



**DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD**



Date: May 18, 2026

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In the matter of:)
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Applicant for Security Clearance)
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ISCR Case No. 25-00464

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 June 27, 2025, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised Guideline F (Financial Considerations) 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 March 23, 2026, Defense Office of Hearings and Appeals Administrative Judge Mark Havey denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Findings of Fact / Background

Applicant is in his mid-40s and works as an independent contractor for a government contracting firm. He is a high school graduate, and he has about three semesters of college credit. He married in 2001 and divorced in 2005. In 2006, he married his current spouse, and he has three children, two of whom are minors. Applicant and his spouse have not had any periods of unemployment in the last eight years. Applicant’s current gross annual salary is about \$239,000, and his spouse’s current gross annual salary is about \$170,000.

Applicant's youngest two children are autistic, with one who has been in and out of mental institutions for approximately 24 to 36 months for self-harm and suicidal ideations. He and his spouse focused all of their resources toward their child's medical care. Applicant also moved to a different state to care for parents. His family's medical problems have abated in the last year or so, and their family situation is stable.

The SOR alleged that Applicant failed to timely file his federal income tax returns for tax years 2012, 2013, 2020, and 2023; and that he failed to timely file his state income tax return for tax year 2023. Additionally, Applicant was alleged to be indebted to the federal government for about \$9,500 for tax year 2016; \$9,900 for tax year 2022; and \$8,000 for tax year 2024. In response to the SOR, Applicant admitted that his federal income tax returns for tax years 2020 and 2023 remained delinquent but claimed that he filed federal income tax returns for 2012 and 2013. He also admitted failing to file his 2023 state income tax return and failing to pay his delinquent federal taxes as alleged. The Judge found against Applicant on all allegations.

Applicant testified that the COVID-19 pandemic disrupted his communications with the Internal Revenue Service (IRS). At the time of his hearing, he claimed he faxed his 2020 and 2023 federal tax returns to the IRS in August 2025, but that they were not yet processed. He testified that he did not have an installment agreement with the IRS because he was ineligible for one until all tax returns were filed. The IRS estimated that he owed about \$28,000 in delinquent federal income taxes for tax years 2016, 2022, and 2024. The Judge credited Applicant with filing his federal income tax returns for 2020 and 2023 and noted that Applicant claimed his state income tax return for tax year 2023 would be filed soon.

Discussion

A judge's decision can be arbitrary or capricious if: it does not examine relevant evidence; it fails to articulate a satisfactory explanation for its conclusions, including a rational connection between the facts found and the choice made; it does not consider relevant factors; it reflects a clear error of judgment; it fails to consider an important aspect of the case; it offers an explanation for the decision that runs contrary to the record evidence; or it is so implausible that it cannot be ascribed to a mere difference of opinion. *See* ISCR Case No. 95-0600, 1996 WL 480993 at *3 (App. Bd. May 16, 1996) (citing *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983)). However, "[a]n analysis that merely is considered inadequate in the eyes of a party does not equate to an analysis that is arbitrary and capricious." ISCR Case No. 23-01559 at 2 (App. Bd. Sep. 16, 2024). "Unless a judge's weighing of the record evidence is patently absurd, clearly illogical, or obviously unreasonable, the appealing party must present a cogent reason or argument as to how or why the judge's weighing of the record evidence is arbitrary, capricious, or contrary to law." ISCR Case No. 03-05072 at 4 (App. Bd. Jul. 14, 2005).

On appeal, Applicant argues that the Judge misapplied AG ¶¶ 20(b), 20(d), and 20(g). Appeal Brief at 1-2. He also claims that the Judge erred in using unalleged conduct in his mitigation analysis and erred in his application of the Whole-Person Concept. For the following reasons, we affirm the Judge's decision.

Applicant asserts the Judge erred in finding that the evidence did not establish full mitigation under AG ¶ 20(b) because his failure to file and pay his federal taxes was beyond his

control, and he acted responsibly under the circumstances. While the Judge noted that Applicant had “some circumstances partially or fully beyond his control,” he found that Applicant “did not present sufficient evidence that he acted responsibly under the circumstances with respect to the financial issues in the SOR because he did not establish his inability to make more progress sooner to file and pay his taxes.” Decision at 8. Applicant cites his continuous employment for eight years, his high income supporting extraordinary medical needs, active efforts to file returns and resolve IRS issues, and past compliance with prior IRS payment plans as evidence that he acted responsibly under the circumstances. Appeal Brief at 2-3. He also challenges the Judge’s reliance on his household income level in determining AG ¶ 20(b) did not apply because it did not account for extraordinary expenses and speculates as to Applicant’s discretionary income.

We agree with the Judge’s analysis that Applicant failed to establish he acted responsibly with respect to both his federal tax obligations and his unfiled 2023 state tax return. While the Judge recognized Applicant’s extraordinary emotional and financial costs related to his children’s medical conditions, IRS documentation and testimony at hearing establish that Applicant’s history from 2012 to the close of the record was one of irresponsibility when filing federal returns and paying his federal taxes. As we have held in the past, it is not arbitrary or capricious for the Judge to consider whether Applicant made “timely, reasonable efforts” to address the financial problems that resulted from conditions beyond his control. ISCR Case No. 99-0012 at 3 (App. Bd. Dec. 1, 1999). Additionally, Applicant’s annual income is an appropriate factor in that calculation. Despite Applicant’s assertions, there was little evidence to support a finding that he made timely efforts to file his delinquent federal or state returns and resolve his debts to the IRS.

Next, Applicant challenges the Judge’s application of AG ¶¶ 20(d) and 20(g). Applicant asserts that he made a good-faith effort to resolve his federal tax delinquencies but that those efforts were frustrated by administrative delays beyond his control. For AG ¶¶ 20(d) to apply, we have held that an applicant must show that he has acted in a way evidencing “reasonableness, prudence, honesty, and adherence to duty or obligation.” ISCR Case No. 99-0201 at 3 (App. Bd. Oct. 12, 1999). Here Applicant contends that he is effectively being penaliz[ed] for IRS administrative delays” without accepting responsibility for his own role in his failure to file his federal tax returns and state tax return as required. Appeal Brief at 2. Moreover, Applicant believes he should be credited with making “arrangements” to file or pay his federal taxes under AG ¶ 20(g), because of the IRS delays in accepting his delinquent 2020 and 2023 federal income tax return filings, which he claims was required before a payment plan can be established. The fact that an applicant has purportedly attempted to correct “his federal tax problem, and the fact that he is now motivated to prevent such problems in the future, does not preclude careful consideration of Applicant’s security worthiness based on longstanding prior behavior evidencing irresponsibility.” ISCR Case No. 12-05053 at 4-5 (App. Bd. Oct. 30, 2014). Applicant failed to establish error.

Finally, Applicant challenges the Judge’s consideration of unalleged conduct in his mitigation analysis and the Judge’s Whole-Person analysis. Appeal Brief at 3. However, it is well established that a Judge may consider non-alleged matters for certain limited purposes, such as: (a) in assessing an applicant’s credibility; (b) in evaluating an applicant’s evidence of extenuation, mitigation, or changed circumstances; (c) in considering whether the applicant has demonstrated successful rehabilitation; and (d) in applying the Whole-Person Concept. ISCR Case No. 15-07369 at 3 (App. Bd. Aug. 16, 2017). In this case, the Judge considered the totality of the evidence in reaching his decision. We find no error in his mitigation and Whole-Person analyses.

The rest of Applicant's arguments amount to a disagreement with the Judge's weighing of the evidence. A "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).

Conclusion

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).

Order

The decision in ISCR Case No. 25-00464 is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Jennifer Goldstein

Jennifer Goldstein
Administrative Judge
Member, Appeal Board

Signed: Allison Marie

Allison Marie
Administrative Judge
Member, Appeal Board