

Before You Apply

Understand the DOJ Security Clearance Procedure

Security/Suitability Review

Every year many Yale Law students apply for summer and permanent positions with the Department of Justice. All legal employment, or legal volunteer experience, with the Department of Justice requires you to complete a questionnaire and undergo a suitability review and perhaps a security clearance.

The security clearance entails an evaluation of whether an individual is a security threat (e.g. is the person likely to reveal classified information to a foreign government?). The suitability review is an evaluation of a person's "character" (e.g. should an individual who violated the law by using drugs be allowed to work for an agency whose responsibility is to enforce the law?). All applicants, including volunteers and summer interns, undergo a suitability review. This entails filling out a "Standard Form" as well as submitting to FBI name and fingerprint checks, and consenting to a credit report. Paid summer interns are asked to undergo a urinalysis for drug testing, but volunteers are typically not required to undergo drug testing. Neither volunteers nor summer interns are required to have full field background investigations or undergo a security review, except if a security clearance is required for a particular position. The DOJ website at:

www.usdoj.gov/oarm/arm/hp/hpconditionsofemployment.htm also addresses these concerns.

The Standard Forms

The questionnaires, or standard forms (SF), that facilitate these reviews will be mailed to successful applicants. However, you may wish to review these questionnaires prior to applying to the DOJ to make sure that you are comfortable with the inquiry and to raise any questions you may have in a timely manner.

The questionnaires vary with the division you will be working for and the type of employment—whether volunteer or paid, summer or permanent. The shortest, and least intrusive, form is SF-85 "Questionnaire for Non-Sensitive Positions." The form most commonly required by a law student intern is the SF-85P (Questionnaire for Public Trust Positions), which is typically used for interns working in Civil, Civil Rights, Environment and Natural Resources and the Office of Solicitor General. The other forms which may be required for your specific employment at the DOJ are SF-85P-S (Supplemental Questionnaire for Selected Positions) and SF-86 (Questionnaire for National Security Positions). A chart in the CDO DOJ Security binder indicates which form is applicable for which positions.

To review the security forms, check the DOJ Security binder in CDO or go to www.opm.gov/forms. Click Standard Forms and select the applicable form.

Drugs & Bad Debt

SF-85 requests information regarding illegal drug use, supplying, possession or manufacture, in the last year. The other forms request more extensive information on illegal drug activity, possibly extending back for 7 years, and may include inquiries regarding:

- police record, including arrests, charges and convictions;
- use of alcohol resulting in treatment or counseling;
- financial records, including repossessions, liens and bankruptcy;
- foreign countries you have visited and foreign activities such as work and property ownership;
- and consultations with a mental health professional.

Although the Department of Justice generally wants law abiding citizens to work for them, they are most concerned with recent or current illegal activity. The standards regarding past misdeeds are somewhat flexible and will be determined at the discretion of DOJ reviewers on a case by case basis. However, it appears to us that any illegal drug use, within one year of application, will disqualify an applicant.

Honesty is the Best Policy

As in all of your activities seeking employment and all of your activities as a lawyer, you must answer the DOJ questionnaire honestly. In addition to the ethical implications of lying, an investigation may be conducted based on the forms, and dishonesty on the forms is a federal offense subject to fine or imprisonment, not to mention a basis for finding you unfit for DOJ employment. And remember, simply waiting a year before applying will often solve your problem since the DOJ is less concerned with past indiscretions than with your behavior in law school and the recent past.

Citizenship and Residency Requirements

Most attorney positions in the federal government require U.S. citizenship. There are very limited opportunities available for non-citizens. Dual citizens are reviewed on a case-by-case basis. Dual citizen candidates for permanent position and internships may face additional requirements, including a residency requirement and requests to relinquish foreign passports and/or renounce foreign citizenship, which may result in a longer clearance process. Candidates who lived outside of the U.S. for two or more years of the past five years may encounter difficulty being cleared. Please contact the CDO if you have questions about citizenship or residency requirements and are considering applying for federal government positions.

Assess the Issue

Please don't hesitate to discuss this matter with a CDO counselor at any time. In addition, you may anonymously contact the DOJ Office of Attorney Recruitment and Management after you have received an offer of employment and ask to speak with an attorney for advice regarding background checks (202-514-8900).

Avoiding Conflicts of Interest

Students should be mindful that in every jurisdiction the Rules of Professional Conduct, or other applicable ethical rules, impose the obligation to avoid conflicts of interest. This could arise in a clinic or internship if you are "on the other side" from your future employer in a case or transaction. Legal employers are responsible for inquiring about possible conflicts of interest, but you should consider whether your past legal work or ongoing legal work including clinics, externships, or internships may present a conflict and bring any potential issue to the attention of the hiring attorney as soon as it is feasible.

About US Attorneys' Offices

Applicants to a U.S. Attorney's Office are also applying for work with the Department of Justice and must go through the same type of suitability and security review. However, some USAOs have enacted slightly more stringent requirements by choosing a tougher SF or adding their own suitability form. The DOJ Security Form binder in CDO has some examples of this.

In addition, some students have encountered problems with the timeliness of their security clearance such that they have been prevented from starting work on time at their USAO. To avoid this unfortunate event, we suggest that you request and fill out the security form immediately upon receiving a provisional offer from the USAO. Return the form to the USAO and request, ever so politely, that they express mail it to the DOJ for review. Some of the delay problems may occur when a USAO holds the forms until all summer interns are selected and have submitted their forms. As you attempt to expedite this process, feel free to tell them that your Career Development Office suggested that you request these procedures to make sure you will be able to start on time.

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