



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of: )  
)  
) ISCR Case No. 18-00902  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Nicole A. Smith, Esq., Department Counsel  
For Applicant: *Pro se*

02/06/2019

**Decision**

MURPHY, Braden M., Administrative Judge:

Applicant did not provide sufficient evidence to mitigate the personal conduct security concerns about her suitability to hold a security clearance, which relate to academic sanctions during college for plagiarism, various false claims in her personal life, and multiple falsifications on a security clearance application. Applicant’s eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted security clearance applications (SCA) in September 2015 and May 2017, in connection with her employment in the defense industry. On May 4, 2018, following a background investigation, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E, personal conduct. The DOD CAF took this action under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as

amended (Directive); and the Security Executive Agent Directive (SEAD) 4, *National Security Adjudicative Guidelines*, effective within the DOD on June 8, 2017.

Applicant answered the SOR on June 4, 2018, and requested a determination on the administrative (written) record, in lieu of a hearing. On July 10, 2018, Department Counsel submitted the Government's file of relevant material (FORM), including documents identified as Items 1 through 5, and provided a copy to Applicant. She was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation. Applicant received the FORM on July 18, 2018. Her FORM Response is dated the same day. She did not object to the Government's evidence.<sup>1</sup> The SOR and the Answer (Items 1 and 2) are the pleadings in the case. Items 3 through 5 are admitted into evidence without objection. The Government did not object to Applicant's FORM Response, and it is also admitted. The case was assigned to me on September 13, 2018.

### **Findings of Fact**

In her answer, Applicant admitted all the allegations (SOR ¶¶ 1.a – 1.i), with a lengthy narrative statement. Her admissions and statements are incorporated into the findings of fact. After a thorough and careful review of the pleadings and the evidence submitted, I make the following additional findings of fact.

Applicant is 28 years old. She has never married, and has no children. She graduated from high school in 2008. She attended community college from August 2008 to December 2011, earning an associate's degree. She earned a bachelor's degree in May 2016. (Item 5 at 8-10)

At the time Applicant submitted her SCAs, she was employed in the clerk's office of a county court system. By the time she received the SOR, she was employed by her clearance sponsor,<sup>2</sup> though it is not clear how long she has worked there. The evidence indicates that she works as a background investigator.<sup>3</sup>

From April 2012 to January 2013, Applicant worked as an assistant in a laboratory. She performed clerical duties such as labelling, logging in lab samples, and documenting chain of custody information. She was counseled and retrained after she made mistakes. Her performance improved, but after a period of time she "got comfortable" and started making the same mistakes. As a result, she was terminated in January 2013. The termination is not alleged in the SOR, but she failed to disclose either the job or the termination on her 2015 SCA, as noted below.

---

<sup>1</sup> In her FORM Response, Applicant objected to certain arguments made by Department Counsel in the Government's FORM. I do not read her comments as constituting "objections" to the admissibility of any of the Government's proposed evidence. Applicant also clarified certain statements in her background interview.

<sup>2</sup> Applicant's work e-mail address, which she provided on her SOR receipt, names her clearance sponsor.

<sup>3</sup> Item 2 at 4; Item 4 (p. 8 of July 2017 interview summary)

In 2012, while in college, Applicant plagiarized a term paper, half of which she lifted from a Wikipedia web page without citing to it. When her actions came to light, she had a telephonic hearing before the university's honor council and admitted what she did. She received an "F" in the class and was placed on academic probation until December 2013. (SOR ¶ 1.e)

In December 2013, while taking an online class as a senior, Applicant plagiarized another assignment, again due to insufficient source citations. This led to another honor council hearing, which she did not attend. In about February 2014, shortly before she was to graduate, Applicant was notified by letter that she received an "F" in the class, and that she was suspended from the university until fall 2015. (SOR ¶ 1.f) She went to the graduation ceremony in February 2014, but was not awarded a diploma at the time. (Item 5 at 10)

Applicant submitted her first SCA in September 2015. (Item 3) When asked if she received a degree or diploma, she answered, "Yes," and also falsely stated that she received a bachelor's degree in January 2014. (Item 3 at 10) (SOR ¶ 1.g) In detailing her employment, Applicant failed to disclose either her job at the laboratory, or the fact that she had been terminated from the position. (Item 3 at 10-13) (SOR ¶¶ 1.h, 1.i)

Applicant had a background interview in September 2015, ten days after she submitted her SCA. In discussing her education, she was asked if she received a degree or diploma. She said she did not. When asked why she answered "Yes" to that question on her SCA, she said she "meant to put no." She was then asked why, if that was what she meant, she also reported receiving a specific degree on a specific date. Applicant then said she was not aware until the interview that the investigating agent would go to the college registrar's office to verify her academic credentials.<sup>4</sup>

When Applicant was asked for further details, she reported learning from the university shortly before graduation (in February 2014) that she had been suspended due to an allegation of plagiarism, and that the university would not be awarding her a degree. Applicant said she attended the graduation ceremony anyway, and did not inform her family that she had been suspended. Applicant denied in her September 2015 background interview that she had committed plagiarism.<sup>5</sup>

Applicant had a second background interview in November 2015. She began the interview by detailing (and for the first time, acknowledging) her plagiarism during her senior year in college. She denied any other incidents of plagiarism. Applicant was then confronted with evidence of her earlier act of plagiarism, in 2012. When asked why she did not disclose it, she said she thought the initial interviewing agent would find out about it; she had never told anyone about it; and she was reluctant to discuss it in either of her background interviews. She said that no one knew about that incident, or that she did not earn a degree. She did not tell her parents because they already had a strained

---

<sup>4</sup> Item 4 (p. 2 of September 2015 interview)

<sup>5</sup> Item 4 (p. 2-3 of September 2015 interview)

relationship due to strong cultural differences, and she had to struggle to get her parents to allow her to attend college outside the home.<sup>6</sup> Applicant said her intention was to continue letting people think she had earned a college degree, because it was easier to do that than to tell everyone the truth.<sup>7</sup>

Under questioning from the investigator, Applicant then disclosed her employment at the laboratory, and the fact that she had been terminated. She said she did not want to disclose that information because she did not want the investigators to know about it, and because she thought it would be used against her and cause her to be denied a clearance.<sup>8</sup>

SOR allegations ¶¶ 1.a – 1.d all concern false information Applicant publicized about herself, either through online social media or otherwise to her friends, in an attempt to present or create an “alternate life,” and thus to lead people to believe her life was more interesting and exciting than it was. Though she admitted the allegations, the record evidence does not contain the social media excerpts themselves.

In about March 2013, Applicant went to watch a visiting professional hockey team practice at a local ice rink. While there, she had her picture taken with one of the visiting team’s players. She then posted the picture online, and said the player was her “boyfriend.” She also allowed her friends to think that they were “dating” and that she went to Canada to visit him. In fact, she met the player only once, on that occasion. She never corrected her friends when they made assumptions about their “relationship,” none of which were true. (SOR ¶ 1.c)

In 2014, Applicant “followed” a U.S. Olympic athlete online, and read the athlete’s online reports about the athlete’s experiences at the 2014 Winter Olympics in Sochi, Russia. Applicant also posted some of the athlete’s photos on her own social media accounts, passing them off as her own. Applicant also told friends that she went to the Olympics herself, and stayed at the Olympic Village. None of this was true. (SOR ¶¶ 1.a, 1.b)<sup>9</sup>

Applicant indicated in her Answer that she discontinued her initial clearance investigation and sought to “get myself and my life in order before trying again.” (Answer at 4) She submitted a second SCA in May 2017. (Item 4)

---

<sup>6</sup> Item 4 (pp. 1-2 of November 2015 interview).

<sup>7</sup> Item 4 (p. 2 of November 2015 interview). This incident is not specifically alleged in the SOR. Thus, I will not consider it as disqualifying conduct.

<sup>8</sup> Item 4 (p. 3 of November 2015 interview).

<sup>9</sup> These embellishments came to light during Applicant’s November 2015 background interview, when she was asked to explain apparent foreign contacts (the “boyfriend” in Canada) and apparent foreign travel (to Canada and Russia) that she did not report on her SCA (because, as she explained, they were fictitious). (Item 4 at pp. 3-4 of November 2015 interview).

In detailing her education on her second SCA, Applicant stated that she was placed on academic probation for plagiarism in 2011 [actually, 2012]; was suspended in January 2013 for improper source citation; “walked at graduation before [the] decision was made;” was allowed to reenroll in fall 2015, retook a course, got an “A” and graduated in May 2016 with a bachelor’s degree. She said she “never disclosed my suspension to anyone.” (Item 5 at 10) She also disclosed her job at the lab, and the fact that she was fired in 2013 for “clerical errors when processing chain of custody samples.” She also disclosed her earlier warning about her performance in that job. (Item 5 at 14-16) She discussed and confirmed her information in a July 2017 background interview, which did not reveal any additional discrepancies. (Item 4)

Applicant explained that she lied to her friends about her life and posted false information on social media as a form of escapism. She said she was struggling to break free from, and rebel against, her conservative upbringing at home, particularly her overbearing father. She was also trying to find a job and dealing with her mother’s illness and her father’s loss of employment, which led to increased stress at home. (Answer; FORM Response)

Applicant accepted responsibility for her acts of plagiarism in college, and for her falsifications on her 2015 SCA. She acknowledged making several “huge” errors in judgment, both in how she filled out her SCA, and in how she held herself out to others. She said she “left out these details out of fear and embarrassment that I wouldn’t get a clearance and just pure ignorance of how the investigation process worked. I thought my security form was like a résumé and it needed to look good.” (Answer)

Applicant asserted in her Answer and her FORM Response that she has matured, and now has a greater understanding of the need for honesty and candor. She said she has significantly curtailed her social media activity. She said her relationship with her father has improved. She said she loves her job as a background investigator, and strives to work with the greatest integrity. She asserts that she has “never once falsified any reports [or] mishandled sensitive information,” and now knows when and how to ask for help from her supervisor. She believes she has made the necessary changes to show that she is more reliable and responsible, and is worthy of being granted a clearance. (Answer; FORM Response)

Applicant did not indicate that she has been through any form of psychological counseling or therapy to help her change or understand her prior behavior. She also did not indicate that she has told her family about any of her academic misconduct or the resulting sanctions she received from the university. While Applicant asserts that she has curtailed her social media activity, she did not indicate that she has corrected or deleted any of the false information on her social media accounts, or that she has actively sought to disabuse her friends from their prior false perceptions about her life, be it her hockey player “boyfriend,” her “trip to the Olympics,” or other online falsehoods and embellishments that she previously publicized and allowed people to believe.

## Policies

It is well established that no one has a right to a security clearance. As the Supreme Court noted in *Department of the Navy v. Egan*, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.”<sup>10</sup>

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

---

<sup>10</sup> *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988).

## Analysis

### Guideline E, Personal Conduct

AG ¶ 15 expresses the security concern for personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . . .

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations . . . determine national security eligibility or trustworthiness, or award fiduciary responsibilities;

(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;

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, 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. This includes, but is not limited to, consideration of: . . .

(3) a pattern of dishonesty or rule violations; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:

(1) engaging in activities which, if known, could affect the person's personal, professional, or community standing.

Applicant has a troubling history of falsifications and of publicizing false information about herself in her personal and professional life, online and otherwise. She committed plagiarism during college in 2012, leading to an honor code violation, a failing grade, and placement on academic probation. She committed plagiarism again in December 2013, shortly after her probation term ended. She was suspended from school for two years and prevented from graduating in February 2014. SOR ¶¶ 1.e and 1.f satisfy AG ¶¶ 16(c) and 16(d)(3), as well as the “general concern” in AG ¶ 15.

Applicant also did not disclose her academic problems to her parents, nor did she disclose to them that she had been suspended from school, and therefore did not graduate in February 2014 (even though she attended and participated in the graduation ceremony). She acknowledged that she kept that information from them out of shame, embarrassment, and out of fear of how they would react. AG ¶ 16(e)(1) therefore applies to SOR ¶¶ 1.e and 1.f.

When Applicant prepared her first SCA, in September 2015, she falsely reported that she had earned a degree in February 2014. She also failed to report one of her jobs, and the fact that she was terminated from the position. These falsifications, alleged at SOR ¶¶ 1.g, 1.h, and 1.i, all of which Applicant admitted, satisfy AG ¶ 16(a).

The remaining allegations concern false information Applicant publicized about herself, online and otherwise, in an attempt to create an “alternate life” for herself, or at least to make her life appear more interesting and exciting, during 2013 and 2014. She posted an online picture of herself with a professional hockey player, and wrote online that he was her “boyfriend.” She allowed her friends to believe she went to Canada to visit him. Applicant also posted pictures of a U.S. Olympic athlete online, posted information falsely implying that the athlete’s pictures were hers, and falsely wrote that she went to the 2014 Winter Olympics in Russia, and stayed at the Olympic Village.

SOR ¶¶ 1.a, 1.b, and 1.c satisfy AG ¶¶ 16(c) and 16(d)(3). They also satisfy AG ¶ 16(e)(1), since Applicant falsely publicized information about herself precisely because she wanted to improve her personal or community standing. If that is true, the possible disclosure that the information she posted is false potentially increased her vulnerability to exploitation. AG ¶ 16(e)(1) therefore applies.

SOR ¶¶ 1.a, 1.b, and 1.c are specific examples of Applicant’s untruthful conduct, generally described in SOR ¶ 1.d (presenting an “alternate life” on social media by posting fabricated stories and photographs). SOR ¶ 1.d is therefore duplicative, and is found for Applicant on that basis.<sup>11</sup>

---

<sup>11</sup> When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant’s favor. See ISCR Case No. 03-04704 at 3 (App. Bd. Sep. 21, 2005) (same debt alleged twice).



AG ¶ 17 sets forth potentially applicable mitigating conditions under Guideline E:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

Applicant provided deliberately false information about her academic record on her 2015 SCA. When asked during her first background interview if she received a degree or diploma, she said she did not. When asked why she answered "Yes" to that question on her SCA, she said she "meant to put no." She was then asked why, if that was what she meant, she also reported receiving a specific degree on a specific date. Applicant then said she was not aware until the interview that the investigating agent would go to the college registrar's office to verify her academic credentials.

Only then, having been caught in a lie, did Applicant explain why she did not have a bachelor's degree, as she had claimed. Even then, she did not acknowledge (until her second interview) that she committed plagiarism during the senior year seminar, nor did she disclose her earlier plagiarism violation from 2012, or her placement on academic probation. She did not disclose the earlier plagiarism until she was confronted about it, during her second interview. She did not disclose her job at the lab, or her termination from the position, until her second interview, either.

Applicant did report her academic issues, and the termination, more truthfully on her 2017 SCA. However, by that time, she had no choice, since the information had already come out in her earlier interviews. While her late candor has some mitigating effect, it is not dispositive. Applicant's prior falsifications, which are multiple, are not fully mitigated by her subsequent admissions and disclosures.<sup>12</sup> Additionally, the acts of misconduct themselves have independent security significance, and are not mitigated by their eventual disclosure to the Government.<sup>13</sup> It is also not mitigating that Applicant

---

<sup>12</sup> ISCR Case No. 15-08246 at 2 (App. Bd. Nov. 16, 2017).

<sup>13</sup> ISCR Case No. 98-0223 at 3 (App. Bd. Oct. 29, 1998) ("Honesty and candor with the government do not immunize admitted misconduct from being considered for its security significance.")

failed to disclose her misconduct because she was embarrassed, did not want to discuss it with the interviewers, or because she thought she would not be granted a clearance if the information came to light. AG ¶ 17(a) does not apply.

Applicant has a significant track record of creating and publicizing false information about herself. Through embellishment and active creation of falsehoods, both online and otherwise, she allowed people to believe information about herself that she knew not to be true. More seriously, she committed plagiarism not once but twice during college, including as a senior, after she was caught the first time and placed on academic probation. She then lied about that information (and about a job termination) to the U.S. Government, on her initial SCA. AG ¶ 17(c) does not apply.

Applicant has admitted her behavior, accepted responsibility for her actions, and acknowledged a serious error in judgment. She attributes her actions to a desire to escape a suffocating home life and an overbearing father. She says her personal quality of life has improved, as has her relationship with him. But she does not really explain why this is so. Nor did she provide any independent evidence that she has undertaken counseling to change her behavior, or has “taken other positive steps to alleviate the stressors, circumstances or factors that contributed” to her prior untrustworthy and unreliable behavior. In particular, it is noteworthy that all of her assertions in this regard are uncorroborated. She did not provide sufficient evidence to establish that AG ¶ 17(d) should apply.

Applicant’s embellishments and falsehoods in her personal life and online are several years old. So are the instances of plagiarism. The false information she publicized about herself (the “Canadian boyfriend” and the “trips to Canada and Russia”) were easily disproven by good, even simple, detective work by the investigating agent. Once confronted, she owned up to it. However, while she says she has curtailed her social media activity, she did not state that she altered or corrected the information online, nor did she state that she has actively sought to disabuse her friends from their prior false perceptions about her life. She has also not indicated that she has told her parents anything about her academic troubles, including that she did not graduate from college in 2014. Applicant gets some credit in mitigation because she disclosed this information to the government. However, given the nature and pattern of the allegations, she has not provided sufficient information to establish that AG ¶ 17(e) should fully apply.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant’s eligibility for a security clearance by considering the totality of the applicant’s conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable

participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline E in my whole-person analysis. I have also considered the total pattern of Applicant's behavior and poor judgment, not just in a piecemeal fashion as a series of unrelated incidents.<sup>14</sup> Since Applicant requested an administrative determination in lieu of a hearing, I had no opportunity to evaluate her demeanor or to weigh her credibility. Her statements are also uncorroborated by any supporting evidence. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility for access to classified information. Personal conduct security concerns are not mitigated.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline E:	AGAINST APPLICANT
Subparagraphs 1.a - 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraphs 1.e - 1.i:	Against Applicant

### **Conclusion**

In light of all of the circumstances, presented by the record, it is not clearly consistent with the interests of national security to grant Applicant's access to classified information. Eligibility for access to classified information is denied.

---

Braden M. Murphy  
Administrative Judge

---

<sup>14</sup> See, e.g., ISCR Case No. 03-22563 at 4 (App. Bd. Mar. 8, 2006) (regarding the need to avoid a piecemeal analysis).