

The Whole-Person Concept in Security Clearance Cases

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We represent federal employees and government contractors in security clearance cases. In security clearance cases, there are generally two parts to an appeal: (1) responding to the security concerns at issue (individual disqualifying and mitigating factors) and (2) overall mitigation. Overall mitigation is most often used when the security issues are true or partially true, but an individual is arguing that the concerns should not bar them from the ability to retain or obtain a security clearance. Overall mitigation is usually referred to as the Whole-Person Concept for security clearance cases. This Whole-Person Concept evaluation focuses on whether the individual, even with security concerns, is an acceptable security risk.

Under the Whole-Person Concept, an adjudicator (the government official reviewing the security clearance case) will evaluate an individual's eligibility for a security clearance by considering the "totality" of his or her conduct and all relevant circumstances. There are nine factors that are reviewed based on the Department of Defense (DoD) [Adjudicative Guidelines](#):

1. the nature, extent, and seriousness of the conduct;
2. the circumstances surrounding the conduct, to include knowledgeable participation;
3. the frequency and recency of the conduct;
4. the individual's age and maturity at the time of the conduct;
5. the extent to which participation is voluntary;
6. the presence or absence of rehabilitation and other permanent behavioral changes;
7. the motivation for the conduct;
8. the potential for pressure, coercion, exploitation, or duress; and
9. the likelihood of continuation or recurrence.

Under these Adjudicative Guidelines, the final determination of whether to grant eligibility for a security clearance is "an overall commonsense judgment" based on both the merits of the security issues and a review of the Whole-Person Concept. While only nine factors are mentioned here, other factors are also considered but not mentioned. We find that the Whole-Person Concept is often best used to describe the individual's character, positive work history and record, community involvement and other factors that help to show that the individual's record merits a commonsense judgment for keeping or retaining his or her security clearance. Many of these individualized concerns fall under [Factor 9](#).

For example, take the case of an individual who holds a Top Secret security clearance and

has been convicted of driving under the influence of alcohol. As a result, security concerns are raised and the individual's security clearance is placed at risk. In addition to addressing the issues involving the driving under the influence charge, the person would want to present evidence of good character (e.g., letters from supervisors, friends, and family), good or outstanding performance at work, and/or community/charity involvement.

Evidence of prior military or public service, accomplishments or commendations can also be helpful under the Whole-Person Concept.

Generally, we find that security clearance holders are not provided information about how to use the Whole-Person Concept to help them rebut security clearance concerns. This is why it is important for an individual to have legal counsel to assist them in responding to security clearance issues that arise. Each case is different, but in many cases an individual seeking to retain or obtain a security clearance must go through his or her positive record in life, the community and at work in order to help mitigate security issues that arise.

Contact Us

When facing security clearance issues, it is important to obtain legal representation in order to provide the best opportunity to maintain an individual's security clearance. Our law firm stands ready to represent and advise individuals on appeals issues in the security clearance process. We can be contacted at www.berrylegal.com or by telephone at (703) 668-0070.

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Practice Areas

Security Clearance