



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-01424

Appearances

For Government:
Lauren Shure, Esq, Department Counsel

For Applicant:
Pro se

01/16/2026

Decision

CEFOLA, Richard A., Administrative Judge:

Applicant has not mitigated the security concerns raised under the Personal Conduct guideline. National security eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a Questionnaire for National Security Positions on April 4, 2024 (Questionnaire). On March 21, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E (Personal Conduct). The action was taken under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within DoD after June 8, 2017.

On May 28, 2025, Applicant responded to the SOR in writing (Answer) and requested that the case be decided on the written record in lieu of a hearing. In his Answer, Applicant denied the sole allegation. On June 23, 2025, Department Counsel submitted the Government's written case in a File of Relevant Material (FORM). A complete copy of the FORM, consisting of Government Exhibits (GE) 1 to 5, and the Government's arguments in support of the SOR, was received by the Applicant on July 14, 2025. He was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns, but he did not respond within the period specified to do so. The case was assigned to me on January 5, 2026.

Findings of Fact

Applicant is 65 years old and has worked for a DoD contractor (Contractor A) as a quality engineer specialist since March 2024. He submitted the Questionnaire on April 4, 2024. He graduated from high school in 1978, is married, has two grown children, and three grown step-children. He was terminated from employment with a different DoD contractor (Contractor B) in May 2023 following allegations of willfully damaging equipment while serving as a quality inspector (GE 3 at 5, 9, 10, 16, 20-22; GE 4 at 1)

SOR Paragraph 1, Guideline E (Personal Conduct)

The Government alleged that Applicant is ineligible for a security clearance because he had engaged in conduct that involved questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations. I find the following facts regarding this allegation and Applicant's denial:

1.a. Termination from employment for willfully and intentionally damaging customer property. From June 2019 through May 2023, Applicant worked for Contractor A as a Supplier Field Quality Representative (SQFR), whose duties included inspecting components produced by suppliers. On January 26, 2023, the Vice President for Operations of a supplier (Supplier) provided an email to Contractor A detailing complaints over a two-week span about Applicant's performance as an inspector. The complaint raised many concerns including Applicant's combative attitude, his imposition of standards not specified in writing, and specifically, on one occasion, his refusal to sign an inspection by the end of the workday causing a shipping delay for over \$500,000 of product. (GE 2 at 13; GE 3 at 10; GE 4 at 3)

On March 30, 2023, Applicant was again conducting quality inspections at Supplier's facility. Afterward, at least 15 of the 17 gearboxes he inspected that day were later determined to be damaged, showing chipped and/or scraped paint. On April 4, 2023, Contractor A subsequently started an investigation into Applicant's work that included conducting seven interviews, review of over two hours of Supplier's surveillance video observing Applicant's inspection process, and consultation with a subject matter expert on proper inspection process. (GE 4 at 1, 2)

Applicant was ultimately questioned by the investigator and initially denied any wrongdoing. Upon being shown the surveillance video, he acknowledged using tweezers to remove raised edges of paint that accidentally caused damage to the gearboxes. He acknowledged having had issues with Supplier in the past, but denied intentionally damaging the gearboxes, claiming he was only trying to remove the high spots of paint so the products could ship. Earlier that day, however, Applicant had met with several of the supplier's employees who had questions about his inspection process and he never mentioned using tweezers to scrape off paint. Toward the end of the interview, Applicant acknowledged intentionally damaging two of the 17 gearboxes. The interview was terminated after Applicant became emotional. (GE 4 at 1, 2, 6, 7)

Whole-Person and Mitigating Evidence

Applicant submitted a personal statement and eight letters of recommendation as whole-person evidence in mitigation of the security concerns alleged in the SOR. These submissions were reviewed in their entirety, as well the comments and explanations Applicant included in his questionnaires.

Policies

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context 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, "Any 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. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, “The applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information.

Finally, as emphasized in Section 7 of Executive Order 10865, “Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See also Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

SOR Paragraph 1 – Guideline E, Personal Conduct

The security concerns relating to the guideline for personal conduct are set out in AG ¶ 15, which states:

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.

The facts of this case establish the following potentially disqualifying conditions set forth in AG ¶ 16:

(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:

- (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive or government protected information;
- (2) any disruptive, violent, or other inappropriate behavior;
- (3) a pattern of dishonesty or rule violations; and
- (4) evidence of significant misuse of Government or other employer's time or resources.

The burden, therefore, shifts to Applicant to mitigate security concerns under Guideline E. The guideline includes the following two conditions in AG ¶ 17 that can mitigate security concerns arising from Applicant's conduct:

- (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; and
- (f) the information was unsubstantiated or from a source of questionable reliability.

The record evidence fails to establish either mitigating condition. As the Appeals Board has noted, "an employer's decisions and characterizations of events are entitled to some deference. Such deference extends to an employer's internal investigation and is particularly fitting when the conduct in question involves scientific and technical matters." ISCR 18-00496 at 5 (App. Bd. Nov. 8, 2019).

The veracity of Contractor's thorough investigation has not been challenged by Applicant and it's findings contradict his assertions. In both his SOR response and in his interrogatories, Applicant refers to removing paint, without malice, from a single gearbox. The investigation, however, noted damage to at least 15 gearboxes, summarized videos of Appellant's actions, included sample photos of two damaged gearboxes, and confirmed Applicant's admission of intent. His minimalization of both his actions and intent continue to cast doubt on his reliability, trustworthiness, and good judgment.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for national security eligibility 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 national security 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 above whole-person factors and the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. I have given the appropriate weight to Applicant's statement attached to his Answer, as well as his letters of recommendation. Ultimately, however, the personal conduct issues in the record evidence leave me with questions and doubts as to Applicant's suitability for national security eligibility and a security clearance.

Formal Findings

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

Guideline E (Personal Conduct): **AGAINST APPLICANT**

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant national security eligibility. Eligibility for access to classified information is denied.

RICHARD A. CEFOLA
Administrative Judge