

Employment and Labor

Security Clearance

Security clearances are an increasingly important requirement for federal government employees, employees of government contractors, military personnel and even private sector employees. Security clearance guidelines and standards over the past 10 years have changed, and the number of individuals who require access to sensitive or classified information has significantly increased. In addition, the federal government has required employees who already have security clearances to upgrade their security clearance levels. The process of obtaining, retaining and upgrading a security clearance over the last several years has become more complex due to the security concerns of the United States Government. Our firm serves as security clearance lawyers for individuals encountering difficulties or questions in the security clearance process. We belong to the [Security Clearance Lawyers Association](#).

Security Clearance Application Process

All employees whose positions require access to sensitive information or restricted areas are required to complete an application form known as the [Standard Form 86 Questionnaire](#) for National Security Positions (SF-86) or Electronic Questionnaires for Investigations Processing ([e-QIP](#)). Providing information in the SF-86 or e-QIP is voluntary; however, completing the form truthfully is critical to the process of successfully obtaining a security clearance. Once a security clearance application is completed, it is generally submitted to the Defense Security Service (DSS), the individual federal agency's security clearance review office, or the Office of Personnel Management (OPM) for a review and determination.

Public Trust/Suitability Investigations

Federal employment positions often include important duties that do not require a security clearance but are sensitive in nature. For instance, included in public trust positions are certain types of federal police officers, comptrollers, and public safety and health workers. These positions are referred to as public trust positions. They are subject to background investigations, which include a National Agency Check and Inquiries (NACI) review, and potential personal interview and reference checks.

Our law firm also represents and advises individuals in the related area of suitability and public trust positions, which derive from an individual's completion of the SF-85 (Questionnaire for Non-Sensitive Positions) and SF-85P (Questionnaire for Public Trust Positions).

Security Clearance Investigations

The U.S. Government conducts [background investigations](#) and reinvestigations of individuals under consideration for a security clearance or for the retention of their security clearance in national security positions. Applying for a security clearance requires an employee to undergo a comprehensive background investigation into all aspects of his or her personal and professional

history. The investigation includes interviewing the applicant, checking state and federal criminal databases, and interviewing other persons. An employee's full cooperation with all aspects of the investigation is a requirement in order for him or her to obtain a security clearance.

If a federal employee or government contractor employee's initial application is denied, or his or her existing security clearance is revoked or suspended, he or she will be issued a [Statement of Reasons \(SOR\)](#) or will be provided a notice which outlines the reasons why the security clearance was not granted or continued. When the Defense Security Service (DSS), the individual's federal agency security office, or the Office of Personnel Management (OPM) denies an employee's security clearance, there are procedures or provisions that allow the employee or government contractor employee to appeal the decision, such as a hearing (often referred to as a personal appearance) before the employing agency or the Defense Office of Hearings and Appeals (DOHA) to adjudicate his or her security clearance matter.

Federal employees have the right to appear in person before an administrative judge in a hearing (or other clearance adjudicator) and respond to the allegations in the SOR. Following such a hearing or personal appearance, the administrative judge or adjudicator will issue a recommended decision to the federal agency's personnel security appeals board (PSAB), which will issue the final determination on the federal employee's security clearance. Government contractor employees in DoD cases have the right to a hearing before a DOHA judge. In cases involving DoD government contractors, the administrative judge will issue the initial ruling as to whether the security clearance is granted. A contractor then has a right to appeal an adverse decision to the DOHA Appeal Board.

Intelligence Agency Security Clearance Holders

Our firm represents security clearance holders and applicants before federal intelligence agencies, governed by [Intelligence Community Directive 703](#) and [Intelligence Community Policy Guidance 704.2](#) such as the National Security Agency (NSA), Central Intelligence Agency (CIA), National Reconnaissance Office (NRO), National Geospatial-Intelligence Agency (NGA), the Defense Intelligence Agency (DIA) and others.

How We Can Help

Berry & Berry, PLLC are security clearance attorneys that handle federal employee and federal contractor security clearance and public trust matters throughout the United States.

Our experienced attorneys have assisted numerous federal government employees, military personnel, and government contractors in all stages of the security clearance process by providing legal advice or representation. In addition, our attorneys are familiar with the significant differences between individuals seeking security clearances for use as federal employees and individuals seeking security clearances for use as federal government contractors (i.e., industrial security clearances under Executive Order 10865 and Department of Defense Directive 5220.6).

Our attorneys can advise employees on areas of the SF-86, e-Qip or other related security clearance documentation that require additional care and attention. Our attorneys can also provide advice or guidance in the application, interview and polygraph processes for any security clearance levels such as the following:

- Confidential, Secret or Top Secret
- Sensitive Compartmented Information (SCI)
- Special Access Programs (SAP)

If a security clearance is denied, our experienced attorneys can represent the employee through the appeal process before the DOHA, the DSS or the federal agency processing the clearance. It is important that an employee takes the appeal process very seriously as the inability to obtain, maintain or upgrade a security clearance at the appellate stages can mean the loss of his or her position.

Please [contact Berry & Berry, PLLC](#) to schedule a consultation with a security clearance attorney if you are submitting an initial security clearance application (SF-86), undergoing a background investigation, or having your security clearance denied or revoked.

Some helpful articles on our website discuss various issues within the security clearance process:

[8 Tips for the Security Clearance Process](#)

[Meeting with Security Clearance Investigators](#)

[The Importance of Properly Completing Security Clearance Forms](#)

[Polygraph Examinations for Federal Employees and Contractors](#)

[Responding to the Statement of Reasons \(SOR\)](#)

[The Whole-Person Concept for Security Clearance Cases](#)

[Seeking Information Regarding Security Clearance Incident Reports](#)

[A Summary of the Security Clearance Appeal Process](#)

[Requesting Reconsideration After a Security Clearance is Denied](#)

Also, please visit our [Security Clearance Blog](#) where we discuss current security clearance issues affecting federal employees and government contractors and security clearance specific law firm website at www.securityclearancelawyer.com

Attorneys

John V. Berry