

Personal Conduct - Falsification

Note: Other aspects of the Personal Conduct adjudicative guideline are discussed under [Personal Conduct](#).

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Relevance to Security

If a subject refuses to cooperate or conceals material information, the security clearance process cannot function properly to ensure that granting access to classified information is in the best interests of national security. An individual's failure to cooperate in any element of the security clearance process, including failure to be forthcoming with complete and accurate information, may indicate unwillingness to comply with required security procedures and regulations and may raise serious questions about an individual's character, reliability, trustworthiness, and judgment.

Potentially Disqualifying Conditions

Extract from the Guideline

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities;

(b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative.

In addition to the potentially disqualifying factors listed above, the guidelines state that refusal to cooperate or to provide required information during security processing *"will normally result"* in an unfavorable clearance action or administrative termination of further processing for clearance eligibility. This is the strongest wording in the Adjudicative Guidelines. For all other adjudicative issues, the guidelines state only that the behavior "may be disqualifying."

Refusal to Cooperate During Security Processing

Persons undergoing security processing must complete a personnel security questionnaire, sign release forms that authorize other agencies or medical personnel to provide relevant information, answer fully and truthfully all lawful questions from persons authorized to ask them, and cooperate with medical and psychological examination or testing as required.

Refusal to cooperate in any element of the security clearance process suggests the possibility that the subject may be hiding relevant information. Security clearance is a privilege not a right. The 5th Amendment right to refuse to provide self-incriminating information applies only to situations where criminal proceedings may be involved. Individuals may not be compelled to answer questions during a clearance investigation, but the refusal to answer is a legitimate basis for denying a clearance in spite of assertion of 5th Amendment rights.

Individuals do have a genuine interest in the privacy protection of information they provide. The government has strong privacy regulations to protect this information, so privacy rights are not acceptable as a basis for refusing to provide information in a security clearance investigation. [1](#)

Types of refusal encountered most frequently include: refusal or failure without reasonable cause to sign and return required forms or to meet with a security investigator for a personal interview; refusal to continue the personal interview after questions are asked about a sensitive subject; refusal to authorize a mental health professional to provide information; and refusal to undergo psychological testing.

The reasons applicants cite most frequently for refusing to provide information are that the information is no one else's business or that legal counsel has advised against providing the information. In such cases, the applicant is advised of the necessity for full cooperation and the possible consequences of continued refusal. If the applicant continues to refuse, the

clearance is usually denied or processing is terminated. If the subject subsequently expresses willingness to cooperate, the case may be reopened.

Omission, Concealment, Falsification of Information

Deliberate omission, concealment, or falsification of a material fact in any written document or oral statement to the government when applying for security processing, processing for a position of responsibility, or in other official matters is a security concern. Under Title 18 of the U.S. Code, Section 1001, it is also a crime punishable by a fine up to \$10,000 and imprisonment for not more than five years, or both.

Advice of legal counsel is not an acceptable basis for refusal to provide information as long as the information requested is reasonably related to security needs and disclosure of the information is not precluded by law or regulation.¹ Advice of counsel may help mitigate the omission, however, if it is asserted in good faith and the applicant provides the information when the requirement for it is explained. If an individual continues to refuse to disclose information after being advised of the requirement to do so, processing may be terminated based on refusal to cooperate.

Some states have laws that authorize subjects whose records have been expunged or sealed to legally deny that they have been arrested or convicted when asked. At the time of expungement or sealing, these subjects may even be explicitly instructed of their rights upon being questioned about criminal records. A person who has received these instructions and then sees a question about criminal records on a security clearance form can reasonably justify having withheld the information. However, the information must be provided when the need for it is explained.

Unfortunately, lying about one's background is not unusual. Three common areas of concern are withholding or underreporting information on drug use, [withholding information on past arrests](#), and [misrepresenting educational qualifications](#). Other areas of particular adjudicative concern are failure to disclose a period of employment (in order to conceal unfavorable circumstances under which that employment was terminated), misrepresentation of the circumstances under which one left an employment that was listed on the security form, and withholding information about dual citizenship.

The deliberate omission, concealment or falsification may be disqualifying. It is "deliberate" if it is done knowingly and willfully. Omission of a past arrest or past drug use, for example, is not deliberate if the person genuinely forgot about it, inadvertently overlooked it, misunderstood the question, or thought the arrest had been expunged from the record and did not need to be reported. Based on information in the report of investigation, the adjudicator may have to judge whether such explanations are genuine or fabricated

excuses. This judgment may take into account the subject's overall record and the whole-person evaluation.

The seriousness of any omission, concealment or falsification during the security clearance process depends upon the following factors.

- **Whether the omission, concealment or falsification is relevant and "material":** It is material if it could influence the adjudicative decision. Whether or not information might influence the decision is not always clear-cut. For example, omission of a misdemeanor conviction for disorderly conduct (fight outside a bar) would not by itself cause an adverse decision. Combined with other derogatory information, however, it may well influence an adverse decision or prompt more extensive investigation.
- **Motivation for the omission, concealment or falsification:** Some individuals omit information because they genuinely believe it is not relevant, others because they fear it is relevant and may cause denial of access.
- **Whether information is omitted or a false story is fabricated:** Fabricating false information on the personnel security questionnaire is more serious than simply omitting information. If an applicant fabricates information about a college degree he or she does not really have, or a job he or she never held, the dishonesty is active, deliberate and calculated. Blatant dishonesty tells a lot about the person even if the truth would not materially affect the decision to hire that person.

Evaluation of dishonesty comes down to a whole-person judgment. Is this a basically honest, well-meaning person who may have made mistakes but has admitted them and shown signs of rehabilitation, or is it someone who is habitually skating on the edge. This is evaluated under [Personal Conduct](#).

Vulnerability to Coercion

Any omission, concealment, or falsification of material information increases an individual's vulnerability to coercion, exploitation, or pressure. A previous topic looked at the significance of the omission, concealment, or falsification. Under this topic, the adjudicator evaluates the risk of coercion, exploitation, or pressure as a consequence of the concealment or falsification.

Consider, for example, the case of a 31-year old employee of a defense contractor being processed for Top Secret clearance. The only derogatory information is that two years ago he resisted arrest by a police officer who observed him committing a homosexual act in a public place, and he failed to list this arrest on his personnel security questionnaire. This single incident, by itself, is probably not disqualifying under either Sexual Behavior or Criminal Conduct, or on the basis of falsification. The employee's sexual

orientation cannot be the basis, by itself, of any inference concerning his eligibility for a clearance. Executive Order 12968 prohibits any such inference.

In this case, the applicant's vulnerability to coercion may be the most significant issue. The arrest for resisting a police officer was reported in the newspaper, but the homosexual circumstance was not. The applicant told his wife that he was arrested for having intercourse with a female prostitute, and he told his coworkers that he was arrested for urinating in public.

The applicant is obviously ashamed of his behavior, and shame is one of the more powerful human emotions. If exposure of this homosexual incident would cause the applicant to have severe problems with his spouse or at work, he may be vulnerable to pressure or coercion by someone who learns the true story.

Vulnerability to coercion is often difficult to assess, as it depends upon circumstances such as:

- How ashamed one is of the behavior;
- The lengths to which an individual has gone to keep the behavior secret;
- The magnitude of potential loss if the behavior were exposed -- for example, loss of job, financial loss, marital stress, or other serious personal problem;
- Likelihood that anyone else might learn the truth and seek to exploit it.

Mitigating Conditions

Extract from the Guideline

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

It is not unusual for applicants, in particular, to treat the personnel security questionnaire as just one more piece of bureaucratic paperwork. They fill it out in a cavalier manner, because they do not understand its significance in the security clearance process. It is also not unusual for individuals to receive bad advice from either military recruiters trying to meet their quota or from coworker or lawyer friends trying to be "helpful." Some recruiters actually fill out the security questionnaire for the recruits to ensure that the recruit will be accepted. The following mitigating conditions in the guideline take into account the various circumstances that might result in an otherwise honest person providing incomplete information on the personnel security questionnaire.

Reference Materials

Lying About One's Background

Omitting, falsifying, and misrepresenting information to improve one's apparent qualifications or to conceal unfavorable information are common. This is one of the principal causes for denial or revocation of a security clearance. Mistakes early in life can be forgiven if one has become older and wiser, but covering up past mistakes or misrepresenting one's achievements during the security clearance process brings the record of unreliable or untrustworthy behavior up to the current time.

Failure to Report Criminal Record

According to a study of over 14,000 subjects for whom reportable arrest, charge, or conviction data were discovered in the course of DSS personnel security investigations during calendar year 2000, 38% had failed to report this criminal record on their security form. Rates of self-reporting vary significantly based on type of offense, with alcohol-related offenses the most likely to be reported and felony offenses among the least. Self-reporting was somewhat lower among military subjects compared with nonmilitary subjects. [2](#)

A large 1995 study of over 340,000 military recruits from Florida, Illinois and California found that self-admission combined with FBI checks identified about 14% as having been arrested at least once. After checking state criminal records, it was determined that 30% had been arrested at least once. In other words, more than half of those military recruits who had been arrested withheld this information during their enlistment processing and were also not detected through the NAC. They were detected through state and local records. This is a measure of the limitations of the NAC FBI check as well as the frequency with which recruits withhold information about their arrest record. (For additional information on the limitations of the NAC, see *Criminal Records Are Often Incomplete* in the [Criminal Conduct](#) module.

The same study found that recruits with a single arrest (even if not convicted) were 65% more likely than other recruits to be discharged for unsuitability before the end of their four-year enlistment. Therefore, information on a single arrest of any type is potentially useful. [3](#)

Fabricated Experience

During the course of their residency training, 236 doctors applied for five openings for an advanced training fellowship at the University of Pittsburgh School of Medicine. Two "suspicious" applications prompted a detailed study of the accuracy of all applications.

One out of five, or 20% of the applicants, lied about their research experience. Of those who listed articles published in scientific journals, 34%, or 7% of all the applicants, lied about at least some of the articles. For example, they claimed to have published articles in journals that do not exist.

Other research found that 12% of doctors who advertised in the Yellow Pages misrepresented their board certification status, which is an indicator of professional training. Of doctors applying for a job at a managed-care organization, 5% lied about their credentials. [4](#)

Falsify Drug Test

The Government Accountability Office (GAO) recently investigated the wide availability of products intended to enable users of illegal drugs to pass federal government drug tests. An Internet search on the words "pass drug test" turns up dozens of companies that advertise such products. One web site claims that "passing a urine drug test has never been easier." Another advises prospective customers that its product formulas are changed about every 6 to 9 months to stay ahead of new validity tests performed by drug testing laboratories. The masking products fall into four categories:

- Dilution substances that are added to a urine specimen at the time it is collected or are ingested before an individual submits a urine specimen.
- Cleansing substances that detoxify or cleanse the urine and are ingested prior to the time that an individual submits a urine specimen.
- Adulterants that are used to destroy or alter the chemical make-up of drugs and are added to a urine specimen at the time that it is provided for testing. About 400 different adulterant products are available.
- Synthetic or drug-free urine that is substituted in place of an individual's specimen and provided for testing.

Web sites and sales representatives recommend different types of masking products based on which drugs are used, how frequently they are used, how recently they were used, whether tests are announced or conducted randomly, and whether testing administrators closely monitor the collection of urine samples. Some web sites provide an interactive format for prospective customers to find out which products best meet their individual needs. Some web sites provide a search mechanism to identify the nearest dealer who sells the products. The prices range from \$30 to \$79 dollars per package to get through one test. The GAO investigator bought such products from a dealer in the Washington, DC, area, as well as from a number of web sites.

The GAO investigation concluded that "the sheer number of these products, and the ease with which they are marketed and distributed through the Internet, present formidable obstacles to the integrity of the drug testing process." [5](#)

Misrepresenting Educational Qualifications

When checking an individual's academic credentials, there are two issues. First, did the individual actually graduate from that school, college, or university? Second, is it an accredited post-secondary educational institution or is it a diploma mill whose degree has little or no value? Misrepresentation of education credentials takes various different forms.

- A false claim to have a degree from a legitimate school, college, or university. The subject may have actually attended the designated academic institution but failed to graduate or obtain the claimed degree. Or the subject may be using a totally fake diploma and transcript that appear to come from a legitimate college or university and may even be backed up by a telephone answering service that "confirms" the degree. Both of these are falsification issues, with one more serious than the other.
- A degree from a diploma mill that has little education value because it is based almost entirely on "life experience" and/or negligible academic work. If the organization actually exists and requires at least some academic work, listing it on the SF-86 may not be falsification. The most recent or highest degree is supposed to be listed on the security form. A diploma mill degree may be a suitability issue, however, if the subject has misrepresented his or her educational qualifications for the job.

Due to the prevalence of diploma mills, fake transcripts and diplomas that appear to come from legitimate schools, and telephone services that validate these fakes as discussed below, the *only valid verification* of educational achievement is that which comes directly from the school, college, or university. Investigators and adjudicators should not accept credentials

provided by the subject of investigation or think they can validate these credentials by calling any phone number provided by the subject of investigation.

Most established colleges and universities that grant a BA or BS degree or higher are accredited by an independent organization that inspects them and certifies that they meet appropriate educational standards. Today, however, many people's educational needs are met by some form of nontraditional educational program that often involves distance learning or self-directed learning. Most of these that provide a good education are accredited, but some are not, even though they provide a roughly comparable education. The discussion of diploma mills at the end of this section identifies clues for recognizing a diploma mill whose degree has little or no value.

The following sources can be used to determine if an academic institution has been formally accredited.

- The Department of Education web site at <http://ope.ed.gov/accreditation/Search.asp> has a list of 6,900 accredited postsecondary educational institutions. It can be searched by name of the school.
- The National Center for Educational Statistics maintains a similar site at <http://nces.ed.gov/ipeds/cool/>.
- The Council for Higher Education Accreditation web site at www.chea.org has an annual Directory of CHEA Participating and Recognized Organizations. If a school in the United States claims to be accredited by an organization not listed in this directory, it is not a legitimate school. The Directory lists addresses, phone numbers and e-mail addresses for accrediting organizations that can be contacted to check on a school's accreditation.

The book *Bears' Guide to Earning Degrees Nontraditionally* provides basic information on both accredited and nonaccredited degree programs nationwide. It may be the only available source to provide information on nonaccredited degree programs. It is updated periodically and is available from B & C Publishing, Benicia, CA.

Incomplete Education

One officer of a company that manufactures special security paper for college transcripts surveyed about 50 colleges in 1999 to find out how often employers who called colleges to verify someone's credentials discovered that they were phony. Based on this survey, he estimates that at least half a million people a year lie to employers about having graduated from or attended a college. [6](#)

Some of those making false claims may never have attended the college at all. Others may have actually completed most of the course work but never finished all requirements for the degree. *Newsweek* had a short article on "ResumeGate" that identified five senior executives of prominent corporations who were exposed during the previous year as having not earned the degrees they claimed.⁷ During the same year, the President of the United States Olympic Committee resigned after admitting she lied about her academic credentials.

Fake Diplomas and Transcripts

Internet hucksters specialize in creating fake diplomas and transcripts, including diplomas and transcripts that appear to come from well-known universities such as Harvard and the University of Southern California. The wide availability of desktop publishing, scanning technology, and color printers has made it easy for any savvy computer user to create authentic-looking transcripts, diplomas and letters of recommendation. A retired FBI officer who investigates corporate fraud identified about 20 Internet sites that offer to create fake transcripts from established colleges. Several states are considering legislation to make it illegal for people to make false claims about their academic credentials to secure a job or promotion.⁶

A currently available on the Internet at www.diplomaservices.com advertises the best fake diplomas on the Internet. A full package on sale for \$295 includes a diploma, official transcript, and deluxe black diploma presentation cover. There is a list of over 150 legitimate colleges and universities, including almost all the major state universities, for which this package is available. As a legal disclaimer, the site claims this is "intended for novelty and entertainment use only." However, this site also offers "verification services" -- a phone number that employers can call to verify date and type of degree. The verification service costs \$225 the first year and \$200 annually thereafter.

As another example, a GAO investigation of diploma mills identified an Internet site, Degrees-R-Us, which also does business as the University Services Corporation. It offers degrees in 161 majors, including military science and criminal justice. A GAO investigator purchased a "premium package" from the company for \$1,515. The package included a BA degree in biology and a MS degree in medical technology from a nonexistent institution called Lexington University, purportedly in Middletown, NY. The package included honors distinctions and access to a "student services" office that verifies the legitimacy of the degrees for potential employers over the telephone. There was no learning requirement for the investigator to obtain this package.⁸

Diploma Mills

An individual may claim an educational degree but that degree may be from a "diploma mill" -- an organization that awards bogus degrees based almost exclusively on "life experience" or substandard or negligible academic work. For example, "Columbia State University" offered a degree in business administration to persons who summarize a \$25 textbook and send in a total of about \$2,000. Diploma mills are proliferating on the Internet, seeking to exploit the growing interest in legitimate distance education programs. They are capitalizing on the publicity about distance-learning degrees to lure students into their fraudulent programs. [9](#)

When reviewing a background investigation, be alert to any education inquiry that is reported as "no record," "undeliverable," or "pending." This is a sign that the subject of investigation might have made a fraudulent claim. The following are some of the other things that may be encountered when reviewing applications or investigation forms that suggest a need for further inquiry.

- Application shows advanced degrees, but no undergraduate degree.
- One or more degrees received in a short period of time.
- Multiple degrees received in the same year at the same school.
- Application shows full-time employment and full-time college attendance at the same time, particularly if employment and college were in different locations. (There can be a legitimate explanation for this if the education was principally online.)
- The application form shows no residence shown in the area where the college is located.
- School is located in a foreign country, but the application form does not show foreign travel.
- Education claims on job application form are different from claims on the investigation form.

There are a number of red flags that indicate a so-called educational institution may be a diploma mill, and that the claimed degree has no value.[10](#) These are useful points for discussion with the subject of investigation to determine if the degree is from a diploma mill, or to check the plausibility of any claim that Subject was unaware it is a diploma mill.

Name and Location of the School

- Name is the same as or similar to a well-known college or university, but in different state.
- Operating in a state with little or no licensing laws (i.e., Hawaii, Louisiana).
- School existed for only a short time or previously existed under another name.

- School operates from a single room in a private home or office in a commercial building.
- Mail is received at a postal box or mail-forwarding service.
- Postmark and return address from different states.

Accreditation of the School

- Not accredited by a legitimate accrediting institution recognized by the U.S. Department of Education.
- Nonrecognized accrediting agency may be connected to the school.
- Instead of saying the school is accredited, uses words like pursuing accreditation, licensed, authorized, (state) approved, recognized, chartered.

Faculty and Staff of the School

- Few, if any, full-time staff.
- Wide variety of functions performed by one person.
- Faculty lacks advanced degrees from recognized college or university.
- Part-time staff used to provide instructions or academic services.
- Faculty not listed in catalog.
- Preoccupation with degree-identification (long list of degrees follow the names of officials).

Admission Policy and Cost

- Little or no selectivity in admission policy.
- Offers "finder's fee" for new students.
- Offers discounts for students who pay in cash.
- Tuition and fees are typically on a per-degree basis rather than a per-semester, quarter, or course basis.

Degree and Transcript

- Few, if any, or unspecified, degree requirements
- Offers backdated degrees.
- Pictures of the degree, transcript, and/or accreditation appear in catalog or on web site.
- Degrees can be obtained in a short time frame.
- Emphasis placed on credit for work experience and prior life experience.
- School does not verify experience or degrees claimed by student.

- Degrees/coursework not accepted by legitimate institutions.

Footnotes

1. The absence of property rights or liberty interests in a security clearance is discussed in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). The lower courts have uniformly followed *Egan*. See *Jones v. Department of the Navy*, 978 F.2d 1223, 1225 (Fed. Cir. 1992), *Dorfmont v. Brown*, 913 F. 2d 1399, 1403 (9th Cir.), cert. denied, 499 U.S. 905 (1991).
2. Buck, K.R., & Rose, A.E (2004). *Crime self-reporting study: Phase I*. (Technical Report 05-1.) Monterey, CA: Defense Personnel Security Research Center.
3. Flyer, E.S. (1995, February). *Recruits with a preservice arrest history: Identification, characteristics and behavior on active duty* (Contract No. DAAL03-91-C-0034). Report for Directorate of Accession Policy, Office of the Assistant Secretary for Defense (Force Management Policy).
4. Winslow, R. (1995, July 3). Up to 20% of doctors lied on resume for fellowship, medical school finds. *The Wall Street Journal*. The newspaper article cites a report published in the July 1995 issue of *Annals of Internal Medicine*.
5. Government Accountability Office. (2005, May). *Products to defraud drug use screening tests are widely available* (GAO-05-653T). Washington, DC: Author.
6. Foster, A.L. (2003, February 7). On the web, it's easy to earn straight A's. *The Chronicle of Higher Education*.
7. Resumegate. (2003, February 10). *Newsweek*, p. 10.
8. Government Accounting Office. (2002, November 21). *Purchases of degrees from diploma mills* (GAO-03-269R). Washington, DC: Author.
9. Guernsey, L. (1997, December). Is the Internet becoming a bonanza for diploma mills? *The Chronicle of Higher Education*.
10. Information provided by Office of Personnel Management.