



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



Date: June 4, 2026

In the matter of:

Applicant for Security Clearance

ISCR Case No. 24-01777

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

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

FOR APPLICANT

Dan Meyer, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On November 26, 2024, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal 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 April 6, 2026, Defense Office of Hearings and Appeals Administrative Judge Ross D. Hyams denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Under Guideline F, the SOR alleged six delinquent debts totaling approximately \$26,000. Under Guideline E, the SOR alleged that Applicant falsified both his security clearance application (SCA) and his security clearance interview by providing false facts about an arrest in 2015. Applicant admitted all Guideline F allegations and denied both Guideline E allegations. The Judge found adversely on all allegations.

Background

Applicant is in his late twenties and single, with one minor child. He earned his GED in 2023 and has worked for a defense contractor for the past two and a half years.

The Guideline E allegations arise from Applicant's arrest in 2015 for felony theft of an all-terrain vehicle (ATV). In his 2023 SCA, Applicant disclosed the arrest and provided the following description of the incident: "[M]e and my buddie pulled pranks on each other all the time [sic] I hid his four-wheeler as a prank and his dad pressed charges on me and I got charged with theft by takeing [sic] and I got put on pre-trial diversion." Government Exhibit (GE) 1 at 24. In his subsequent background interview, Applicant reiterated that version of events, stating: that he and his friend, AM, played pranks on each other; that AM had hidden Applicant's car earlier in the day; that Applicant went to AM's home, took his ATV, and hid it in the woods; and that AM's father called the police and pressed charges against Applicant even though Applicant and AM explained that it was a prank. GE 2 at 5. The Government alleged that these two reports of the incident were false (SOR ¶¶ 1.a and 1.b).

At hearing, Applicant offered a slightly different explanation of this event, explaining that another one of his friends wanted to take an ATV belonging to a classmate as a prank "[j]ust to mess with him;" that Applicant did not know the classmate from whom they took the ATV; that they intended to give it back; and that the father of the victim called the police and reported it stolen. Transcript (Tr.) at 39–40.

In his decision, the Judge reviewed the police report concerning the incident and found that "[t]he details in the police record show that Applicant and his friends took steps to steal the ATV and then hid it, so they could recover the stolen item later." Decision at 2. He noted that "[t]he court did not treat the ATV theft as a prank" and that Applicant was required to complete one year of probation and 100 hours of community service in a pretrial diversion program. *Id.* In his mitigation analysis, the Judge concluded that Applicant materially falsified the information in his SCA and background interview. He noted that, while Applicant's criminal behavior is old and isolated, "the lies about the incident are recent and cast doubt on his reliability, trustworthiness and judgment." *Id.* at 2, 6.

Regarding the Guideline F allegations, the Judge found that all six debts were unresolved and that no mitigating conditions applied.

Discussion

Previously *pro se*, Applicant is now represented by counsel, who asserts several errors, to include: that the Judge erred in his findings of fact; that the Government failed to carry its burden of proof on the Guideline F allegations; and that, "in a clear failure of due process," the Judge failed to give Applicant the opportunity to make closing argument. Appeal Brief at 9–11. For the reasons detailed below, we affirm the Judge's decision.

Errors in Findings of Fact

On appeal, Applicant's counsel asserts that the Judge erred in his findings of fact, making "several factual determinations which were wholly inaccurate and are not supported by the

record.” *Id.* at 9. Counsel states that “[t]hese errors are delineated at [F], *infra.*” *Id.* They are not. Paragraph [F] argues for a different weighing of the evidence but identifies no factual errors. Moreover, our review of the 87-page brief reveals no discussion elsewhere of erroneous findings. A fundamental requirement of the Directive is that the “appeal brief must state the specific issue or issues being raised and cite specific portions of the case record supporting any alleged error.” Directive ¶ E3.1.30. This first assignment of error fails to meet the minimum requirement for our review, and we decline to consider it further.

Burden of Proof on Guideline F Allegations

Applicant’s counsel challenges whether the Government met its burden of proof on the Guideline F allegations, as Government counsel did “not offer proof of the lack of ‘good faith’ in addressing those financial [debts] over a number of years.” Appeal Brief at 9. Applicant admitted the Guideline F allegations, obviating the need for the Government to produce any evidence. The burden then shifted to Applicant to prove mitigation. It did not fall on the Government to disprove mitigation, as counsel is apparently arguing. This assignment of error is wholly without merit.

Due Process

Counsel alleges that “in a clear failure of due process leading to harmful error, the Administrative Judge asked [Applicant] if he had a closing statement, and Department Counsel cut [Applicant] off, preventing him from completing his hearing as the Judge failed to give him the opportunity to close.” *Id.* at 11. Although it is not a model of clarity, the transcript does not support this assertion. The hearing was conducted by video teleconference rather than in person, which appears to have contributed to some confusion at hearing and in the transcript. The transcript reflects that the Judge asked Government counsel if she had a closing statement, and Applicant instead responded, “No, sir. I do not.” Tr. at 56. The Judge again asked Government counsel if she had a closing statement, and she presented one. *Id.* at 56–59. The Judge then asked Applicant if he had a closing statement. The transcript reflects that, after some inaudible response, Government counsel responded, “No, sir.” *Id.* at 59. It is not entirely clear if the transcript is simply wrong, and Applicant responded, “No, sir” rather than Government counsel. What **is** clear, however, is that Applicant affirmatively declined to offer a closing statement prior to Government counsel making hers. *Id.* at 56. Although *pro se* applicants cannot be expected to act like lawyers, they are expected to take timely, reasonable steps to protect their rights and interests under the Directive. *E.g.*, ISCR Case No. 00-0593 at 3 (App. Bd. May 14, 2001). In summary, we are convinced following our review of the transcript that Applicant received all process due under the Directive.

Judge’s Failure to Understand Context

Counsel for Applicant makes a novel argument that is best captured by quoting in its entirety: “The [Judge’s] analysis at Page 2 fails to understand the rural sociology framing the incident, an incident in which youthful exuberance for pranks is disciplined by a father’s actions; this cultural exchange was resolve [sic] through pretrial diversion, and Federal decision-making should honor this cultural anomaly distant from the Beltway.” Appeal Brief at 10-11. While we appreciate the freshness of this argument, we are nevertheless unpersuaded. This “cultural exchange” was a felony offense, regardless of whether it took place inside the Beltway or in

Applicant's hometown. Moreover, both the SOR and the Judge's decision focused not on the old criminal conduct but on Applicant's recent falsifications about that conduct.

Hearing-Level Decisions

In his brief, Applicant's counsel cites to and summarizes 97 hearing-level decisions in prior Guideline E and Guideline F cases, both from this agency and others. Appeal Brief at 25–80. Counsel's reliance on hearing-level decisions is misplaced because each case must be judged on its own merits. AG ¶ 2(b). As the Board has frequently stated, how particular facts scenarios were decided at the hearing level in other cases is generally not a relevant consideration in our review of a case. Only in rare situations—such as separate cases involving spouses, cohabitants, or partners in which the debts and the financial circumstances surrounding them are the same—would the adjudication outcome in another case have any meaningful relevance in our review of a case. The 97 hearing-level decisions that Applicant's counsel recites have no direct relationship or unique link to Applicant's case that would make them relevant here.

Conclusion

Applicant's arguments on appeal fail to demonstrate error in the Judge's application of the mitigating conditions or Whole-Person Concept. The Judge acted properly by weighing the record evidence and his conclusion that Applicant failed to mitigate the Guideline E and Guideline F security concerns was reasonable based on that weighing. Applicant's ability to argue for a more favorable weighing of the record evidence is not sufficient to demonstrate that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See* ISCR Case No. 96-0376 at 2-3 (App. Bd. Mar. 6, 1997) (citing *Am. Textile Mfrs. Inst. v. Donovan*, 452 U.S. 490, 523 (1981)).

Applicant has not established that the Judge's conclusions were arbitrary, capricious, or contrary to law. The Judge weighed the disqualifying and mitigating evidence and articulated a satisfactory explanation for the decision, which is sustainable on the record. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Dept. of 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. 24-01777 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