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may remain in or encumber the position. Any upgrade in the investigation required for the new risk level should be initiated within 14 calendar days after the promotion, demotion, reassignment or new designation of risk level is final.

(f) *Completed investigations.* Any suitability investigation (or reinvestigation) completed by an agency under paragraphs (d) and (e) of this section must result in a determination by the employing agency of whether the findings of the investigation would justify an action under this part or under another applicable authority, such as part 315, 359, or 752 of this chapter. Section 731.103 addresses whether an agency may take an action under this part, and whether the matter must be referred to OPM for debarment consideration.

[73 FR 20154, Apr. 15, 2008, as amended at 73 FR 66492, Nov. 11, 2008; 76 FR 69608, Nov. 9, 2011]

Subpart B—Suitability Determinations and Actions

§ 731.201 Standard.

The standard for a suitability action defined in § 731.203 and taken against an applicant, appointee, or employee is that the action will protect the integrity or promote the efficiency of the service.

§ 731.202 Criteria for making suitability determinations.

(a) *General.* OPM, or an agency to which OPM has delegated authority, must base its suitability determination on the presence or absence of one or more of the specific factors (charges) in paragraph (b) of this section.

(b) *Specific factors.* In determining whether a person is suitable for Federal employment, only the following factors will be considered a basis for finding a person unsuitable and taking a suitability action:

(1) Misconduct or negligence in employment;

(2) Criminal or dishonest conduct;

(3) Material, intentional false statement, or deception or fraud in examination or appointment;

(4) Refusal to furnish testimony as required by § 5.4 of this chapter;

(5) Alcohol abuse, without evidence of substantial rehabilitation, of a nature and duration that 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 others;

(6) Illegal use of narcotics, drugs, or other controlled substances without evidence of substantial rehabilitation;

(7) Knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force; and

(8) Any statutory or regulatory bar which prevents the lawful employment of the person involved in the position in question.

(c) *Additional considerations.* OPM and agencies must consider any of the following additional considerations to the extent OPM or the relevant agency, in its sole discretion, deems any of them pertinent to the individual case:

(1) The nature of the position for which the person is applying or in which the person is employed;

(2) The nature and seriousness of the conduct;

(3) The circumstances surrounding the conduct;

(4) The recency of the conduct;

(5) The age of the person involved at the time of the conduct;

(6) Contributing societal conditions; and

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

(d) *Reciprocity.* An agency cannot make a new determination under this section for a person who has already been determined suitable or fit based on character or conduct unless a new investigation is required under § 731.104 or § 731.106, or no new investigation is required but the investigative record on file for the person shows conduct that is incompatible with the core duties of the relevant covered position.

[73 FR 20154, Apr. 15, 2008, as amended at 73 FR 66493, Nov. 11, 2008]