U.S. Office of Personnel Management

Implementation Guide

Final Rule on Suitability and Fitness — 5 CFR Part 731

July 2026

Purpose

The final rule amending 5 CFR part 731 takes effect on **July 30, 2026**. It establishes OPM's authority to make final suitability determinations and take suitability actions against employees in the competitive service and career Senior Executive Service (SES) based on post-appointment conduct, updates the suitability factors and adjudicative criteria, and sets out when agencies must refer cases to OPM.

This guide is written for the people who will make the rule work: HR directors, personnel security officers, employee and labor relations staff, agency counsel, and the adjudicators who handle suitability cases every day. It explains what changed, tells you which cases to refer to OPM and which to keep in-house, and lays out what your agency should have in place before the effective date.

Implementation will touch several offices at once. Agencies that begin coordinating now — rather than after July 30 — will be in a far better position when the first post-appointment case surfaces (for example, through continuous vetting (CV) alerts or a supervisor's report).

What Changed

Three changes matter most for day-to-day operations.

- **OPM may now take suitability actions based on post-appointment conduct.** Previously, OPM's authority over incumbent employees was limited to material, intentional falsification in connection with examination or appointment. Under the final rule, OPM may take a suitability action against a covered employee based on any of the suitability factors in 5 CFR 731.202, whether the conduct occurred before or after appointment.
- **OPM retains this authority; agencies refer.** Agencies have not been delegated authority to take suitability actions against employees. When post-appointment conduct appears to warrant a suitability action, the agency's role is to develop the case and refer it to OPM. OPM adjudicates and, where warranted, directs the action.
- **Existing authorities remain in place.** Nothing in the rule displaces chapter 75 adverse action procedures, chapter 43 performance actions, or probationary terminations. The rule adds a suitability pathway; it does not replace the tools agencies already use.

The rule also updates the suitability factors and adjudicative framework in subpart B, reinforces national training standards for suitability adjudicators, and aligns part 731 with Trusted Workforce 2.0 and continuous vetting.

What to Refer to OPM and What to Handle In-House

This is the question we expect to hear most often, so we want to answer it plainly. The dividing line is not the seriousness of the conduct in the abstract — it is:

(1) who the individual is

   a. both the employment category (e.g., competitive service, excepted service with noncompetitive conversion, career SES) and

   b. status (e.g., applicant, appointee, or employee),

(2) when did the conduct occur

   a. pre-appointment (in connection with application, examination or appointment), or

   b. post-appointment,

(3) which suitability factor is involved, and

(4) what outcome the agency believes is warranted.

Cases you should refer to OPM

You should consider referring the case to OPM's Suitability Executive Agent (SuitEA) Adjudications office, before proposing any action under part 731, when any of the following applies:

- **Post-appointment conduct warranting a suitability action.** The individual is an employee (not an applicant or appointee), the conduct implicates one or more suitability factors under § 731.202, and the agency believes removal or another suitability action under part 731 is warranted. OPM holds sole authority to take suitability actions against employees, so these cases cannot be adjudicated in-house under part 731.
- **Material, intentional false statements, or deception or fraud in examination or appointment.** Any case — applicant, appointee, or employee — where there is evidence of a material, intentional false statement, deception, or fraud in the examination or appointment process. This includes falsified OF-306 responses, fabricated credentials or work history, and material omissions on employment forms. "Material" means capable of influencing an official decision, even if no one actually relied on it. In terms of intent, it must be established that the false or deceptive answer or information was given with the intent to deceive or mislead. OPM has always retained sole jurisdiction over these cases; that does not change.

- **Conduct involving attempts to overthrow the Government.** Evidence of knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force.
- **Any case where governmentwide debarment may be warranted.** Only OPM can debar an individual governmentwide. If the conduct is serious enough that barring the person from federal employment — not just your agency — appears appropriate, refer the case under § 731.103(d) once the suitability issue is sufficiently developed, and before proposing action.

One nuance worth flagging for your counsel and ER staff: An agency may still elect to proceed against an employee for the same underlying conduct under a different authority (for example, chapter 75). Prior OPM approval is not required for that, but you must notify OPM that you have taken the action or are currently taking an action if one is still ongoing. This notification will be made via a standard template notification form to be published later in July. Agencies will need to build that notification step into a case-processing checklist so it is not missed.

The two tracks can also run at the same time. An agency does not have to choose between chapter 75 and a suitability referral. It may propose and take an adverse action under chapter 75 while simultaneously referring the same conduct to OPM for a suitability determination under part 731. The chapter 75 action proceeds on the agency's own authority, procedures, and timeline; the referral proceeds separately, and OPM may direct a suitability action — including governmentwide debarment — whether or not the agency's action has concluded. Proceeding on parallel tracks will often make sense where the agency needs to address an immediate workplace risk without waiting on adjudication, but the conduct also warrants a debarment that only OPM can impose. In OPM-retained-jurisdiction cases (e.g., falsification or conduct involving attempts to overthrow the Government), the notification requirement described above applies to the chapter 75 action; in all cases, note in the referral package that a parallel chapter 75 action is underway and keep OPM's adjudicator informed of its status.

Cases you should handle in-house

- **Applicant and appointee suitability determinations.** Agencies continue to adjudicate applicants and appointees under delegated authority, applying the § 731.202 factors for pre-appointment and post-appointment conduct and the additional considerations in the updated rule — unless subject to the mandatory referral categories above.
- **Misconduct better addressed through adverse action procedures.** Much employee misconduct will still be handled under chapter 75: first-offense issues where progressive discipline is appropriate and any case where the agency's objective is a penalty short of removal. A suspension, reprimand, or demotion is not a suitability action, and referring such cases to OPM will only slow their resolution.
- **Performance problems.** Poor performance is not a suitability issue unless it rises to the level of serious negligence in employment. Use chapter 43 or chapter 75 performance-based procedures for the mine run of performance problems that do not constitute negligence.

- **Probationary terminations.** Agencies retain their existing authorities for probationers, though evidence of application falsification discovered or knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force during probation still triggers mandatory referral to OPM.
- **National security and clearance matters.** Eligibility for access to classified information or to hold a sensitive position runs on a separate track under E.O. 12968 and agency security procedures. A single incident can raise both security and suitability concerns — coordinate internally, but do not route national security determinations through the suitability referral process.

The judgment calls

Continuous vetting will surface conduct that could plausibly go through agency in-house personnel actions or be referred to OPM. For those cases, work through three questions with your ER staff, Personnel Security office, and counsel before deciding on a path:

- **Does the conduct map to a § 731.202 factor?** Criminal or dishonest conduct, material, intentional falsification, alcohol abuse of the type described in the rule, illegal drug use, and other enumerated factors. If the conduct does not fit a factor, it is not a suitability case — handle it under your ordinary authorities.
- **Is removal (or more) the outcome the agency is seeking?** Suitability actions under part 731 are removal, cancellation of eligibility or reinstatement eligibility, and debarment. If the appropriate response is discipline short of removal, keep the case and use chapter 75.
- **Would the case benefit from debarment or a governmentwide resolution?** If the concern is that the individual should not simply resign and reappear at another agency, referral is the right call, because only OPM can prevent that outcome.

A few illustrations of how this plays out in practice:

- *A continuous vetting alert shows an employee was arrested for felony fraud committed off duty.* The conduct maps to criminal and dishonest conduct under § 731.202, and if convicted or if the evidence is otherwise sufficient and substantiated, removal and debarment may be warranted. Develop the records and evidence and then refer.
- *A supervisor reports an employee for repeated tardiness and a heated argument with a coworker.* No § 731.202 factor is seriously implicated and the likely penalty is discipline short of removal. Handle in-house under chapter 75; no referral.
- *An employee is found to have used illegal drugs on multiple recent occasions, and the agency concludes continued employment is untenable.* Illegal drug use is a suitability factor and removal is the objective. This is an appropriate referral — though the agency may pursue chapter 75 instead of, or in parallel with, the referral, and should weigh timing, evidence, and the value of potential debarment in choosing the path or paths.

When your team is genuinely uncertain, ask before you refer. SuitEA's Adjudications office takes pre-referral consultation calls precisely so agencies do not spend weeks assembling a package OPM cannot act on — or, worse, sit on a case OPM should have received.

What a complete referral contains

OPM will publish standardized referral templates and step-by-step instructions in July, along with the updated Suitability and Fitness Processing Manual. In the meantime, agencies can expect a complete referral package to include:

- the subject's application materials, including but not limited to the OF-306 and any supplements or amendments, position description, Standard Form (SF) 50 Notification of Personnel Action;
- the report of investigation or continuous vetting results, plus any agency-developed evidence that establishes the basis for the referral (e.g., disciplinary records, internal investigation or fact-finding reports, witness statements, letters of interrogatory, etc.);
- documentation establishing that the position is competitive service, excepted service that can non-competitively convert to competitive service, or career SES and subject to investigation under § 731.104;
- for agencies with delegated investigative authority, the agency will need to provide permission to confront the subject with the agency-developed information and to release it as needed on appeal; and
- agency points of contact (HR, Personnel Security, Supervisor/Manager) who can respond to adjudicator questions.

Assembling the documents above is only half the job. To be proper and sufficient under § 731.103, a referral must also meet the following standards — packages that do not will cycle back to the agency for further development before an adjudicator can act:

- **Refer before proposing action.** The referral must be made before the agency proposes any suitability action under part 731. Do not issue a proposal notice and then refer — the sequence matters, and a referral made after a proposal has been issued is procedurally defective.
- **Sufficiently resolve the suitability issue first.** Refer only after the suitability issue has been sufficiently resolved — through subject contact or investigation — for OPM to determine whether a suitability action, including governmentwide debarment, appears warranted. A raw allegation, an unvalidated continuous vetting alert, or an open investigation with no developed record is not a referable case; develop it first.
- **Identify the factor and connect the evidence to it.** The referral should state each § 731.202(b) factor the conduct implicates and tie the evidence in the package to that factor, addressing the additional considerations in § 731.202(c) — such as the nature and seriousness, and recency of the conduct, along with any evidence of rehabilitation — where they bear on the case.

- **Include the subject's side of the record.** Where the subject has been confronted with the information or has offered an explanation or mitigation, include the response and any supporting material. OPM adjudicates on the record the agency submits.
- **Flag any parallel or related action.** Identify any chapter 75, chapter 43, probationary, or security action that is pending or completed for the same conduct, including its status — OPM needs the full procedural picture to adjudicate and to coordinate timing.

Referrals are submitted through the Secure Portal to the Suitability Referrals mailbox. If your agency is not yet enrolled in the portal, contact your DCSA agency liaison now — do not wait until you have a live case.

OPM Is Ready to Receive These Cases

We recognize that a referral-based model only works if OPM can adjudicate what agencies send. Agencies should not hold back appropriate referrals out of concern that cases will languish.

OPM planned for this workload as part of the rulemaking itself. The regulatory analysis supporting the final rule examined the volume of conduct-based removal actions taken governmentwide each year and estimated the share that could arrive as suitability referrals under the new framework. Staffing and process decisions within SuitEA were made against those projections, not discovered after the fact.

Specifically, ahead of the effective date OPM has:

- **expanded adjudicative capacity** in the SuitEA Adjudications office, which has decades of experience adjudicating the referral categories OPM has always retained and now handles post-appointment referrals through the same experienced team;
- **standardized the intake process** through the Secure Portal, with templates and checklists designed so that complete packages can move directly to an adjudicator rather than cycling back to agencies for missing documents;
- **established internal case-management and triage procedures** so that time-sensitive referrals — for example, cases involving ongoing risk to the workplace — are identified and prioritized at intake; and
- **committed to acknowledging every referral** and keeping the referring agency informed of case status through its designated points of contact.

OPM will monitor referral volume and processing timeliness through the implementation period and will adjust resources as actual demand becomes clear. If your agency experiences delays or has concerns about a pending case, raise it through the SuitEA channels listed at the end of this guide — that feedback goes directly to the program office responsible for staffing decisions.

What Your Agency Should Do Before July 30

Implementation activities will look different at a 300,000-person department than at a small independent agency, but every agency should cover the same five bases.

1. Stand up an implementation team

Name a lead office — typically HR or Personnel Security — and pull in the offices that will actually touch these cases: Employee Relations, Labor Relations, agency counsel, the OIG where appropriate, and program leadership. The team's job is concrete: identify which agency policies need revision, assign owners and deadlines, and track progress against the effective date. A standing biweekly meeting is a best practice to work through implementation.

2. Update your policies and procedures

Review your suitability policy, referral procedures, Personnel Security and HR workflows, and continuous vetting response procedures against the final rule. The most common gaps we expect agencies to find: no documented trigger for elevating post-appointment conduct to a suitability review, no defined handoff between ER and Personnel Security, and referral procedures that predate the Secure Portal. Revise before July 30; do not plan to work from outdated SOPs and fix them later.

3. Map the case flow end to end

Trace a hypothetical case from the moment conduct is identified — through a continuous vetting alert, a supervisor report, an OIG finding — to final resolution. At each step, your documented workflow should answer: who is notified, who evaluates the conduct against the § 731.202 factors, who decides between the suitability path and chapter 75, who assembles the referral package, who submits it, and who tracks it afterward. If any of those answers is “it depends” or “whoever gets it first,” that is the gap to close now.

4. Train the right people

Two OPM courses support implementation:

- **2026 Supplemental Training for Suitability and Fitness Adjudicators** — for personnel who have completed SuitEA Fundamentals or otherwise meet the National Training Standards. Covers the regulatory changes, updated factors, post-appointment conduct, referral requirements, and the division of agency and OPM authority.
- **Suitability Training for HR Professionals** — an introduction for HR, ER/LR, counsel, and supervisors who may identify or coordinate suitability concerns. Covers how to recognize conduct that raises suitability issues, when to loop in Personnel Security, and when referral may be appropriate.

Identify who needs which course and register them in July. Do not limit training to adjudicators — the people most likely to first encounter referable conduct are supervisors and ER specialists, and they need to know enough to escalate.

5. Tell your workforce what is coming

Send targeted communications to HR, Personnel Security, ER/LR, counsel, supervisors, and executive leadership before the effective date. The message should cover what changed, who owns which piece of the process at your agency, and the importance of coordinating early — before an office acts unilaterally on conduct that may belong in the suitability channel.

Guidance, Resources, and Help from OPM

Implementation support does not end on the effective date. Through the implementation period, OPM will release:

- the updated Suitability and Fitness Processing Manual (SFPM);
- referral guidance, standardized templates, and checklists;
- frequently asked questions, updated as agency questions come in;
- reporting guidance for suitability determinations and actions; and
- additional operational guidance as issues surface.

These will be posted to OPM's Suitability website and announced through established stakeholder channels. OPM will also run implementation webinars and standing office hours and will continue providing case-level technical assistance through SuitEA.

Best Practices Readiness Checklist

Before **July 30, 2026**, your agency should be able to answer yes to each of the following:

- ☐ We have named an implementation lead and stood up a cross-functional team.
- ☐ We have reviewed and, where needed, revised our suitability policies and SOPs.
- ☐ We have a documented, end-to-end workflow for identifying, evaluating, and referring post-appointment conduct.
- ☐ Our staff know which cases must be referred to OPM SuitEA and which we handle under our own authorities.
- ☐ We are enrolled in the Secure Portal and know how to submit a referral.
- ☐ We have identified everyone who needs training and have registered them for the appropriate OPM course.

- ☐ We have communicated implementation expectations across the agency, including to supervisors.
- ☐ Counsel and HR/LR/ER have reviewed the interaction between part 731 referrals and our chapter 75 practice.

Implementation Timeline

Milestone	Target
Final rule available for public inspection	June 29, 2026
Federal Register publication	June 30, 2026
CHCO Council implementation briefing	July 9, 2026
Agency implementation planning	July 2026
Implementation training begins	July 13, 2026
Updated SFPM and referral guidance released	July 24, 2026
Rule effective	July 30, 2026
Technical assistance and office hours	Ongoing

Questions

Direct implementation questions to **SuitEA@opm.gov**. For case-specific consultation, including pre-referral questions, contact the SuitEA Adjudications office at 202-599-0090.