

DEPARTMENT OF DEFENSE



Defense Civilian Personnel Advisory Service



A GUIDE FOR EMPLOYEES

# THE SUITABILITY GUIDE FOR EMPLOYEES

# The Suitability Guide for Employees

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# The Suitability Guide for Employees

## SECTION 1 – INTRODUCTION

### 1.1 Purpose

The purpose of this reference guide is to provide guidance to Department of Defense (DoD) applicants, appointees, and civilian employees on obtaining and maintaining suitability or fitness for Federal employment. As a condition of employment, all applicants and employees must undergo a background investigation that meets their position's designated risk or sensitivity level. It is also important to ensure that all individuals who work for, or on behalf of, DoD are loyal, trustworthy, and of good character. In reviewing this guide individuals should be able to understand the criteria used to determine suitability and fitness, the process involved, and the steps that follow a determination on their employment. This guide provides information on the following:

1. How a fair and consistent suitability review and adjudication is conducted in determining whether an applicant, appointee, or employee is suitable and fit for Federal employment.
2. An overview of the laws, regulations, policies, and guidance governing the Suitability and Fitness Adjudication process for persons being considered for Federal employment or continued Federal employment within DoD.
3. The process utilized to ensure persons being considered for Federal employment or continued Federal employment within DoD submit and complete the required application materials and investigative forms.
4. How appropriate background checks are conducted.

5. The method by which notices of final suitability and fitness adjudication determinations are provided, upon completion of the background investigation.
6. An overview of the appeals process and appeal rights in the event an employee is notified of an unfavorable adjudication decision.

### 1.2 Background

The Federal Government mandates that all applicants, appointees, employees, and contractors, are suitable for employment or fit to perform work for or on behalf of the Federal Government. This service requires a high standard of integrity and trust to promote the interests of the public. This guide was developed to provide guidance in navigating through the suitability review and adjudication process. It also briefly covers what is necessary in determining fitness for an individual to perform work as either an employee in the excepted services or as a contractor.

The need for this guide has increased as the rules and procedures for determining suitability and security issues have become more defined.

### 1.3 About This Document

It is DoD policy that procedures relating to suitability and fitness for Federal employment, physical access to controlled facilities, and logical access to information systems will provide fair treatment of those upon whom the Federal Government relies to conduct the Nation's business.

The completion and favorable adjudication of a background investigation is the prerequisite for receiving an initial appointment to the Federal Government, maintaining employment with the Federal Government, being granted access to classified national security information, or being granted

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physical and logical access to DoD controlled facilities and information systems. Suitability and fitness are terms used to refer to an individual's character, and conduct sufficient to decide whether employment, or continued employment, would or would not protect the integrity or promote the efficiency of the service. In addition to the determination made regarding an individual's suitability, some positions require the employee to access classified material. Eligibility for access is granted only where facts and circumstances indicate that access to classified information is consistent with the national security interests of the United States.

Homeland Security Presidential Directive 12 (HSPD-12) ensures that personnel who are issued Common Access Cards (CACs) do not pose an unacceptable risk to the Federal Government. Only individuals whose identity can be verified, and who do not pose an unacceptable risk, may be issued a CAC. Individuals must not pose an unacceptable risk to the life, safety, or health of employees, contractors, vendors, or visitors; DoD's physical assets or information systems; personal property; records, including classified, privileged, proprietary, financial, or medical records; or the privacy of data subjects.

Once a suitability determination is made, if appropriate, the person then can be screened based on national security considerations, including consideration for access to classified information and sensitive, restricted facilities. A prerequisite to certification for access to classified information is completion of favorable background investigation. The type of investigation to conduct is determined by the risk level designation of the position and, if appropriate, national security requirements.

These three processes, suitability, security, and HSPD-12 work together to ensure that only those individuals who promote the efficiency of the service and will protect the information and assets of the U.S.

Government are appointed to Federal service and allowed to access information, systems, and physical locations of the government.



## SECTION 2 – THE SUITABILITY PROCESS OVERVIEW

DoD, along with all Federal Departments, is required to establish a process for making suitability or fitness determinations and taking suitability actions involving applicants for, appointees to, and employees in covered positions. Keep in mind that a favorable suitability or fitness determination does not mean that the individual is automatically eligible for a security clearance. Security adjudications are based on a different set of standards and criteria in accordance with 5 Code of Federal Regulations (CFR) part 732.

Suitability and fitness requirements for civilian employment are also separate and distinct from the qualifications required for the job (e.g., education or experience requirements). A favorable suitability or fitness determination does not mean that the individual is automatically eligible for a job, nor is a person who is qualified for a job automatically suitable for employment. Suitability or fitness determinations should be made subsequent to finding the person qualified for the job.

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The suitability process begins with the request to fill a position. A vacancy announcement is issued with instructions on the required investigative documents (i.e., resume, OF306, Federal Declaration of Employment) to be provided to the human resources office. The job announcement will also have any information on the required investigation established for the position.

The most significant part of the suitability process is the day your assessment begins. It is, however, only one part of the process.



## 2.1 What is Suitability?

Suitability refers to a person's identifiable character traits and conduct sufficient to decide whether employment or continued employment would or would not protect the integrity or promote the efficiency of the service. Suitability is distinguishable from a person's ability to fulfill the qualifications of a job, as measured by experience, education, knowledge, and skills.

The Code of Federal Regulations (5 CFR 731) provided by the Office of Personnel Management (OPM) establishes criteria and procedures for suitability review, investigations, determinations, and actions for covered positions.

Covered positions include only:

- Competitive service positions

- Career appointments in the Senior Executive Service
- Excepted service positions that can be non-competitively converted to competitive service

The designation of covered positions is outlined in section 731.106 of title 5, Code of Federal Regulations. Every covered position must be designated at the low, moderate, or high risk level as determined by the position's potential for adverse impact on the efficiency and integrity of the service. As the level of authority and responsibility of a position becomes greater, character and conduct become more significant in deciding whether employment or continued employment would protect the integrity or promote the efficiency of the Federal service.

## 2.2 What is Fitness?

Fitness refers to the level of character and conduct determined necessary for an individual to perform work for, or on behalf of, a Federal agency as an employee in the excepted service (other than in a position subject to suitability) or as a contractor employee. Excepted service positions are covered by 5 CFR 302.

## 2.3 Who Must Have a Background Investigation?

Background investigations are required for all employees and applicants for employment with the DoD and individuals who perform work for, or on behalf of, a Federal agency as an employee in the excepted service (other than in a position subject to suitability) or as a contractor employee upon being hired by the Federal Government to determine their suitability for employment. The level to which the investigation is conducted is determined by the position's sensitivity and risk.

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## 2.4 How Long Does It Take to Conduct a Suitability Investigation?

The length of time between the submission of the employment application and completion of the background investigation varies depending on the position applied for and the time it takes to render a suitability decision based on the evidence in the investigation.

Any inaccurate or incomplete information provided during the hiring process and background investigation may cause a delay in the final determination. It is important to provide, when asked, truthful and accurate information so that the investigator can complete the process as quickly as possible. The amount of personal information you are asked to provide depends on the level of risk and sensitivity of the position for which you are being considered. It is important to ask your Human Resources (HR) representative any questions you may have about the process.



## 2.5 How is Position Sensitivity and Risk Determined?

Position sensitivity has to do with the impact on national security. Proper position designation is based on a combined assessment of the three prescribed levels of risk and the four prescribed levels of sensitivity (including the “non-sensitive” level). Position designation determines what type of investigation is required and all are closely examined.

The designation of national security positions is outlined in section 3 of Executive Order (EO) 10450, as amended, and in 5 CFR 732.201. Each position in the Federal service not designated as Non-Sensitive must be designated as Noncritical-Sensitive, Critical-Sensitive, or Special-Sensitive, depending on the degree to which, by virtue of the nature of the position, the occupant could bring about a material adverse effect to national security.

It is primarily the responsibility of managers and supervisors to determine the sensitivity and risk designation of their subordinate positions using available resources such as OPM’s Position Designation System and Automated Tool and in conjunction with advice and guidance from HR and Security professionals. Additionally, these determinations must be consistently applied across organizations and departments.

The following basic definitions will be used, along with OPM’s Position Designation System and Automated Tool, to determine a position’s risk level and the type of background investigation required.

### Low Risk Positions

- Involve duties of limited impact to DoD’s mission with program responsibilities that affect the efficiency of the service.

### Moderate Risk Positions

- Have the potential for moderate to serious impact involving duties of considerable importance to the DoD’s mission and delivery of customer services to the public.

### High Risk Positions

- Have the potential for exceptionally serious impact involving duties especially critical to DoD programs and policies.

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## 2.6 What Is a Public Trust Position?

The public trust responsibilities of DoD positions require a much higher degree of integrity with unwavering public confidence in the individual occupying the position. These positions are designated as moderate or high risk.

Public Trust positions include those involving policymaking, major program responsibility, and law enforcement duties, or other duties demanding a significant degree of public trust; and positions involving access to or operation or control of financial records, with a significant risk for causing damage or realizing personal gain.

Public Trust positions have the potential for affecting the integrity, efficiency, and effectiveness of DoD's mission, and when breached, diminish public confidence. Public Trust positions include those in which incumbents' actions or inactions could diminish public confidence in the integrity, efficiency, or effectiveness of assigned Government activities, whether or not actual damage occurs; and positions in which the incumbents are being entrusted with control over information that DoD has an obligation not to divulge.

Positions involving a high degree of public trust generate a more thorough investigation than positions requiring only the finding that an applicant or employee has the requisite suitability of character to hold Federal employment.

The public trust designation level indicating the type of background investigation required is used on the investigation forms (i.e., Standard Form, SF-85, Questionnaire for Non-Sensitive Positions; SF-85P, Questionnaire for Public Trust Positions; and other personnel forms such as SF-50, Notification of Personnel Action; SF-52, Request for Personnel Action; and OF-8, Optional Form.) The position

sensitivity code and risk level is also recorded in the personnel systems.

## 2.7 What if I Was Previously Determined Suitable or Fit for Federal Employment by Another Federal Agency?

If you have previously been determined to be suitable or fit for Federal employment based upon the risk and sensitivity levels of the position and other factors, except as otherwise offered by law, background investigations and adjudication shall be mutually and reciprocally accepted by all agencies.

In most cases, no new suitability determination is required when a person has already been determined to be suitable or fit based on character or conduct unless:

- The new position requires a higher level of investigation than the previously held position
- New information calls suitability into question
- The investigative record shows conduct that is incompatible with core duties of the position
- There is a break in service of more than 24 months

When an applicant or employee has been the subject of a prior investigation, a copy of the investigation will be requested from the investigating agency and a determination as to whether reciprocity applies will be made.



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## 2.8 What Background Areas Are Checked?

Investigations involve inquiries into an individual's past to gather information to help determine whether he or she is suitable for Federal employment. Investigators may conduct checks into the following based on the level of investigation required:

- Prior employment records
- Financial records
- Criminal records/investigations
- Psychological issues
- Foreign travel
- Education records
- Drug issues
- Alcohol issues
- References (personal and professional)
- Federal Bureau of Investigation (FBI) records

## 2.9 Are There Any Helpful Tips for Completing the Questionnaire?

If you have completed a questionnaire for a background investigation or a security form before, it's helpful to have a copy of the previous one for reference. If it's the first time you're filling one out, it will help if you verify addresses where you've lived and worked, and have on hand the addresses and phone numbers of individuals such as former supervisors, references, or former roommates.

You must provide accurate, complete and honest answers to all questions on the questionnaire. Incomplete or inaccurate information can delay processing. False information is prohibited by law and punishable by fines and imprisonment. Remember, the information you provide will be verified during your investigation.

If you have any questions regarding information to include on the questionnaire, contact the point of contact for the agency for which you applied, and then answer the questions to the best of your ability. If you are not sure whether to provide certain information, it is always best practice to provide all information with clarification, if necessary, as adjudicators may interpret the omission as falsification of your forms. Falsification may eliminate your opportunity to pursue federal employment.

Remember, when you sign the questionnaire, you are certifying completeness and accuracy under the penalty of prosecution. Quick Reference Guides for completing security forms using the e-QIP System can be found at: <http://www.opm.gov/e-QIP/index.asp>

## 2.10 How Much Personal Information Do I Need to Provide?

The amount of personal information you're asked to provide depends on the level of risk and sensitivity of the position for which you're being considered. Please note that seeking help for life stressors does not reflect adversely on an individual's judgment. Instead, it may be viewed as a positive sign that an individual recognizes that a problem exists and is willing to take steps toward resolving it. Assistance is available for obtaining and maintaining eligibility for employment, as requested and to the extent practicable, throughout the process, including during the adjudication phase. Support is available through the Civilian Employee Assistance Program or other venues on areas such as financial management and dealing with alcohol or drug use concerns.

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## SECTION 3 – SUITABILITY, SECURITY, & HSPD-12

### 3.1 What Is the Difference Between Suitability, Security, and HSPD-12?

The objective of suitability and fitness is the examination of individual personal character and conduct. Suitability answers the question “Would the person’s employment in a covered position promote the efficiency and protect the integrity of the service?” Fitness answers the question “Does the person have the required level of character and conduct necessary to perform work for or on behalf of a Federal Agency?” The objective of security is a determination regarding whether employment would constitute a risk to national security. Influences such as foreign associates or ties are also considered in this determination. Security answers the question “Does the person have personal conduct or influences that could affect or potentially affect his or her trustworthiness?” The objective of HSPD-12 is a determination that the individual is not known or suspected to be a terrorist and answers the question “Does the person pose an unacceptable risk to life, safety or health to persons, assets or information?”

Note that all of these determinations are distinct from the assessment of an individual’s job qualifications. An individual may have the skills necessary for Federal employment, but he or she may not demonstrate appropriate standards of conduct for Federal employment.

### 3.2 How Is the Suitability Determination Made and What Guidelines Are Used?

Upon completion of the appropriate level background investigation, applicants and employees undergo suitability and security reviews. As defined in 5 CFR

731, civilian employees and applicants must undergo a suitability determination for Federal employment.

Suitability determinations must be based on the presence or absence of one or more specific factors. The following criteria may be considered as a basis for finding an individual unsuitable for service and taking a suitability action:

- Misconduct or negligence in employment
- Criminal or dishonest conduct
- Material, intentional false statement or deception for fraud in examination or appointment
- Refusal to furnish testimony as required by 5 CR 731, section 5.4
- Alcohol abuse without evidence of substantial rehabilitation, of a nature and duration which suggests that the applicant or appointee would be prevented from performing the duties of the position in question, or would constitute a direct threat to the property or safety of the applicant or appointee or of others
- Illegal use of narcotics, drugs, or other controlled substances, without evidence of substantial rehabilitation
- Knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force
- Any statutory or regulatory bar which prevents lawful employment of the person involved in the position in question

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The following are used as considerations to the extent they deem pertinent to the individual case when making a suitability determination:

- The nature of the position for which the person is applying or in which the person is employed
- The nature and seriousness of the conduct
- The circumstances surrounding the conduct
- The recency of the conduct
- The age of the person involved at the time of the conduct
- Contributing societal conditions
- The absence or presence of rehabilitation or efforts toward rehabilitation

Once a suitability determination is made, if appropriate, the person then can be screened based on National Security considerations, including considerations for access to classified information and sensitive, restricted facilities.

Investigations should be initiated before an appointment or, at most, within 14 calendar days of the placement in the position. Employees moving to a new position at a higher risk level than the risk level of the position they left must meet the investigative requirements of the risk level designation of the new position.



## SECTION 4 – DUE PROCESS AND APPEAL RIGHTS

### 4.1 Suitability Determinations and Appeal Rights

When an applicant or appointee is found to be unsuitable for Federal employment, the DoD agency or OPM may take a suitability action. A suitability action (defined at 5 CFR 731.203) is an outcome taken by OPM or a DoD agency following a negative suitability determination under the procedures of 5 CFR 731. Suitability actions are defined as:

- Cancellation of eligibility
- Removal
- Cancellation of reinstatement eligibility
- Debarment

Agencies are required to give reasonable notice to employees or applicants in writing, citing specific reasons why they are deemed unsuitable. This includes information on “materials relied upon” to make the decision; time limits for response and information regarding their rights to respond and have representation. Suitability Actions are appealable to the Merit Systems Protection Board (MSPB) (<http://www.mspb.gov/>). The procedures for filing an appeal with the Board are found at 5 CFR 1201.

Note that non-selection for a single position is not considered to be a suitability action under the regulation, and does not entitle an applicant to appeal the negative determination to the MSPB.

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## SECTION 5 – OBLIGATIONS & REINVESTIGATIONS OF PUBLIC TRUST POSITIONS

### 5.1 Obtaining and Maintaining Eligibility

To ensure employee awareness of the criteria that must be met to obtain and maintain eligibility for a national security position, as well as the programs that are available should personal assistance or advice during the adjudication phase be needed, agencies must provide employees with information on the criteria that must be met to obtain and maintain eligibility for a national security position. This information must be provided at the point of selection and annually thereafter.

### 5.2 Standards of Conduct

As an employee of the Federal government, you will be expected to comply with the high standards of conduct as indicated in the Office of Government Ethics booklet “Standards of Ethical Conduct for Employees of the Executive Branch” (available from [www.oge.gov](http://www.oge.gov)) You are expected to recognize and avoid the kind of personal behavior that would result in rendering one ineligible for continued employment in a position of public trust. You are expected to provide representatives, information, testimony, documents and material pertaining to matters of inquiry, unless otherwise prohibited by law or regulation.

Executive Order 13488 established authority to reinvestigate persons in positions of Public Trust. Any issues developed in reinvestigations must be evaluated to determine whether or not the person’s continued employment promotes the efficiency of the service.

Depending upon the issues leading to the determination that an individual is unsuitable for employment or continued employment, agencies may be required to refer the issue to the U.S. Office of Personnel Management for proper action. Additionally, any action taken to remove an employee with more than one year of continuous service must be taken under agency authority (e.g., 5 CFR 752) and the employee given procedural rights related to such authority as noted above.



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## SECTION 6 – REFERENCES

- a. Part 731 of Title 5, Code of Federal Regulations
- b. Part 302 of Title 5, Code of Federal Regulations
- c. Part 732, of Title 5, Code of Federal Regulations
- d. Office of Personnel Management Memorandum, “Position Designation System,” November 25, 2008
- e. Federal Investigations Notice Number 09-03, “New Position Designation System and Automated Tool,” January 5, 2009
- f. Executive Order 13467, “Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information,” June 30, 2008
- g. Executive order 13488, “Granting Reciprocity on Excepted Service and Federal Contractor Employee Fitness and Reinvestigating Individuals in Positions of Public Trust,” January 16, 2009
- h. USD (P&R) Memorandum, “Employee Support for Maintaining Eligibility for National Security Positions,” July 8, 2010

## SECTION 7 – DEFINITIONS

**Access** – Authority that allows an individual to obtain knowledge of, or access to, classified information, materials, or work areas.

**Adjudication** – An examination of a person’s character or conduct over time, resulting in a favorable or unfavorable determination of their employment suitability, eligibility for access to classified information, materials, or areas, or for their retention in Federal employment.

**Applicant** – A person who is being considered or has been considered for employment.

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

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

**Covered Positions** – Positions covered under Suitability requirements are those in the competitive service, positions in the excepted service where the incumbent can be noncompetitively converted to the competitive service, and career appointments to positions in the senior executive service (SES).

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**Debarment** – A prohibition from taking a competitive service examination or from being hired (or retained in) a covered position for a specific time period.

**Eligible** – A person whose name has been placed on a standing inventory or list of eligibles.

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

**Factor** – An issue involving a person’s character or conduct, which leads to a suitability determination and/or a suitability action by the Office of Personnel Management or another agency.

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

**Inquiry** – An investigative coverage method in which a written voucher questionnaire is sent by mail; the recipient is not required to complete and return the voucher.

**Material, Intentional False Statement** – A deliberate and untrue statement capable of influencing, or having a natural tendency to affect an official decision. A statement may be considered “material” even if it was not actually relied upon in reaching an official decision.

**Merit Systems Protection Board (MSPB)** – An independent, quasi-judicial agency incorporated within the Executive Branch. The Board was established by the Civil Service Reform Act of 1978 (CSRA). The MSPB ensures that federal civil servants are hired and retained based on merit. In overseeing the personnel practices of the federal government, the Board conducts special studies of the merit systems; hears and decides charges of wrongdoing

and employment appeals of adverse agency actions; and orders corrective disciplinary actions against an executive agency or employee when appropriate. The Board’s independent special counsel investigates, among other things, prohibited personnel practices and allegations of activities proscribed by civil service laws, rules, and regulations, and prosecutes officials who violate civil service rules and regulations.

**Personnel Security** – A program to assess an individual’s potential to compromise or cause damage to national security.

**Position Description (PD)** – A statement of duties and responsibilities that describe the work assigned to a civilian employee.

**Position Designation** – The assessment of the potential for adverse impact on the integrity and efficiency of the service, and the degree to which, by the nature of the position, the occupant could bring about a material adverse effect on national security.

**Public Trust** – Positions that may involve policymaking major responsibilities, public safety and health, law enforcement duties, fiduciary responsibilities or other duties demanding a significant degree of public trust, and positions involving access to, or operation or control of, financial records, with a significant risk for causing damage or realizing personal gain.

**Sensitive Position** – Any position so designated under Executive Order 10450, as amended.

**Suitability** – Refers to a person’s identifiable character traits and conduct sufficient to decide whether an individual’s employment or continued employment would or would not protect the integrity or promote the effectiveness or efficiency of the service.

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**Suitability Actions** – Actions taken that affect covered applicants and appointees. Agencies may begin to determine an applicant’s suitability at any time during the hiring process. The actions taken include cancellation of eligibility for employment, removal, cancellation of reinstatement eligibility of employment, or debarment once a person is determined to be unsuitable. These actions are appealable to the Merit Systems Protection Board.

**Suitability Determination** – The process of deciding whether a person is or is not suitable for employment in the Federal Government or a specific Federal agency based on the presence or absence of one or more specific factors (charges). Additional considerations must also be considered, to the extent relevant, if deemed pertinent to the individual case.

**Unfavorable Adjudication Determination** – The final determination that results in a negative action relative to a person’s employment suitability, retention in a sensitive or public trust position, access to national security information, materials, or areas, or incumbency in a sensitive position.

**U.S.C** – The United States Code.

