DEPARTMENT OF WAR
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD

Date: April 15, 2026

In the matter of:	)	
	)	
------	)	ISCR Case No. 25-00403
	)	
Applicant for Security Clearance	)	

APPEAL BOARD DECISION

APPEARANCES

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

FOR APPLICANT
Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On May 7, 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 F (Financial Considerations), Guideline H (Drug Involvement and Substance Misuse), and Guideline J (Criminal Conduct) 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). On February 20, 2026, Defense Office of Hearings and Appeals Administrative Judge Eric H. Borgstrom denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The initial SOR alleged the following security concerns: under Guideline D, two solicitations of prostitution (SOR ¶¶ 1.a – 1.b); under Guideline F, two delinquencies totaling about $83,700 (SOR ¶¶ 2.a – 2.b); under Guideline H, five instances of use and purchase of various illegal drugs in 2022 (SOR ¶¶ 3.a – 3.e); and under Guideline J, four incidents in which Applicant was charged with assault and one in which he was charged with contempt of court for violating a restraining order (SOR ¶¶ 4.a – 4.e). Additionally, the Guideline D and Guideline H security

concerns were cross-alleged under Guideline J (SOR ¶¶ 4.f – 4.g), for a total of seven Guideline J allegations. In Applicant's answer to the SOR, he admitted all allegations except the contempt of court allegation (SOR ¶ 4.e), which he admitted in part and denied in part.

In September 2025, the Government amended the SOR to add four delinquent debts (SOR ¶¶ 2.c –2.f) that totaled approximately $82,100, bringing the aggregate debt to about $165,800. In his answer to the amended SOR, Applicant admitted all four additional debts, noting potential mitigating circumstances. Prior to hearing, the Government amended the SOR to cross-allege all allegations under Guideline E (SOR ¶ 5.a). This second amendment to the SOR and related issues are the subject of Applicant's appeal and will be discussed further below.

The Judge found favorably for Applicant on all Guideline D, Guideline F, and Guideline H allegations, but he found adversely to Applicant on the Guideline J and Guideline E allegations.[1] The Government did not cross appeal the Judge's favorable findings, and they are no longer in issue in the case.

Discussion

On appeal, Applicant raises issues of due process and judicial bias arising from the Government's second amendment of the SOR. The following history is relevant to his claims. On September 17, 2025, the Government sent Applicant the evidence that it intended to submit at his hearing on the Guideline D, Guideline J, Guideline F, and Guideline H security concerns. That evidence included police reports, law enforcement investigations, and credit reports, as well as Applicant's security clearance application and his response to Government interrogatories. On November 19, 2025, Applicant received notice that his requested hearing was scheduled for December 18, 2025.

On December 15, 2025, the Government notified Applicant and the Judge via email of its intent to amend the SOR to cross-allege all existing allegations under Guideline E. The Government requested that Applicant respond by email to either admit or deny the new Guideline E allegation. Applicant did not respond to the Government's request but instead emailed the Judge on December 17, 2025, requesting a continuance for the following day's hearing "to allow . . . time to respond to counsel's late noticed SOR amendment." Hearing Exhibit III. In his response, the Judge highlighted that the proposed amendment to the SOR "merely cross-allege[d]" the existing security concerns and that consequently "there is no 'new' allegation for which you need to prepare." *Id*. As a remedy, the Judge proposed leaving the record open for 30 days post-hearing for Applicant to submit any additional exhibits and argument. By reply email, Applicant thanked the Judge for "the clarification" and stated, "I am prepared and willing to proceed with tomorrow's hearing." *Id*.

At hearing, when the Judge inquired into whether Applicant wanted to admit or to deny the new allegation, Applicant expressed some confusion as to how Guideline E applied to him, stating that he had "a question about what's actually being specified in the guideline" and that he would "admit to some of the guideline . . . but not all of it." Transcript at 10. In response, the Judge

[1] Under Guideline J, the Judge found favorably on SOR ¶ 4.c as duplicative of SOR ¶ 4.b.

explained that Applicant's case would typically be considered under AG ¶ 16(c),[2] noting that allegations under any one Guideline might not raise a security concern but scattered concerns across multiple Guidelines may, in the aggregate, raise a security concern. *Id*. at 11. Upon inquiry from the Judge, Government Counsel agreed that AG ¶ 16(c) was the applicable disqualifying condition. Following this colloquy, Applicant admitted to the Guideline E allegation. *Id*. at 12.

From this chain of events, Applicant alleges a number of errors: 1) that he was not provided sufficient time to address the new allegation; 2) that the Judge rendered improper "legal guidance for the defense" and "potentially compromise[ed] the impartiality of the adjudicative process" when he advised Applicant that there was no "new" allegation for which Applicant needed to prepare; 3) that each allegation is "distinct" and requires the Government to present witnesses and evidence; and 4) that the Judge "posed leading questions" to Government Counsel at hearing regarding its theory of the Guideline E case. Appeal Brief at 1. In summary, Applicant alleges the Judge's behavior "suggest[ed] bias, improper legal assistance, and a failure of the court to remain neutral," resulting in a failure to provide due process. *Id*. We are not persuaded.

We turn first to Applicant's allegation that he had insufficient time to prepare following the second amendment, which added the Guideline E allegation. The Directive provides that, "[w]hen such amendments are made, the Administrative Judge may grant either party's request for such additional time as the Administrative Judge may deem appropriate for further preparation or other good cause." Directive ¶ E3.1.17. The Directive does not, however, mandate a specific length of time that an applicant must be given to prepare after the SOR is amended. We have held that "[i]n the absence of a specified period, the Judge's determination regarding how much time an applicant should be given to prepare is reviewed under the abuse of discretion standard." WHS-C Case No. 23-00307-R at 7 (App. Bd. Aug. 15, 2023). In this case, we find no reason to conclude the Judge abused his discretion.

We note that Applicant was provided all substantive evidence in the case in mid-September 2025, three months prior to the hearing. Applicant is a highly educated graduate of a service academy who attained elite qualifications that required rigorous academic training and technical expertise. We are confident that Applicant had sufficient time and resources prior to hearing to understand the application of Guideline E to the conduct previously alleged under Guideline D, Guideline H, Guideline J, and Guideline F. Moreover, Applicant affirmatively stated on December 17, 2025, his willingness to proceed to hearing after the Judge proposed as a remedy for the short notice that he leave the record upon for an additional 30 days. Indeed, Applicant took advantage of the Judge's remedy and submitted an additional 25 exhibits post-hearing. Regarding the assertion that the Government was required to present witnesses and evidence on all the "distinct allegations," we note that Applicant admitted all 21 allegations, with one minor caveat, obviating the need for the Government to prove the conduct. Moreover, our review of the record confirms that the Government's evidence supports the allegations.

[2] AG ¶ 16(c): credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information.

We turn next to Applicant's argument that the Judge was less than impartial, in that he provided "legal guidance" to Applicant in their email exchange and "posed leading questions" to the Government at hearing. There is a rebuttable presumption that administrative judges are impartial and unbiased, and a party seeking to overcome that presumption has a heavy burden of persuasion. *See* ISCR Case No. 99-0710 at 3 (App. Bd. Mar. 19, 2001) (citations omitted). The issue is not whether the appealing party personally believes that the judge was biased or prejudiced but instead whether the record contains any indication that the judge acted in a manner that would lead a reasonable person to question the judge's fairness or impartiality. *Id*. Having examined the email exchange and the transcript, we find no such indication. Specifically, and contrary to Applicant's argument, nothing in the Judge's explanation to Applicant of the applicability of AG ¶ 16(c) suggests that the Judge was somehow providing guidance to the Government on its best theory of the case. Applicant's argument that he was denied the due process provided by the Directive is without merit.

Applicant has failed to establish error. Our review of the record confirms that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, which 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.'" *Dep't 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).

Order

The decision in ISCR Case No. 25-00403 is **AFFIRMED**.

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

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

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