unclear, or atypical.

Referral instructions and resources are available on the OPM SuitEA website. Agencies may also contact the SuitEA Helpline at **202-599-0090** for further assistance.

Referral Process Chart — What You Need to Know

Below is a chart helps agency staff decide whether a suitability concern should be referred to the SuitEA office. Before you start, make sure you understand the difference between a suitability concern under 5 CFR Part 731 and a routine HR, performance, or disciplinary matter. Minor misconduct, attendance problems, and low-level workplace conflicts are generally handled through the agency's own HR and Employee Relations channels — not through OPM.

Work through each step in order from top to bottom. Answer the question in each step, then follow the arrow that matches your answer. Do not skip ahead. Each step narrows down what the agency should do next. If at any point you are unsure, contact SuitEA before acting — you do not need a formal referral package just to ask a question.

The chart provides a step-by-step overview of the referral process, beginning when a potential suitability concern is identified and continuing through submission to OPM SuitEA. The chart helps agencies:

- Determine whether the matter meets SuitEA referral criteria
- Identify relevant documentation and evidence
- Complete the required Referral Package Cover Sheet
- Select the correct referral checklist (initial vetting or post--appointment-)
- Submit a complete, supportable, and timely referral package

REFERRAL PROCESS CHART

5 CFR Part 731 · OPM Suitability Executive Agent Programs · SuitEA@opm.gov · (202) 599-0090

How to use this chart: Answer each question in order. Follow the arrow that matches your answer.
Complete all five steps before submitting a referral to OPM.

● Proceed / Submit ● Stop — Do Not Refer Yet ● Notify Another Office ● Take Interim Action

1

Do you have substantiated evidence of the conduct?

Referrals require documented facts — not allegations, suspicions, or anonymous tips. Evidence must be credible, verifiable, and directly tied to the conduct in question.

- Examples: investigation reports, signed statements, court or criminal records, time and attendance records, IT or badge records, OF 306 forms, OIG findings



YES

Move to Step 2

You have the documented foundation needed to continue evaluating the case.



NO

Stop — Do Not Refer Yet

Continue your investigation. Gather documented, verifiable evidence before moving forward. Unsubstantiated referrals will not be accepted by OPM.



2

Is this conduct better handled through HR or Employee Relations?

Not all misconduct is a suitability matter. Minor or isolated issues are typically resolved through the agency's own HR or ER channels — not through an OPM referral.

- Minor or one-time attendance issues with no broader pattern
- Performance deficiencies or inability to meet job requirements
- Low-level workplace conflicts with no threats or escalation
- Conduct that would only warrant a reprimand or short suspension



NO — NOT AN HR/ER MATTER

Move to Step 3

The conduct is serious enough to warrant continued suitability review.



YES — BETTER HANDLED BY HR/ER

Stop — Handle Internally

Use the agency's HR or Employee Relations process. Minor or isolated issues do not require an OPM suitability referral.



3

Does another office need to be notified first?

Some conduct must be reported to other offices before or alongside a suitability referral. Check each situation below and notify any that apply — then continue to Step 4.

A

Criminal, fraud, waste, abuse, or misuse of government resources — Notify your agency's Office of Inspector General (OIG). Then continue to Step 4.

B

Possible criminal violations requiring prosecution (e.g., threats, assault, theft) — Consult the Department of Justice through your agency's legal channels. Then continue to Step 4.

C

Security or clearance concerns (e.g., continuous vetting alerts, foreign influence, mishandling of sensitive information) — Notify your agency's Security Office. Then continue to Step 4.



ONE OR MORE APPLY

Notify the right office — then move to Step 4

Notifying another office does not replace a suitability referral. These actions happen in parallel. Complete all required notifications, then continue.



NONE APPLY

Move directly to Step 4

No parallel notifications are required. Proceed with the suitability review.

**4****Are there any immediate safety or mission risks?**

Ask yourself: "Does this person need to be kept away from their duties or sensitive information right now to protect people, property, or the agency's mission?"

- Threats or acts of violence toward others
- Serious integrity failures affecting public trust or operations
- Conduct that could compromise sensitive information or systems
- Ongoing misconduct that continues to pose risk during investigation

**YES — RISK EXISTS****Take Interim Measures — Then Move to Step 5**

Use the agency's own authorities to manage the immediate risk — for example, administrative leave, detail to lower-risk duties, or restricted access to systems.

Important: Taking interim measures does not mean the case is ready to refer. A referral still requires substantiated conduct supported by evidence (Step 1).

**NO — NO IMMEDIATE RISK****No Interim Action Needed — Move to Step 5**

No immediate protective measures are needed. Proceed to evaluate whether the referral package is complete.

**5****Is your referral package complete?**

Your referral must include only the documents your agency actually relied upon. Do not submit excessive or irrelevant materials — this slows the review. Every package must include:

- Referral Package Cover Sheet and a clear factual summary of the conduct
- OF 306 form(s) and position description
- SF-50(s) — initial appointment and most recent
- Investigative findings (OIG, internal, or security), if applicable
- Court or criminal records, LOIs and employee responses, if applicable
- Time and attendance or badge records, if directly relevant to the conduct
- Signed agency authorization letter permitting OPM to use and release records

Strong evidence is: relevant, complete, factual, tied to the conduct, and identifies which suitability factor applies and why the conduct is material.

**YES — PACKAGE IS COMPLETE****Submit Your Referral to OPM SuitEA**

Send your referral package using the cover sheet and checklist from the Suitability and Fitness Processing Manual Addendum. OPM will acknowledge receipt, conduct a sufficiency review, and notify your agency of the next steps.

**NO — PACKAGE IS INCOMPLETE****Do Not Submit Yet**

Gather the missing materials before referring. Incomplete referrals will be returned.

- Unsubstantiated or anonymous claims
- Missing required forms or SF-50s
- Irrelevant or bulk documents with no explanation
- No agency authorization letter

RESIGNATION DOES NOT STOP OPM

If a referral has been submitted and the employee later resigns, retires, or transfers, OPM's authority may continue. Do not apply reciprocity for that individual at a new agency until OPM completes its review.

PRIOR KNOWN CONDUCT CANNOT STAND ALONE

If the agency already knew about the conduct when it made a prior favorable suitability determination, that conduct alone cannot be the sole basis for a new suitability action. New or additional conduct is required.

Referrals must be fair, well-documented, and aligned with federal suitability standards under 5 CFR Part 731.

When in doubt, contact SuitEA before submitting. · (202) 599-0090 · SuitEA@opm.gov · opm.gov/suitability

3.9 – Granting Personal Identity Verification Credentials from a Favorable Suitability/Fitness Determination

As prescribed in the Common Principles, individuals adjudicated favorably for suitability or fitness are eligible for a personal identity verification (PIV) credential without a separate adjudication. If using the suitability or fitness criteria to also make a PIV credentialing eligibility determination, an agency must also ensure they have verified the individual's identity. Agencies should refer to OPM's Final Credentialing Standards for Issuing Personal Identify Verification Cards under HSPD-12, July 2008, and Credentialing Standards Procedures for Issuing Personal Identity Verification Cards under HSPD-12 and New Requirement for Suspension or Revocation of Eligibility for Personal Identity Verification Credentials for identity verification requirements for determining PIV eligibility.

Agencies must also ensure that PIV eligibility determinations and credential issuance actions are recorded in the Federal personnel vetting record, consistent with the Federal Personnel Vetting Guidelines and implementing guidance. When continuous vetting yields information relevant to a credential holder's ongoing eligibility, agencies must review the information under the credentialing framework and take appropriate action in accordance with HSPD-12, the 2008 Standards, and other applicable policy and guidance.

3.9.1 Effect of a Post-Appointment Suitability Action on PIV Credentials

When OPM takes a suitability action against an employee based on post-appointment conduct, that action may affect the employee's ongoing eligibility to hold a PIV credential. If OPM's action results in removal or debarment, the employing agency must review the credential holder's eligibility and take appropriate action – such as suspending or revoking the PIV credential – in accordance with OPM's Final Credentialing Standards for Issuing Personal Identify Verification Cards under HSPD-12, July 2008, and Credentialing Standards Procedures for Issuing Personal Identity Verification Cards under HSPD-12.

Agencies should not wait for a separate credentialing review to be triggered. Once a final suitability action is issued, the agency must promptly suspend or revoke the PIV credential as appropriate. Questions about the appropriate credentialing action should be directed to the agency's PIV program office.

Volume 4: Screening

Change Record

Date	Page(s) Affected	Description of Revision(s)
6/30/2026	72-73; 77-78; 89; 92	Updated screening terminology by changing “conditional offer” to “tentative offer,” Clarified OPM notification and referral expectations for material, intentional falsification, fraud, or deception in competitive service and career SES cases. Clarified suitability or fitness concern wording and changed “subsequent appeal” to “subsequent due process” for witnessed/notarized statements. Added 4.5.1 OPM Debarment Check. Title updated from "No Issues of Concern" to "No Issues of Concern or Issues Mitigated"

4.1 – Introduction-Screening

When there are known issues prior to the scheduling of a background investigation, adjudicators should properly assess the potential impact on suitability or fitness. Preemployment screening can reduce the risk to the Federal government by addressing issues prior to initiating a background investigation and/or onboarding. Vetting of individuals can begin at any time during the application or hiring process but it generally occurs at the point of collecting the Optional Form (OF 306), Declaration for Federal Employment. However, when an agency identifies any evidence of material, intentional falsification, or fraud or deception, in examination or appointment (such as when evaluating qualifications, certifying applicants, or reviewing applicant materials post selection), as described earlier in this Manual, agencies must notify OPM when the position falls within the competitive service and career Senior Executive Service population. As such, if issues of concern are discovered during the pre-employment vetting process, an unfavorable suitability or fitness determination, as addressed in [Volume 3](#) of this Manual, can be made. Additionally, for suitability, actions can be taken under 5 C.F.R. part 731 (see [Volume 5](#) in this Manual for guidance on suitability actions).

The qualification and suitability or fitness determination process should be performed independently. Any potential position qualification issues discovered (for example, U.S. Citizenship status) should be returned to the agency's recruitment team and resolved prior to completing the screening process except that when the qualification concern may be resulting from a material, intentional false statement, or deception or fraud, in examination or appointment, the agency will need to assess if the matter should also be referred to OPM, in accordance with the guidance in this Manual. For example, if the individual is determined to be unqualified because their SF 50 contains altered information, this may warrant referral to OPM.

4.2 – Criminal History Information

The Fair Chance to Compete for Jobs Act of 2019 (Fair Chance Act), as implemented in title 5 C.F.R. § 920 and supplemental OPM guidance (see [Issuance of Regulations on the Fair Chance to Compete for Jobs Act of 2019: Guidance on Restrictions on Preemployment Criminal History Inquiries](#) and [Issuance of Regulations on the Fair Chance to Compete for Jobs Act of 2019](#)), prohibits, with certain exceptions, the collection of criminal history information prior to a tentative job offer. Further, 5 C.F.R. § 731.106(c)(3)&(g) also specifies that inquiries into an applicant's credit background cannot be made prior to a tentative offer of employment. However, agencies may collect other types of information such as employment, selective service registration, etc., sooner. Often, this information is collected via the OF 306 or other application/vetting forms.

4.3 – Credit History

For competitive service or career Senior Executive Service positions, a hiring agency may not make specific inquiries concerning an applicant's credit background in oral or written form unless the agency has made a tentative offer of employment or if the agency has an approved exception from OPM. The prohibition for collecting credit history is addressed in 5 C.F.R. § 330. Agencies may refer to [Guidance on Requests of Exceptions to Timing of Suitability Inquiries Rule](#) for more information.

4.4 – Required Pre-employment Checks

Additionally, agencies may be required by Executive Order, law, or regulations to conduct certain pre-employment checks. The results of pre-employment checks could prompt the agency to consider impact on suitability or fitness.

4.5 – Screening Process

Agencies determine which office within the agency is responsible for conducting screening. However, for the purpose of screening the information to determine if it is of suitability concern, individuals performing that function must be properly trained in accordance with the National Training Standards for Suitability Adjudicators. Agencies must document their standard operating procedures (SOP) on how they will conduct the suitability screening process and the SOP or equivalent document must be made available to OPM in the event of an assessment.

Because agencies may ask applicants about Selective Service registration, military service, citizenship status, or previous work history prior to making a tentative offer, the agency will need to determine the way it wishes to collect that information. For example, if the agency wants to use the OF 306 to collect information that is allowed to be sought prior to tentative offer, it could do so with redactions of the prohibited questions regarding criminal and credit background. Should this occur, the agency must maintain that version of the OF 306, and if the individual is later given a tentative job offer, it should be incorporated with other documents collected from the individual. At the point of a tentative job offer, the individual should be asked to complete an OF 306 in its entirety and to sign it on the applicant line. Agencies must remember the following about collection of the OF 306:

- While an agency is not required to solicit the OF 306 itself, the questions posed on the form must be answered by the individual to whom a tentative offer has been extended prior to appointment.
- A person is required to complete the OF 306 in its entirety on two separate occasions: a first time after a tentative offer of employment has been made (for suitability screening purposes) and a second time on the date of appointment (as declaration that either there have been no changes to the information on the form or to provide any changes that occurred since the first completion of the form).

- When the individual signs the OF 306, the individual completes a certification that all attachments, including the application, are correct. When the OF 306 is completed a second time at the time of appointment, the appointee updates the form and certifies it on the Appointee line. This certification extends to all attachments, including the application.
- Any changes to an OF 306 that was previously completed and certified must be initialed and dated by the individual.

Once the OF 306 or equivalent form has been properly requested from the individual and returned, the suitability screening process can be initiated. If a tentative job offer has been accepted, agencies may wish to proceed with validating need for vetting, as covered in Volume 1 of this Manual, to determine if an investigation is required. The basis for doing so at this point is that if it is determined an investigation will be needed should the individual clear screening, the agency may elect to initiate the individual in eApp. Once completed, this will allow the agency to review the completed investigative form along with the OF 306 and other documentation collected.

There are three possible outcomes from the screening process. The processes behind each of these options are further described later in this Volume:

- **No issues of suitability or fitness concern are identified.** The agency will proceed with initiating the required level of investigation, if needed, assessing whether prior adjudications are subject to reciprocity, if applicable; and/or begin the process of granting an interim personal identity verification credential. For agencies with an exception to collect the OF 306 prior to a tentative job offer, the individual will move to the next point in the hiring process.
- **A potentially actionable suitability or fitness issue(s) is present.** In this situation, it is likely more information will be needed to determine if suitability action procedures will be initiated for a position in the competitive service or career Senior Executive Service. The agency will likely need to obtain additional information about the issue, such as by contacting the applicant, to resolve the issues and/or support an unfavorable suitability or fitness determination or suitability action, if warranted.
- **The case warrants referral to OPM.** If there is evidence of material, intentional falsification, or deception or fraud in examination or appointment, or other conduct that warrants a governmentwide debarment, agencies will follow the process outlined in [Volume 3](#) of this Manual.

The agency must make sure that the OF 306 and any other information requested is complete. If not, it must be returned to the individual in accordance with agency processing.

When screening the OF 306 or equivalent form, the following documents, when available, should also be reviewed:

- The position description or equivalent;

- The resume;
- Completed investigative form, if applicable;
- Application material from USAJOBS;
- Applicant-provided documents such as transcripts, records related to prior Federal or military service, etc.; and,
- The results of any reference checks that may have been provided by the selecting official.

In assessing suitability or fitness, it is important for the adjudicator to compare the information provided on completed forms and answers to questions with other available information to identify discrepancies. Suitability or fitness issues, such as falsification, may surface when specific data is assessed in relation to other available information. If the results yield potential suitability or fitness issues, an evaluation must be done prior to the individual being appointed. To ensure consistency, the Determination Process outlined in [Volume 3](#) of this Manual is applied when conducting the evaluation to make the assessment to determine if further action may be required prior to appointing the individual, initiating the required level of investigation, and/or moving the individual to the next point in the hiring process.

4.5.1 OPM Debarment Check

As part of screening, agencies must review the government-wide repository(ies) to determine whether the individual is currently subject to an OPM government-wide debarment. An individual with an active OPM debarment may not be appointed to a competitive service or career Senior Executive Service position. If a prior debarment is identified, agencies must ensure the individual has properly reported this information on applicable forms (including the OF 306, SF or PVQ. Failure to report a prior debarment when required may raise a potential suitability issue, including a possible material, intentional false statement concern. Agencies must follow applicable guidance in this Manual for handling cases involving current or prior OPM debarments. The following table may serve as a reference for addressing scenarios encountered during screening:

Screening Scenarios (Table 1 V4)

Type of Situation	Appropriate Action
The issue is a suitability matter, and no other concerns are present.	Continue with the review. Conduct an evaluation to determine if further action is required. See Volume 3 of this Manual for guidance on the determination process.
The individual is under indictment or has pending charges, but the pending issue is not the primary issue in the case. The pending issue is also not likely to result in incarceration, and there are additional potentially disqualifying issues.	
The individual has a pending appeal or a prior termination; however, there are sufficient facts to adjudicate, and the	

individual is not disputing the conduct that led to the termination.	
There is evidence of a material, intentional false statement, or deception or fraud in examination or appointment, knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force, or conduct that warrants a governmentwide debarment.	Refer to OPM for adjudication. See Volume 3 of this Manual for guidance on the determination and referral process.
Additional information is required to make an adjudicative decision.	See Adjudicative Processing in this Volume.
The OF 306, investigative data form, or other relevant document is unsigned, incomplete, or improperly completed.	The individual should be re-contacted in accordance with agency procedures. The individual cannot clear screening and/or be brought on board until the form is completed.
The issue is not a suitability matter (e.g., involves medical, qualifications, or other basic eligibility concerns).	Return the application and related papers to the Human Resources Office personnel responsible for coordinating the offer with the individual and explain the individual's qualifications and/or eligibility should be re-examined.
The individual is under indictment or has pending charges, but the pending charge is not potentially disqualifying and would not likely result in incarceration. No other actionable issues are present.	Continue with normal case processing procedures.
The individual is under indictment or has pending charges, the pending charge is potentially disqualifying and is the primary issue in the case, or there is a high likelihood the individual will be incarcerated if convicted.	
The individual has an appeal or litigation concerning a prior termination pending (an appeal to MSPB or the court system, an EEOC complaint, etc.), and the following conditions apply: (1) the employment termination is the primary issue in the case and sufficient details to adjudicate cannot be obtained; or, (2) the actual conduct leading to the termination is being disputed and it is potentially disqualifying at face value.	Suitability or fitness cannot be assessed if there is insufficient evidence to evaluate the conduct and establish it by a preponderance of the evidence. However, agencies have the option of considering whether to make a risk-based exception. See Volume 2 of this Manual.

A statutory debarment is applicable.	Many statutory or regulatory bars are position- or agency-specific. When an issue appears to be subject to statutory or regulatory debarment, the adjudicator must research the legal authority from which that debarment is derived and consult agency legal offices, as needed, to ensure specified conditions are met and sufficient information about the conduct is available. If a statutory or regulatory debarment is required, the case should be processed in accordance with any governing procedures. While agencies can also take a suitability action for competitive service or career Senior Executive Service positions citing the factor: <i>Any statutory or regulatory bar which prevents the lawful employment of the person involved in the position in question</i> , it may be more efficient to process these situations as qualifications issues, if appropriate.
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4.6 – Adjudicative Processing of Uninvestigated Applicants

In most instances of cases involving evidence of a potentially actionable issue, the adjudicator will need additional information about the known issue(s) to determine whether it is a suitability or fitness concern. For instance, if the agency knows the individual has been arrested but does not know the details or outcome of the arrest, there would be insufficient information available to determine whether the conduct may have a potential impact on the efficiency or integrity of the service. In accordance with 5 C.F.R. § 731.106 (c)(3), if suitability or fitness issues develop prior to the required investigation, OPM or the agency may request investigation sufficient to resolve the issues.

To obtain additional information about the known issue, the agency may wish to contact the individual directly to ask them for a statement or documentation related to the issue(s) of concern. In many cases, the individual may be able to provide additional information (verbally or in response to a written request) or can furnish documentation that will provide the details about the issue of concern. As in all collection activities, when collecting information from the individual, an adjudicator must have a basic understanding of the Privacy Act as it relates to their agency's maintenance of Privacy Act protected records and the pertinent system of records notice (SORN) published by the agency. Information collected that is subject to the Privacy Act must be maintained in accordance with the agency's SORN. When collecting this information, agencies must advise the individual of the reason(s) for collecting the information, how it may be used, and the consequences, if any, of not providing the information.

Any time an individual is requested to provide information, the individual should be given a reasonable, specific timeframe within which to submit the requested information with a written notice that failure to respond could result in the offer of employment being withdrawn.

Regarding potentially disqualifying suitability or fitness issues, it is important to note that the individual's admission to an issue on Federal forms, in and of itself, does not normally constitute sufficient evidence to support an unfavorable determination. If the individual has admitted a serious issue that appears to warrant negative action for suitability or fitness reasons, at a minimum, the agency should obtain a signed statement by the individual that fully outlines the details, circumstances, and outcome of the conduct. To meet evidentiary standards, in the event of a suitability action and subsequent due process, the statement must be witnessed by an agency official (or notarized). This option is only appropriate when the individual does not dispute the issue.

The adjudicator must have access to the basic duties and responsibilities for the position, as well as any special factors required for the position to appropriately assess the impact of any conduct. For example, several minor traffic violations are a potential issue because the job is a driver position.

4.6.1 – No Issues of Concern or Issues Mitigated

No Issues of Concern. If the suitability or fitness evaluation leads to a conclusion there are no issues of concern or the issues have been resolved and/or mitigated through information obtained from the applicant, the required level of background investigation should be initiated, and if otherwise appropriate, the individual may be appointed. Before onboarding, agencies are encouraged to follow the ideal process of making a preliminary determination, as specified in [Volume 2](#) of this Manual. Agencies must also ensure compliance with Federal credentialing requirements under HSPD-12 prior to granting physical or logical access to Federally controlled facilities or information systems. A favorable screening outcome alone does not authorize credential issuance; agencies must complete identity verification and meet the credentialing prerequisites outlined in OPM's Final Credentialing Standards and related guidance. When submitting the request for the background investigation, the agency should provide to the ISP any statement or documentation that was provided by the individual in response to a request by the agency, so the record can be included in the federal personnel vetting record that is maintained in the governmentwide repository(ies).

For cases with issues that were resolved or mitigated, the agency must maintain documentation to support how the conclusion was reached. The documentation should establish why the screening process was completed with no further action or, for cases that at face value appear to have warranted referral to OPM, why the case was not referred. This information must be made available to OPM in the event of an assessment.

When the screening process is complete, appropriate notifications within the agency must be made, following agency policy, so the individual can move to the next step in the onboarding process. Though issues of suitability or fitness concern may not present during screening and/or may be resolved or mitigated to let the individual continue through the onboarding

process, this does not absolve the agency from the requirement to make a suitability or fitness determination upon receipt of the completed background investigation. If the results of the background investigation reveal suitability issues that warrant governmentwide action, such as material, intentional falsification, then a referral to OPM is required. See [Volume 3](#) of this Manual for more information on the referral process.

For individuals who proceed through screening and on to appointment, the OF 306 is completed a second time on the day the individual is appointed. At that time, the individual updates the form and certifies it on the Appointee line. If the individual reports information that was not listed when the form was completed the first time, the agency adjudicator should assess whether a potential material, intentional false statement was made on the original OF 306. If so, a referral to OPM is warranted if the position is competitive service or career Senior Executive Service. Because the individual has been appointed, the required level of investigation must be initiated by the agency; however, OPM will review the referral to determine the appropriate next steps.

Likewise, if the agency elects to have the individual complete the investigative form at a point after screening, the entries on that form must be compared to the OF 306 and other available material to ensure the answers provided on all forms are consistent. Any evidence of potential material, intentional falsification for competitive service or career Senior Executive Service positions must be referred to OPM.

4.6.2 – Negative Pre-Employment Suitability or Fitness Determinations

OPM does not prescribe a process for agencies to follow when making negative fitness determinations. For competitive service and career Senior Executive Service positions, if the issues do not warrant referral to OPM, the agency may elect to initiate its own suitability action or follow another applicable process. For example, an agency may decide to withdraw the job offer, which is not a suitability action. When taking a suitability action, agencies must follow the suitability action procedures outlined in 5 C.F.R. part 731, Subpart D – Agency Suitability Action Procedures and Volume 5 of this Manual.

After taking a suitability action under 5 C.F.R. part 731 has been finished, the agency is required to keep a record of the action and is responsible for enforcing any debarment action within the agency.

In situations where the suitability adjudicator finds the individual cannot be found suitable or fit using the guidance in this Manual, the agency official responsible for filling the job vacancy will be notified. The agency will be responsible for determining if or how the hiring process will resume when this outcome is identified.

Volume 5: Processing Suitability Actions

Change Record

Date	Page(s) Affected	Description of Revision(s)
6/30/2026	81, 83-85	Updated suitability-action scope, agency-action limits, and OPM authority language, including OPM’s authority to take suitability action based on post-appointment conduct and any applicable suitability factor. Retained core due-process rights for notice, answer, materials relied upon, and MSPB appeal. Updated ISP terminology, Fair Credit Reporting Act notice/link and credit bureau contact information and added an explanatory footnote on protected OPM test material. Strengthened decision-maker independence requirements and added ex parte communication limits consistent with 5 CFR part 731 and 5 U.S.C. 557(d).

5.1 – General Provisions for Processing Suitability Actions

The procedures in this volume apply to OPM and agencies acting under delegated authority and apply only to positions in the competitive service and career Senior Executive Service positions. Under the provisions of 5 C.F.R. part 731, if OPM or an agency initiates a suitability action (cancellation of eligibilities; debarment; removal; or cancellation of reinstatement eligibilities) against an individual, the individual has the right to written notice of the reasons for the proposed action, an opportunity to answer and review the materials relied upon in proposing the action, and to appeal the final action to the Merit Systems Protection Board (MSPB).

OPM and other agencies taking suitability action under 5 C.F.R. part § 731, are responsible for ensuring that the records used in making an adjudication decision are accurate, relevant, timely, and complete to the extent reasonably necessary to assure fairness to the individual in any determination.

5.2 – Evaluating Evidence

A suitability action must be supported by preponderant evidence, that is, the degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely true than untrue. The burden of proof in establishing this evidence rests with the agency proposing and taking the suitability action. Evidence can appear in many forms, including, for example, employment records, police reports, or the individual's admission. The overall evaluation of the evidence must clearly establish the conduct.

If a suitability action is appealed, the charges brought against the person by the adjudicating agency are evaluated by the MSPB to determine if they are supported by preponderant evidence. This evaluation includes an assessment of the probative weight of the evidence. Probative weight of evidence refers to the relative weight or value the MSPB and the court system ascribe to various kinds of evidence. In developing and assessing evidence, the agency should strive to present the following types of evidence, arranged in order of probative weight:

- Credible sworn testimony of witnesses at the hearing;
- Signed, sworn affidavits, or unsworn declarations from sources;
- Record information (certified true copies, if possible); and,
- Reports of investigation (the Investigator's certification of the accuracy of the reports will give them added weight).

Exercise Caution when Evaluating Evidence. Do not assume that all information obtained during an investigation can be freely used and released. Depending on the information obtained, certain information may not be used by OPM or another adjudicating agency in the notice of proposed suitability action, nor may such information be released to the subject in response to a request for the materials relied upon in proposing the suitability action, during an MSPB appeal, or other administrative or court proceeding. This information also cannot be

referenced or used as part of the basis for taking a suitability action.

5.3 – Information Restricted from Use

The information in this section is offered as an easy reference for adjudicators when considering what information can or cannot be used or released; however, each adjudicator must have a basic understanding of the Privacy Act as it relates to their agency's maintenance of Privacy Act records and how those records can be used. Familiarity with the Privacy Act promotes informed decision making in the adjudication process. Information used as a basis for a suitability action must be releasable to the individual, both in the written notice of proposed action and final decision, and via the materials relied upon, should the individual make such a request. The agency must not consider the following as a basis for an action as it is not releasable to the individual.

Confidential or Protected Source Information. Information obtained solely from a source who has been granted an express promise that their identity would be held in confidence (hereinafter referred to as a confidential source) cannot be used in whole or part to form the basis for a suitability action. Protecting a source's identity may extend beyond protecting only their name since the information the source provided may be identifiable to the source. This prohibition does not apply to information obtained from public records, law enforcement records, or Federal personnel records which could be obtained by the individual upon request.

Sensitive or Restricted Medical Information. When collecting medical and/or psychiatric information, the investigative service provider should attempt to ask medical practitioners or other qualified sources if the information may be released directly to the individual or only through a health care professional of the subject's choice. When the practitioner indicates that the information can be released only through a medical professional or direct release to the individual is not otherwise indicated, any character or conduct information provided cannot be considered for the purposes of suitability.

Information Concerning Other Persons (3rd Party Information). In evaluating suitability, only the individual's own character and conduct may form the basis for a determination. Therefore, investigative information contained in the individual's record that relates to another individual, must not be considered when proposing or issuing a suitability action.

Classified Material, such as Confidential, Secret, or Top Secret. Classified material must not be considered when proposing or issuing a suitability action.

OPM Test Material. OPM must be consulted before test material could be considered.⁸

⁸ The reference to "OPM test material" is retained because 5 C.F.R. part 731 and longstanding suitability case law recognize a category of protected OPM testing content originating from legacy competitive examining practices. Although OPM no longer administers or distributes the standardized civil service test booklets and controlled

Information Otherwise Exempt from Release by the Privacy Act. Certain categories of information are exempt from release in connection to a Privacy Act request because the release would be harmful to a government or private interest (e.g., information related solely to the internal personnel rules and practices of an agency). When the information being reviewed appears to fall under a Privacy Act exemption, the material should be treated as restricted from use unless the originating agency is consulted and agrees with the release.

5.4 – Disseminating Investigative Material

Executive Order 13467, as amended, Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information, states that investigative agencies shall control the reports, information, and other investigative materials that are developed during the vetting process. Recipient departments and agencies may retain and use the received reports, information, and other investigative material for authorized purposes, including, but not limited to, adjudications, hearings and appeals, continuous evaluation, inspector general functions, counterintelligence, research, and insider threat programs, in compliance with the Privacy Act of 1974, as amended. Recipient departments and agencies shall not make any external releases of received information, other than to an investigative subject for the purpose of providing procedural rights or administrative due process. (See E.O. 13467, as amended, section 1.1(e)).

Questions about the proper use of reports and other records provided to the agency by an ISP should be directed to the ISP.

5.4.1 – Making a Request to Use and Release Information

It may be necessary to make a request to use and release information directly from the record holding agency. In this case, agencies should refer to the Department of Justice’s website for the Freedom of Information/Privacy Act office contact information of other government agencies: <http://www.foia.gov/report-makerequest.html>.

5.5 – Use of Credit

If a negative suitability determination is based in whole or in part on a consumer credit report, the agency must provide with the notice of proposed action, a copy of the credit report and a summary of rights related to procurement of the credit report. Following is sample language for the proposed action letter:

examination materials that historically fell under this regulation, the regulatory prohibition remains in effect. The Manual preserves the reference for completeness and to prevent unauthorized use or disclosure of any test-related materials that remain subject to confidentiality protections.

Charge (insert charge number) in the enclosed Summary of Charges contains information related to your credit history which was obtained under the provisions of the Fair Credit Reporting Act. We have enclosed copies of your credit report and a summary of your rights related to our procurement of your credit report. This summary of rights is also available from the Federal Trade Commission's Consumer Response Center at <https://www.consumer.ftc.gov/sites/default/files/articles/pdf/pdf-0096-fair-credit-reporting-act.pdf>

If making a final decision based in whole or in part on information related to credit history, the agency must provide information, such as the following example, in the final decision letter:

(Insert agency name) decision was based in whole or in part on information related to your credit history which was obtained under the provisions of the Fair Credit Reporting Act (FCRA). The consumer reporting agency (CRA) which provided this information did so for employment purposes, which is permissible under the Act. The decision to take the negative action is entirely the agency's. The CRA played no role in the decision and is unable to provide the specific reasons why the action was taken.

If you disagree with the accuracy or completeness of any information in the credit report, you may contact: [Only include below address(es) if credit information used was obtained from that agency]

Equifax Information Services, LLC
P.O. Box 740256
Atlanta, GA 30374-0256
888-378-4329

Experian
P.O. Box 4500
Allen, TX 75013
855-414-6048

TransUnion Consumer Solutions
PO BOX 2000
Chester, PA 19016-2000
800-916-8800

You may obtain a free copy of your credit report by contacting the above credit reporting company(ies) within 60 days of receiving this notice of action.

5.6 – Statutory Debarment

The *Notice of Proposed Action* will specifically cite the law on which any debarment action would be based. When a proposal to take a negative suitability action is based solely on a statutory requirement to debar (see [Volume 3](#) of this Manual), the language of the law supersedes any other standards. The authority for statutory debarment is the law requiring debarment (**not** a suitability authority listed in this Manual).

When proposing to take a negative suitability action based on a statutory or regulatory requirement to debar, the letters must specify the statutory debarment requirement, authority for the requirement, and the effects of the requirement, in addition to the authorities and basis for a negative suitability determination. Normally, agencies will identify and take action on statutory debarment issues when the issues relate specifically to a position within their agency.

5.7– Suitability Actions

General Provisions Regarding Agency Suitability Actions. Agencies can take negative suitability actions under 5 C.F.R. part 731 on applicants and appointees, unless there is evidence of material intentional false statement, or deception or fraud in examination or appointment, knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force, any other conduct that warrants a governmentwide debarment, or post-appointment conduct involving an individual who has obtained “employee” status as defined in 5 C.F.R. part 731.

Types of Disqualifying Agency Actions. Agencies may take action to cancel eligibilities, remove the individual, and impose an agency specific debarment.

General Provisions Regarding OPM Suitability Actions. The Director of OPM is delegated the authority to make final suitability determinations and take suitability actions based on post-appointment conduct for employees in the executive branch, consistent with applicable law(s). In addition, OPM may take negative suitability actions under 5 C.F.R. part § 731 on applicants, appointees, and employees when warranted by any of the suitability factors.

Types of Disqualifying OPM Actions. OPM may take action to cancel eligibilities, cancel reinstatement eligibilities, direct removal of the individual, and impose a governmentwide debarment.

Table 1 V5

STATUS	ACTION	EFFECT
APPLICANT	INELIGIBLE	Not eligible for (1) placement or retention on the specific register, and not eligible for (2) employment in the position applied for.

STATUS	ACTION	EFFECT
	INELIGIBLE & DEBARMENT	SAME EFFECT AS ABOVE, <i>plus</i> : OPM Debarment • All pending applications rated ineligible and any existing eligibilities on standing inventories are canceled. • Ineligible to compete for examinations and for appointments to all covered positions for a specific period of up to three years.
APPOINTEE Or EMPLOYEE	REMOVAL	Agency is directed to remove the individual from the position appointed to or employed in.
	REMOVAL & DEBARMENT	Agency is directed to remove the individual from the position to which appointed <i>plus</i> SAME EFFECTS AS ABOVE for <i>INELIGIBLE & DEBARMENT</i> .
	CANCEL REINSTATEMENT ELIGIBILITY	Any employee's reinstatement eligibility earned as a result of a fraudulent appointment is canceled (applies to employee cases).

5.7.1 – Proposed Actions

Before taking a negative suitability action under 5 C.F.R. part 731, OPM or the agency must advise the individual (hereinafter referred to as the respondent) in writing of the proposed action. The written notice must include the following:

- The specific reasons for the proposed action, including a summary showing the details of the character or conduct of concern, the authorities for the action, and the applicable factors and additional considerations.
- A description of how the information was developed, for example:
 - Document submitted from the examining office, human resources office, or other authority;
 - Information on an application, OF 306, or investigative case data form;
 - An investigation; or
 - Other sources.

The right to answer the notice in writing within 30 days from the date of the letter, and to provide any documentary evidence, to include affidavits, in support of the answer.

- Notification that the materials relied upon are available for review upon request (see [Materials Relied Upon](#) in this volume).
- The right to be represented by a representative of choice with such representation being designated in writing by the respondent.

The notice may be hand-delivered, mailed or sent by secure email. For OPM actions against appointees or employees, OPM will coordinate delivery with the employing agency. When the

agency is delivering the letter to the individual, OPM will request the agency return a signed transmittal by the individual.

Appointees and employees must be retained in a paid status during the notice period.

5.7.2 – Materials Relied Upon

Under the provisions of 5 C.F.R. part 731, respondents to a proposed suitability action have the right to request and review the materials that were relied upon in proposing the suitability action, and to provide an answer to that information. OPM and agencies must furnish all releasable materials that the adjudicator considered, including material that supports the charges or that supports any of the additional considerations in 5 C.F.R. part 731.202(c) that the adjudicator deemed pertinent to the charges.

5.7.3 – Debarment Length

Determining an appropriate period of debarment is an adjudicative decision that requires weighing the integrity and efficiency of the Federal service against the period of time necessary for the debarred individual to demonstrate rehabilitation from the conduct of concern. The agency can determine the appropriate length of debarment, up to three years, but must be consistent in how debarments are applied across cases.

5.7.4 – Introduction of New Information at Final Decision is Prohibited

New and material information must not be introduced at the final decision stage. Issues cannot be used as a basis for a final unfavorable suitability determination unless the subject has had an opportunity to answer them. It is acceptable to make new points in response to the individual's answer to charges, but adjudicators must not introduce new evidence at this stage without allowing the individual a chance to respond.

5.7.5 – Decision Maker

As noted in 5 CFR parts 304 and 404, there must be appropriate independence between the individual who proposed the suitability action and the individual making the final decision regarding the suitability action. The decision-maker may not consult with, receive advice from, or communicate with the individual who proposed the suitability action about whether the action was appropriate, unless the individual subject to the action is informed and the communication becomes part of the official record. The decision-maker should independently review the case and be prepared to defend the decision in the event of an appeal. The decision-maker is prohibited from ex parte communications consistent with the requirements of 5 U.S.C. 557(d).

5.7.6 – Decision Letters

OPM or Agency Notice of Final Decision. After considering the respondent's answer, if any, and if the decision is to take a suitability action, a decision letter to the respondent will be prepared. The decision letter must be in writing, dated, and contain the following:

- The action(s) being taken;
- The reasons for the decision (i.e., summary of the subject's answer and any additional comments necessary to address the consideration of it), including the authority and the applicable specific factors and additional considerations; and,
- The respondent's right to appeal the decision to the MSPB.

Because the decision can be appealed to the MSPB, the MSPB's regulations (5 C.F.R. part 1201) require the following to also be included:

- The MSPB website address (www.mspb.gov/) where the respondent can find an appeal form and a copy of the MSPB's regulations;

The name, title, and contact information for the agency official to whom the Board should send the Acknowledgment Order and copy of the appeal; and the address of the appropriate MSPB regional or field office to which an appeal can be sent. The area where the respondent lives is used to determine the location of the appropriate MSPB office.

The notice may be hand-delivered, mailed, or sent by secure email. For OPM actions against appointees or employees, OPM will coordinate delivery with the employing agency and if the agency is hand delivering, ask for a transmittal signed by the individual. If the subject is separated as a result of the action, the agency must provide a copy of the SF 50 to OPM.

Final Decision Distribution Process-OPM Action. The following chart describes the distribution procedures:

Table 2 V5

TYPE OF CASE	RECIPIENT	ACTION REQUIRED OF RECIPIENT
Applicant	Applicant (original final decision letter)	None.
	Submitting office	Cancel application and maintain record of debarment.
	OPM-SuitEA	Update governmentwide repository(ies) and include all case documents in file.
Investigated Applicant	Applicant (original final decision letter)	None.
	Agency Personnel Security Office (copy of final decision letter, original agency notification)	Discontinue consideration.

TYPE OF CASE	RECIPIENT	ACTION REQUIRED OF RECIPIENT
	OPM-SuitEA (copy of final decision letter, copy of agency notification letter)	Update governmentwide repository(ies) and include all case documents in file.
Appointee Or Employee	Appointee or Employee (original final decision letter - via agency, copy of agency notification)	None.
	Agency Personnel Security Office (copy of final decision letter, original agency notification)	Take required action. Maintain all case documents and report action to OPM.
	OPM -SuitEA (copy of final decision letter, copy of agency notification letter)	Update governmentwide repository(ies) and include all case documents in file.

Final Decision Distribution Process-Agency Action. The following chart describes the distribution procedures:

Table 3 V5

TYPE OF CASE	RECIPIENT	ACTION REQUIRED OF RECIPIENT
Uninvestigated Applicant	Applicant (original final decision letter)	None.
	Examining Office (decision notification to submitting office)	Cancel application and maintain record of debarment.
	Agency Adjudications Office (copy of final decision letter and submitting office notification)	Maintain documentation of action.
Investigated Applicant	Applicant (original final decision letter)	None.
	Agency Adjudications Office (copy of final decision letter)	Take required action. Maintain all case documents and report adjudication to governmentwide repository(ies).
Investigated Appointee	Appointee (original final decision letter)	None.
	Agency Adjudications Office (copy of final decision letter)	Take required action. Maintain all case documents and report adjudication to governmentwide repository(ies).

5.8 – Reporting Unfavorable Actions

Agencies are required to report into the governmentwide repository(ies) any unfavorable suitability actions taken under 5 C.F.R. part 731 within 30 days after the action is taken. All actions must be reported as soon as possible or no later than 90 days after receipt of the final report of investigation.

How to report: Use **INV Form 79A** (Report of Agency Adjudicative Action on Personnel Investigations) for investigated cases, or **INV Form 79C** for uninvestigated applicants. For guidance on how to properly report adjudicative actions, agencies should refer to the [INV Form 79A \(Report of Agency Adjudicative Action on Personnel Investigations\)](#).

Post-appointment conduct cases: When OPM takes the suitability action, OPM SuitEA records the action in the repository. The employing agency is still responsible for submitting the separation SF-50 and closing any open referral records. If the agency takes action under its own authority (such as 5 C.F.R. part 752 or 359) instead of referring the matter to OPM, the agency must notify OPM using the Agency Action Notification Form found in the Addendum to this Manual. This notification is required even when the agency acts before making a referral to OPM.

5.9 – Concurrent Debarments or Imposing an Additional Period of Debarment When the Prior Has Expired

OPM and agencies may impose an additional period of debarment either concurrent to or following the expiration of a period of OPM or agency debarment, but only after the person again becomes an applicant, appointee, or employee subject to OPM's or the agency's suitability jurisdiction. The additional debarment period may be based, in whole or in part, on the same conduct on which the previous suitability action was based, when warranted, or new conduct. Conduct that formed the basis for a previous suitability action may warrant an additional period of debarment, when:

- The conduct upon which the prior determination was made is part of a pattern of misconduct that has continued despite the prior debarment.
- The conduct is of an egregious nature, and there are continuing concerns that the individual's employment would not protect the integrity or promote the efficiency of the service in the position sought.

For example, an additional debarment period might be appropriate where a person convicted of embezzlement continues to apply for fiduciary positions and does not report the conviction on the relevant questionnaire; where a person guilty of sexual crimes applies for positions dealing with the public where contact with children is reasonably expected; where an arsonist applies for a firefighter positions; and where those with lengthy criminal histories want to work in law enforcement positions.

In making its determination, OPM or the agency must follow the procedures set forth in this Volume.

Volume 6: Appeals to the Merit System Protection Board

Change Record

Date	Page(s) Affected	Description of Revision(s)

6.1 – Processing Merit System Protection Board (MSPB) Appeals

The merits of any suitability determination leading to an action under 5 C.F.R. part 731 may be appealed. Any person against whom an unfavorable suitability action is taken has a right to appeal to the MSPB.

The burden of proof is on the agency taking the action.

6.1.1 – Initiation of the Appeal

Appeals must be filed in accordance with 5 C.F.R. [part 1201](#), which provides the appellant with specific timeframes.

Once the appeal is received by the MSPB, the MSPB will request an agency response file. Agencies determine which office is responsible for preparation of the file. The guidance in Volume 5 of this Manual concerning information that is restricted from release is applicable.

6.1.2 – Procedure Best Practices

The practices below may occur within a number of different offices within the agency. These best practices are provided for consideration.

- Read the decision letter carefully to determine the basis for the suitability action.
- Determine whether the factors and additional considerations have been properly applied.
- Assess the strength of the evidence.
- Consider the impact of the conduct on the integrity and efficiency of the service.
- Review all documents that will be included in the appeal file carefully. OPM and agencies must furnish all releasable materials that were considered in the determination and action. If the appellant previously requested the materials relied upon after the action was proposed, the information released in the appeal response file should be consistent with that furnished to the appellant in response to the materials relied upon request.

Mailing/Filing. The MSPB, appellant, and appellant's representative will receive the original or a copy of the following documents, as appropriate:

- Letter to the MSPB
- Letter to Appellant
- Letter to Appellant's Representative
- Designation of Agency Representative Form
- Certificate of Service
- Certification of True and Correct Copies, and
- Agency Response File tabbed with Table of Contents on top.

6.1.3 – Additional Processing After the MSPB Decision

If the MSPB finds that one or more of the charges are supported by a preponderance of the evidence, regardless of whether all specifications are sustained, it will affirm the suitability determination, per 5 C.F.R. § 731.501(b). If the MSPB sustains fewer than all the charges, it is not permitted to alter the action or debarment imposed. Rather, the MSPB must remand the case to the agency to determine whether the action taken is still appropriate based on the sustained charge(s). The agency must hold in abeyance a decision on the remand until the person has exhausted all rights to seek review of the MSPB decision, including court review.

MSPB reversals or modifications of the original decision will contain instructions for compliance with the MSPB decision. After complying with the notification requirements, the agency will update the federal personnel vetting record, as appropriate.

Volume 7: Administrative Matters

Change Record

Date	Page(s) Affected	Description of Revision(s)
6/30/2026	95-96; 116	Clarified OPM oversight recordkeeping expectations by specifying training records consistent with the National Training Standards; made minor wording edits; streamlined OPM contact information by removing the separate oversight row and CredEA policy email while retaining SuitEA case, policy, and training contacts. Added 7.2.1 OPM's Review and Corrective Action Roles; added 7.2.2 Materials to be Retained for an OPM Appraisal.

7.1 – Safeguarding Information

General Requirements. Reports, records, and files pertaining to adjudicative matters must be maintained and disseminated in accordance with the Privacy Act and any applicable records schedules. Information of this nature should be shared only with authorized agency officials having a clear, official need to review the material, relative to the adjudication process. Responsible agency officials will ensure that only appropriate documentation is placed in the Official Personnel File (OPF). Decision letters that direct removal are normally maintained in the agency security file, and for actions by OPM, in its adjudicative files. To prevent unauthorized disclosures, it is particularly important not to file such records in the OPF. For more information on processing personnel actions and personnel recordkeeping, you may consult with your agency's record management and/or Privacy Act Office or refer to the guidance issued by OPM in the [Guide to Personnel Recordkeeping](#) and the [Guide to Processing Personnel Actions](#) found on OPM's website.

7.2 – OPM Oversight

7.2.1 OPM's Review and Corrective Action Roles

OPM may initiate corrective action, if necessary, in cases where it has jurisdiction. OPM-Suitability Executive Agent Programs (SuitEA) will make contact with agencies regarding background investigation cases it reviews for oversight purposes if there are questions about the agency's adjudicative determination or if SuitEA determines the issues fall within its jurisdiction for adjudication.

As part of its program audit responsibilities, OPM periodically evaluates the manner in which agencies carry out vetting requirements, including delegated suitability functions. Recommendations to correct deficiencies are included as part of the appraisal report to the agency. OPM may revoke an agency's delegation to make suitability determinations and take suitability actions under 5 C.F.R. part 731 if an agency fails to conform to 5 C.F.R. part 731 or OPM issuances including this Manual.

7.2.2 Materials to be Retained for an OPM Appraisal

The following information pertaining to suitability and fitness adjudications will be maintained for OPM review:

- The agency's **suitability and fitness regulations and/or instructions**, this Manual, and other OPM issuances;
- Records that indicate the **level of training consistent with the NTS and investigation** of all personnel who are involved in adjudicating;
- **Records of Risk Level and Sensitivity Level** designations of all positions;
- **Records of investigations conducted** for all positions;

- **Records of timeliness for initiating required investigations** and making suitability and fitness determinations;
- **Records of adjudication** so OPM can determine the appropriateness of agency adjudicative actions and procedures;
- **Records of measures taken by the agency to assure uniformity and fairness** in adjudication; and
- **Documentation of the agency's safeguards** for access, handling, and storage of investigative reports and other adjudicative materials.

Adjudicative records may be maintained separately from, or as a part of, individuals' Suitability or Security Files.

All documentation relating to the agency adjudicative action in any case identified by the Investigative Service Provider as having suitability or fitness issues must be retained by the agency for a period of two years from the date of the agency's decision and in accordance with applicable National Archives requirements. For cases involving post-appointment conduct, agencies must retain all materials used to support the OPM referral and/or adjudicative action – regardless of whether that information came from an ISP or from an agency's own internal sources. Agencies must also maintain copies of all referral materials submitted to OPM, as well as any communications received from OPM during the adjudication process. These records must be kept for a minimum of two years from the date of the final decision and in accordance with applicable National Archives requirements. Destruction of all adjudicative and investigative materials will be in accordance with prescribed procedures (such as shredding or recycling).

7.3 – OPM Contacts

The below contacts are provided for the SuitEA office:

Topic	Phone	Email
Suitability case related questions	(202) 599-0090, option 1	
Policy related questions (suitability, fitness, credentialing, forms, or general vetting policy)	(202) 599-0090, option 2	SuitEA@opm.gov
SuitEA training offerings	(202) 599-0090, option 3	SuitEAtraining@opm.gov

7.4 – Sample Letters [Reserved]