



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



Date: May 6, 2026

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In the matter of: )  
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Applicant for Security Clearance )  
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ISCR Case No. 25-00554

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

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

**FOR APPLICANT**

Samir Nakhleh, Esq.

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 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 April 1, 2026, 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.

**Discussion**

The SOR alleged that Applicant failed to timely file his federal income tax returns for tax years 2020 and 2021; failed to timely file his state income tax returns for tax years 2022 and 2023; and was indebted to the Federal government for tax years 2022 through 2024 in the total amount of about \$19,000. At the time the record closed, the Judge noted that Applicant had not provided documentation proving he filed his overdue tax returns but assumed that “all required tax returns were filed by October of 2025 as he stated at his hearing, and he continued with an installment agreement he had in mid-2025.” Decision at 9. However, the Judge resolved all allegations against

Applicant based upon Applicant's longstanding irresponsibility toward his Federal and state income tax obligations. The Judge explained that he recognized that while Applicant made important progress in filing his delinquent tax returns and established a payment plan on his Federal tax debt, Applicant offered insufficient explanations as to why he was "unable to make greater progress sooner in the filing of his overdue tax returns, establishing IRS installment payment plans, and paying his delinquent [Federal tax] debt." *Id.*

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).

Here, Applicant advocates for an alternative weighing of the record evidence under the applicable disqualifying conditions, mitigating conditions, and the Whole-Person Concept but fails to demonstrate error. For example, he argues that the Judge erroneously discounted AG ¶ 20(g)<sup>1</sup> by failing to afford full mitigation to Applicant having "entered into a formal IRS installment agreement and complied with that agreement through consistent payments." Appeal Brief at 3. This argument is unpersuasive, as we have long held that the presence of some mitigating evidence does not compel a favorable security clearance decision. *See* ISCR Case No. 04-08975, 2006 WL 2725032 at \*1 (App. Bd. Aug. 4, 2006). Rather, the judge must weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable, or *vice versa*. *Id.*

As the Judge correctly and thoroughly addressed, an applicant having resolved their tax filing or payment delinquencies does not obligate the judge to find favorably regarding the concerns themselves or to enter a favorable formal finding. *See* Decision at 7-9. Here, the Judge identified Applicant's resolution efforts but ultimately – and sustainably – concluded that those "positive measures are insufficient to fully mitigate SOR ¶¶ 1.a through 1.e because several of his tax returns were filed late, and he did not provide a good reason for failing to timely file his tax returns." *Id.* at 9. 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).

Additionally, Applicant argues that he took material corrective actions beginning around September 2024 and has continued to address his debt through monthly payments to date. In doing

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<sup>1</sup> AG ¶ 20(g): the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

so, Applicant presented new documentation updating his resolution efforts. The Appeal Board does not review cases *de novo* and is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

**Order**

The decision in ISCR Case No. 25-00554 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