



**DEPARTMENT OF DEFENSE
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
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Date: September 2, 2025

In the matter of:

Applicant for Security Clearance

ISCR Case No. 24-02085

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Andrea M. Corrales, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On January 14, 2025, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision – security concerns raised under Guideline E (Personal Conduct) of the National Security Adjudicative Guidelines (AG) of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On July 1, 2025, Defense Office of Hearings and Appeals Administrative Judge Mark Harvey denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Our review of the Judge’s decision confirms that he considered all relevant issues and properly applied the mitigating conditions. Consistent with the following, we affirm.

Background

Applicant is in his mid-60s and has been employed by a federal contractor for about 20 months. He is married and has three adult children.

The SOR alleged that Applicant received two corrective action memos from his employer in 2016 and in 2022 for engaging in inappropriate behaviors, resulting in the termination of his employment in 2022 (SOR ¶ 1.a). He was also terminated by a different employer in 2016 for falling asleep at a client site (SOR ¶ 1.b). The SOR also alleged three instances of intentional falsification. On his 2024 security clearance application, Applicant stated that he left his employment in 2022 by mutual agreement following allegations of misconduct, but did not disclose the two corrective actions or that he was fired as alleged in SOR ¶ 1.a (SOR ¶ 1.c). Similarly, he stated he left the 2016 job identified in SOR ¶ 1.b due to “lack of work” on that same security clearance application (SOR ¶ 1.d). The third allegation of falsification was alleged to have occurred during a personal subject interview in 2019, when Applicant stated that he did not have to attend anger management classes to an investigator (SOR ¶ 1.e). In his Answer, Applicant admitted in part and denied in part the allegations in SOR ¶¶ 1.a, 1.b, and 1.c, but denied SOR ¶¶ 1.d and 1.e. The Judge found that Applicant mitigated the allegations in SOR ¶¶ 1.b and 1.e, but that he did not mitigate the concerns alleged with respect to SOR ¶¶ 1.a, 1.c, and 1.d.

Discussion

On appeal, Applicant challenges the Judge’s findings under SOR ¶¶ 1.a and 1.e. Applicant’s appeal suggests that the Judge made factual errors in describing the events alleged in SOR ¶ 1.a. Applicant disputes that he behaved inappropriately in 2016 and 2022, despite those actions leading to corrective action memos from his employer. He asserted that employment in his state is “at will” and that his termination does not mean he acted in a “manner of risk.” However, the Judge’s findings and conclusions are supported by the corrective action memos in evidence.¹

Overall, Applicant’s brief advocates for an alternative weighing of the evidence. An applicant’s “disagreement with the Judge’s weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate that the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law.” ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007).

Applicant has failed to establish any harmful error below. The record supports a conclusion that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. “The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security.’” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” AG ¶ 2(b).

¹ With respect to Applicant’s arguments about SOR ¶ 1.e, Applicant asserts that he was “not directed to attend anger management classes” and was only evaluated by a psychologist. However, the evidence establishes that “the anger management requirement came later at the direction of HR.” Transcript at 26. Additionally, the Judge found this allegation was mitigated and it did not impact his overall adverse decision.

ORDER

The decision in ISCR Case No. 24-02085 is **AFFIRMED**.

Signed: Moira Modzelewski
Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Allison Marie
Administrative Judge
Member, Appeal Board

Signed: Jennifer Goldstein
Jennifer Goldstein
Administrative Judge
Member, Appeal Board