DEPARTMENT OF WAR
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
POST OFFICE BOX 3656
ARLINGTON, VIRGINIA 22203

Date: March 16, 2026

In the matter of:	)	
----------	)	ISCR Case No. 24-02260
Applicant for Security Clearance	)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT
Andrea M. Corrales, Esq., Deputy Chief Department Counsel

FOR APPLICANT
Martin P. Hogan, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On April 24, 2025, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline D (Sexual Behavior), Guideline E (Personal Conduct), Guideline F (Financial Considerations), and Guideline M (Use of Information Technology) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). At hearing, the Government moved to amend the SOR to withdraw the Guideline F allegations. Applicant had no objections and the motion was granted. On January 23, 2026, Defense Office of Hearings and Appeals Administrative Judge Erin C. Hogan denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Judge's Findings of Fact

Applicant, in his 50s, is an employee of a defense contractor. He has worked for numerous government contractors over the past 20 years and has worked for his current employer since January 2025. Applicant has a high school diploma and has earned numerous computer certifications. He is divorced and has three minor children.

On or about May 23, 2023, a computer threat monitoring tool used by his then-employer detected an increasing number of attempts to access inappropriate websites from Applicant's work computer, which were blocked by the company computer system's firewall. The employer opened an investigation against Applicant for time mischarging and asset misuse. The investigation looked at Applicant's recent internet and browsing logs. The search revealed that Applicant attempted to access pornographic material as far back as November 2022. In June 2023, the employer remotely connected to Applicant's laptop and discovered that Applicant intentionally performed browser searches for inappropriate photos and images. The searches coincided with the dates and times Applicant was blocked from accessing pornographic images by the company's firewall while using his work computer on approximately 70 occasions. Applicant did not access the websites for material lengths of time.

The investigation also revealed Applicant had several photographs of various women on his hard drive. All of the women were clothed. Some wore bikinis or skimpy clothing. While the photographs were not pornographic, several of the photographs would be considered inappropriate to display at work. On June 5, 2023, Applicant was interviewed by his employer's investigators. He denied intentionally searching for pornography on his work computer. The interviewers did not find him credible. The investigation concluded that Applicant misused his work computer to search and attempt to access inappropriate material. It was recommended that disciplinary action be taken against him.

On June 15, 2023, Applicant's employer terminated his employment due to violations of corporate policies regarding business ethics and conduct and the prohibited use of equipment. Applicant did not fight his termination. During the hearing, Applicant admitted to searching for inappropriate images and attempting to access pornographic websites using his work computer while working for the contractor. He knew it was wrong but did it anyway and claimed it was a severe lapse in judgment. When he searched for images, he claimed he was searching for specific things. Applicant asserted he was not attempting to access the pornographic sites for his sexual gratification.

Applicant testified that he never searched for pornography on his personal time using his personal computer. He spends time taking care of his children such as driving them to school and lives with his elderly father and spends time with him in the evenings. He claimed the last time that he looked at pornography was when he was a teenager.

Applicant told several people about his 2023 termination for searching for inappropriate images and pornography on his work computer to include his girlfriend, his father, his best friend, and his priest. He did not tell his children, his neighbors, and his co-workers about it. Applicant has not attended sexual counseling and he does not believe he has a problem with sexual deviancy.

Applicant admitted at hearing that he made a mistake in judgment. He claimed he has not searched for inappropriate images or pornography since his termination. He has moved ahead in his life and career and believes he has demonstrated over the past two and a half years that he has moved on personally and professionally.

Discussion

The Judge found adversely regarding Applicant's attempts to use his company-issued laptop to view pornography from November 2022 to May 2023 as alleged under Guideline D, Guideline E, and Guideline M (SOR ¶¶ 1.a, 2.b, and 4.a). Under Guideline E, the Judge also found that Applicant was terminated from his employment in June 2023 for violation of his employer's Business Ethics/Conduct/Prohibited Use of Equipment Policy (SOR ¶ 2.a). On appeal, Applicant challenges these adverse findings, citing errors in the Judge's disqualifying analysis, mitigation analysis, and analysis under the Whole-Person Concept.

Applicant challenges the Judge's application of disqualifying condition AG ¶ 13(d), "sexual behavior of a public nature *or* that reflects lack of discretion or judgment." (emphasis added). He argues that the record does not support a finding that Applicant attempted to view pornography in public, noting "the record is void of any evidence depicting where precisely the Applicant performed his work." Appeal Brief at 3. The Judge noted that "because it was in the workplace and subject to monitoring" his behavior "could" be seen as public in nature. Decision at 6. However, the Judge explicitly applied the second prong of AG ¶ 13(d) — that Applicant's actions reflect a lack of judgment. The Judge did not err in application of this disqualifying condition.

Moving to Applicant's arguments with respect to mitigation, Applicant argues that the Judge "miscalculated and misapplied the passage of time mitigating factor" under Guideline D, Guideline E, and Guideline M. Appeal Brief at 1-2. He criticizes the Judge's calculation that "it has been only two and a half years since his termination" and asserts that two years and seven months had passed between the termination and the hearing. Decision at 10. However, Applicant's termination letter was dated June 15, 2023, and the hearing was held on December 9, 2025. As a result, precisely two years, five months, and 24 days passed between his termination and the hearing. The Judge did not err in her approximation. Applicant also asserts that the Judge's decision is vague because it does not provide guidance on how much time must pass before security concerns would be mitigated. The Appeal Board has "declined to furnish 'bright-line' guidance regarding the concept of recency." ISCR Case No. 99-0018 at 3 (App. Bd. Apr. 11, 2000). A judge's conclusion that an applicant's termination was recent must be evaluated in light of the totality of the record. Here, the Judge's findings that Applicant's conduct was not mitigated by time under Guideline D, Guideline E, and Guideline M reflect a reasonable assessment of the record.

Next, Applicant argues that the Judge erred when she found the mitigating conditions in AG ¶¶ 14(c) and 17(e) applied but did not find the related allegations in his favor. Both AG ¶¶ 14(c) and 17(e) apply when the behavior no longer creates a vulnerability for coercion, exploitation, manipulation, or duress. The Judge's analysis identified that Applicant engaged in "extremely poor judgment." Decision at 6. Her discussion of AG ¶¶ 14 and 17 shows that, while she does not believe Applicant could be exploited or coerced with information about his past sexual behavior or personal conduct, his poor judgment remains a concern. It is well established that "the presence of some mitigating evidence does not alone compel [a judge] to make a favorable security clearance decision." ISCR Case No. 06-10320, 2007 WL 4379279 at *1 (App. Bd. Nov. 7, 2007). Additionally, Applicant notes that the Judge did not discuss his lack of vulnerability as part of her Whole-Person discussion. A judge's decision is not measured against a standard of perfection and

there is no requirement that a judge mention each and every piece of evidence in the decision. *See* DISCR Case No. 90-1596 at 5 (App. Bd. Sep. 18, 1992). Here, Applicant advocates for a different weighing of the evidence, which is insufficient to demonstrate that the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See* ISCR Case No. 04-08975 at 1 (App. Bd. Aug. 4, 2006) (citation omitted).

Finally, Applicant argues that the Judge "did not lend a fair interpretation to the Applicant's action of disclosing the Guideline D (Sexual Behavior) to his priest." Appeal Brief at 3. He asserts that the Judge should have interpreted his interaction with the priest as counseling and analyzed it under mitigating condition AG ¶ 14(e). However, "Applicant has the ultimate burden, once the Government has established a prima facie case against him, of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 2 (App. Bd. Dec. 19, 2002). Here, the record reflects only that Applicant told his priest so he could "move forward personally." Tr. at 49. When Applicant was asked if he had participated in mental health counseling for sexual deviancy problems, Applicant said no. Applicant did not meet his burden to establish evidence adequate to support a finding that he received counseling through his priest.[1]

Conclusion

Applicant has not established that the Judge's conclusions were arbitrary, capricious, or contrary to law. In the instant case, the Judge examined and weighed the relevant disqualifying and mitigating evidence, and articulated a satisfactory explanation for her adverse decisions under Guideline D, Guideline E, and Guideline M. The record is sufficient to support that the Judge's findings and conclusions are sustainable. "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] Applicant attached to his Appeal Brief a one-page letter from a licensed professional counselor associated with his diocese, which documented that the counselor met with Applicant on a weekly basis beginning February 11, 2026. The Appeal Board is prohibited from considering new evidence. Directive ¶ E3.1.29.

Order

The adverse decision in ISCR Case No. 24-02260 is **AFFIRMED**.

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

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

Signed: Allison Marie
Allison Marie
Administrative Judge
Member, Appeal Board