



Security

Newsletter

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Adjudicative Guideline – Guideline I – PSYCHOLOGICAL CONDITIONS

By: DoDSecurity.Blogspot

This article is the seventh in a series of installments on the 13 Adjudicative Guidelines. As a reminder, these guidelines are being discussed as a means to simply provide guidance during the investigation process or, more importantly, to provide awareness for self-reporting requirements. If you are ever in doubt or worried about whether or not you should self-report, contact your Facility Security Officer or Program Manager.

Mental health issues can adversely affect an individual's eligibility for a federal security clearance, but many clearance applicants worry unnecessarily and sometimes choose not to seek treatment due to fears that it could result in the denial or revocation of a clearance.

Affected Persons: "An estimated 26.2 percent of Americans . . . suffer from a diagnosable mental disorder in a given year." Nearly two-thirds of these people do not seek treatment; some because of the stigma that is associated with mental health treatment. Mental health issues can adversely affect an individual's eligibility for a federal security clearance, but many clearance applicants worry unnecessarily and sometimes choose not to seek treatment due to fears that it could result in the denial or revocation of a clearance.

Guideline I (Psychological Conditions) of the "Adjudicative Guidelines for Determining Eligibility for Access to Classified Information" is one of the least understood criteria for being granted a security clearance. Regarding the standards for eligibility for access to classified information, Executive Order 12968, issued in 1995, states:

Adjudicative Guideline – Guideline I (cont.)

“No negative inference concerning the standards in this section may be raised solely on the basis of mental health counseling. . . . However, mental health counseling, where relevant to the adjudication of access to classified information, may justify further inquiry to determine whether the standards of subsection (b) of this section are satisfied, and mental health may be considered where it directly relates to those standards.”

This policy is restated in slightly different words in Guideline I and on the Standard Form 86– (*Questionnaire for National Security Positions*).

SECURITY CONCERN

A past or present mental, emotional, or personality disorder is not by itself a disqualifying condition for a final security clearance. A psychological condition does not have to be formally diagnosed as a disorder to be a security concern. The security concern arises when the possibility of future unreliable or dysfunctional behavior is indicated by either abnormal behavior or the opinion of a qualified mental health practitioner. When a psychological condition (or the side effects of medication) adversely affects a person's judgment and behavior, such things as disappointment, failure, or perceives injustice or betrayal may cause reactions that are irresponsible, self-destructive, retaliatory, and/or unlawful. This can result in willful or negligent compromise of classified information, violence, sabotage, or espionage.

INVESTIGATION OF PSYCHOLOGICAL CONDITIONS

A “yes” response to the “Mental and Emotional Health” question on the SF86 indicates that additional information beyond the required dates of treatment and identification of the health care provider is needed to make a final security clearance determination. Wording of the question can be somewhat confusing. It reads:

Mental health counseling in and of itself is not a reason to revoke or deny a clearance. In the last 7 years, have you consulted with a health care professional regarding an emotional or mental health condition or were you hospitalized for such a condition? Answer “No” if the counseling was for any of the following reason and was not court-ordered:

- Strictly marital, family, grief not related to violence by you; or
- Strictly related to adjustments from service in a military combat environment.

Adjudicative Guideline – Guideline I (cont.)

There is no exception for relationship counseling that does not involve a spouse or other family member. In the question the word “strictly” is used to rule out situations where the applicant seeks mental health counseling for one of the exceptions and is diagnosed as having a different or separate problem. For example, an applicant initially seeks marital counseling and is diagnosed as having bipolar disorder. It is unclear whether the intent of the question is to make the exceptions equally applicable to situations where an applicant “*consulted with a health care professional*” or was “*hospitalized*.” If there is any doubt about whether counseling or hospitalization should be disclosed, it is always preferable to answer “yes” to the question and provide both the required information and a detailed explanation in the comment section or continuation space on the SF86.

When applicants answer “yes” to this question they are directed to complete an “Authorization for the Release of Medical Information.” This form is on the last page of the SF86 and authorizes a mental health practitioner to answer these questions: *Does the person under investigation have a condition that could impair his or her judgment, reliability or ability to properly safeguard classified national security information? If so, describe the nature of the condition and the extent and duration of the impairment or treatment. What is the prognosis?*

When the mental health practitioner(s) answer(s) “no” to the first question, there is no further investigation of this issue, unless the investigation surfaces contradictory information from some other record or personal source. When there is a “yes” to the first question, the applicant is usually required to complete an INV Form 16A, *Specific Medical Release*, which is used to obtain more detailed information regarding medication, other treatment, test results, and medical opinions regarding health, recovery and/or rehabilitation. If necessary a security adjudicator will consult with a qualified government mental health practitioner, and if any doubt remains about an applicant’s reliability, the applicant can be required to undergo a medical evaluation by a psychiatric consultant.

There is a presumption that mental health treatment that occurred more than 7 years ago or any treatment related to one of the exceptions to the “Mental and Emotional Health” question on the SF86 is not relevant or material to a security clearance determination.

Adjudicative Guideline – Guideline I (cont.)

However if information is developed during an investigation that unlisted mental health treatment is relevant, information about the treatment can be pursued.

ADJUDICATION OF PSYCHOLOGICAL CONDITIONS

Guideline I of the Adjudicative Guidelines lists 3 specific examples of potentially disqualifying conditions and 5 specific examples of mitigating conditions. Ultimately almost all cases where a final clearance is denied due to psychological conditions involve 1 of the 4 following situations:

- The applicant has displayed dysfunctional or abnormal behavior, and the applicant refuses to seek treatment or refuses to undergo medical evaluation.
- A qualified medical practitioner has determined that the applicant's condition could impair his or her judgment or reliability, and the applicant has failed to take medication or participate in other treatment as prescribed.
- A qualified medical practitioner has determined that the applicant's condition could impair his or her judgment or reliability and the condition cannot be adequately treated.
- A qualified medical practitioner has determined that the applicant's condition could impair his or her judgment or reliability and there is a lack of persuasive evidence that the condition is under control and will remain so for the foreseeable future.

For additional information, please go to: <https://www.nimh.nih.gov/health/statistics/index.shtml>



Adjudicative Guideline – Guideline J Criminal Conduct

The concern: criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations.

Conditions that could raise a security concern and may be disqualifying include:

- (a) A pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness;
- (b) Evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted;
- (c) Individual is currently on parole or probation;
- (d) Violation or revocation of parole or probation, or failure to complete a court-mandated rehabilitation program; and
- (e) Discharge or dismissal from the Military for reasons less than "Honorable."

Conditions that could mitigate security concerns include:

- (1) The criminal behavior was not recent;
- (2) The crime was an isolated incident;
- (3) The person was pressured or coerced into committing the act and those pressures are no longer present in that person's life;
- (4) The person did not voluntarily commit the act and/or the factors leading to the violation are not likely to recur;
- (5) Acquittal;
- (6) There is clear evidence of successful rehabilitation including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Adjudicative Guideline – Guideline J Criminal Conduct

Criminal offenses are considered based on three categories – felonies, misdemeanors and infractions. All must be reported on the SF-86. When in doubt as to whether or not you were actually arrested for that college drinking incident (a common issue), go ahead and include that information on your SF-86 – along with mitigating factors such as a character reference.

Any Questions? Please contact us:

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