

# CLEARANCE SUITABILITY FACTORS

[5CFR 731.202 (b)]

Clearance suitability is defined as identifiable character traits and conduct sufficient to determine whether an individual is likely (or not likely) to be able to carry out the duties of federal or civilian employment with appropriate integrity, efficiency, and effectiveness, and their ability to protect classified information.

## **(1) MISCONDUCT OR NEGLIGENCE**

Misconduct involves doing something wrong in the employer's estimation, while negligence is the failure to do something expected by the employer.

May or may not have resulted in dismissal. If dismissed, prompted the dismissal.

For military misconduct, the nature of the conduct is the governing factor, rather than the type of discharge.

Includes: poor attendance without cause, insubordination, or other suitability issues such as theft, alcohol or drug abuse etc.

Does not include performance (*an inability to perform a task*) or other qualification issues.

Misconduct or negligence in current Federal employment is not generally included unless it is part of a pattern of conduct. Instead, 5 CFR 315 or 752 would normally apply for most post-appointment misconduct issues.

## **(2) CRIMINAL OR DISHONEST CONDUCT**

### **Criminal Conduct**

Primary emphasis is on the nature of the criminal conduct, which may or may not have resulted in a conviction: details/reasons for dismissal of the offense must be considered; expungement or pardon for an offense would not nullify the conduct, unless granted by the court on the basis of the person's innocence.

Pending charges (*of a nature that would potentially be disqualifying*) cannot be adjudicated until case is disposed.

### **Dishonest Conduct**

Dishonest conduct includes deliberate lies, fraud, or deceit for personal benefit... theft, acceptance or offer of a bribe, falsification of records, falsification of employment documents, deliberate financial irresponsibility with continuing debts of a significant nature.

## **(3) MATERIAL INTENTIONAL FALSE STATEMENT OR DECEPTION OR FRAUD IN EXAMINATION OR APPOINTMENT**

A material statement (as used in the phrase "material, intentional false statement") is one that is capable of influencing, or has a natural tendency to affect an official decision.

The test of materiality does not rest on whether the agency actually relied on the statement.

	<p>A deliberate attempt to withhold information, or furnish false information, that would have a material bearing on suitability or qualifications for employment, or gain the person an advantage over other applicants, which occurs during the examination, application, or appointment process.</p> <p>Material false answers to questions on appointment documents concerning criminal offenses, employment terminations, etc., or failure to admit a series of minor issues which demonstrate a pattern of misconduct, or omission of information related to the position sought, such as a performance discharge from the same type of position (example: a conviction for illegal drug use when applying for a position in the medical field).</p>
<p><b>(4) REFUSAL TO FURNISH TESTIMONY</b> (as required by section 5.4)</p>	<p>Per Civil Service Rule 5.4 (<i>5 CFR, Part 5, Sec 5.4</i>), all competitive service applicants and employees are required to give OPM, MSPB, or the Special Counsel, or their authorized representatives, all information, testimony, documents, and material requested in regard to matters inquired of under the Civil Service laws, rules, and regulations (the disclosure of which is not otherwise prohibited by federal law).</p>
<p><b>(5) ALCOHOL ABUSE</b> of a nature and duration which suggests that the candidate would be prevented from performing the duties of the position or would constitute a direct threat to the property or safety of others.</p>	<p>Current continuing abuse would ordinarily be immediately disqualifying.</p> <p>Rehabilitation must be considered (clear, lengthy break in pattern of abuse or strong evidence the abuse will not occur again).</p>
<p><b>(6) ILLEGAL USE OF NARCOTICS DRUGS, OR OTHER CONTROLLED SUBSTANCES</b> without evidence of rehabilitation.</p>	<p>Current or recent use or possession of a serious nature would ordinarily be disqualifying.</p> <p>Rehabilitation claims must be clearly established and documented.</p> <p><i>See comments for alcohol abuse.</i></p> <p>Criminal conduct would also be an applicable factor to consider.</p>
<p><b>(7) KNOWING AND WILLFUL ENGAGEMENT IN ACTS OR ACTIVITIES DESIGNED TO OVERTHROW THE U.S. GOVERNMENT BY FORCE</b></p>	<p>Must be an overt act.</p> <p>Membership in organizations, alone, is not a disqualifying factor.</p>
<p><b>(8) Any STATUTORY OR REGULATORY BAR</b> which prevents the lawful employment of the person.</p>	<p>Specific legal restrictions to employment.</p> <p>Citizenship issues.</p>

# ADDITIONAL CONSIDERATIONS

[5CFR 731.202 (c)]

CONSIDERATIONS	DISCUSSION
1) The <b><u>NATURE OF THE POSITION</u></b> for which the person is applying or in which the person is employed.	<p>The more authority, responsibility, sensitivity and public trust associated with the position, the higher the risks involved and the more potential adverse impact there is to the efficiency and integrity of the service; thus the misconduct becomes more serious as a potentially disqualifying issue.</p> <p>However, certain kinds of misconduct may result in disqualification regardless of the position.</p>
2) The <b><u>NATURE AND SERIOUSNESS</u></b> of the conduct.	The more serious the conduct, the greater the potential for disqualification.
3) The <b><u>CIRCUMSTANCES</u></b> surrounding the conduct.	Full facts and circumstances are essential to insure justice to the person, and to protect the interests of the United States Government.
4) The <b><u>RECENCY</u></b> of the conduct.	The more recent the conduct is, the greater the potential for disqualification.
5) The <b><u>AGE</u></b> of the person at the time of the conduct.	Offenses committed as a minor are treated as less serious than those committed as an adult, unless the offense is recent, part of a pattern, or heinous.
6) Contributing <b><u>SOCIETAL CONDITIONS</u></b> .	<p>Economic and cultural conditions might be a mitigating factor if the conditions are now removed.</p> <p>Generally considered in cases with relatively minor issues.</p>
7) The absence or presence of <b><u>REHABILITATION</u></b> -- or efforts toward rehabilitation.	<p>Clear, affirmative evidence of rehabilitation is required for a favorable adjudication.</p> <p>Rehabilitation is a consideration in all cases, not just those involving alcohol and drug abuse.</p> <p>While counseling or treatment by a licensed and qualified medical professional may be a consideration, other factors (such as the individual's employment record) may also be an indication of successful rehabilitation.</p>

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