



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



Appearances

For Government: William H. Miller, Esq., Department Counsel
For Applicant: *Pro se*

01/20/2026

Decision

LAFAYE, Gatha, Administrative Judge:

Applicant failed to provide sufficient evidence to mitigate security concerns raised under Guidelines E (personal conduct) and F (financial considerations). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on April 20, 2023. On December 3, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) alleging security concerns under Guidelines E and F. Applicant received the SOR on January 13, 2025, answered it in January and April 2025 (Answer), and elected to have his case decided on the written record in lieu of a hearing. The case was assigned to me on December 19, 2025.

The Government's written case was submitted on June 30, 2025. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on July 30, 2025, and did not respond.

Evidence

Government Exhibit (GE) 1 and GE 2 consist of the SOR and Applicant's Answer, which are the pleadings in the case. GE 3 through GE 10 are admitted in evidence without objection. Applicant's personal letter, which was submitted with his second Answer, has been relabeled and is referenced as Applicant Exhibit (AE) A throughout this decision.

Findings of Fact

In his Answer, Applicant denied the allegations under Guideline E (SOR ¶¶ 1.a and 1.b) and admitted all allegations under Guideline F (SOR ¶¶ 2.a through 2.g). His admissions are incorporated in my findings of fact. After thorough review of the evidence, I make the following additional findings of fact.

Applicant is 30 years old. He earned his high school diploma in June 2013, attended community college for a year, and enlisted in the Navy on active duty in August 2015. He served a four-year term and was discharged from the Navy in August 2019. He transferred to the Navy Reserve around the same time, and he actively drilled with his unit on weekends until early 2020. He said his assignment became remote, which caused him to become demotivated and he stopped mustering for duty assignments on drill weekends. After multiple unexcused absences from his duties, Applicant was administratively separated from the Navy Reserve at a reduced rank in September 2020. (GE 3, 6)

From June 2020 to March 2021, Applicant worked as a restaurant manager until he was hired by a defense contractor. From March to August 2021, Applicant worked full time as an aviation electrician for his first defense contractor. He moved back to his home state after August 2021, and in January 2022, he returned to community college but ultimately withdrew from the program before he completed a degree. In April 2023, Applicant was hired full time as an aircraft servicer for his current employer, another defense contractor, and has continued his employment since that time. He has been married since 2015 and has three children, ages 9, 8 and 4. (GE 3, 6)

Applicant earns a gross annual salary of about \$78,500. His monthly net pay is about \$5,000 and his listed expenses total about \$4,200, which leaves about \$800 in monthly discretionary income. He said his wife currently does not contribute income to the monthly budget but plans to return to work eventually. (AE A) It is unclear whether any of the above totals have changed since he submitted his personal financial statement in late 2024. (GE 7; AE A)

Applicant received his first security clearance while serving in the Navy and completed his most recent SCA in April 2023. In Section 22 of the SCA, he did not disclose his arrest for domestic violence and child endangerment, which occurred in April 2019 prior to his discharge from the Navy (SOR ¶ 1.a); nor did he disclose any financial delinquencies in Section 26 (SOR ¶¶ 1.b, and 2.a – 2.g).

In April 2019, Applicant was arrested in base housing following a domestic dispute with his wife and was charged with violating Uniform Code of Military Justice (UCMJ) Articles 128b (domestic violence) and 134 (child endangerment). He was placed in base detention and ordered to attend a family counseling program. He later reconciled with his wife, was not disciplined under the UCMJ, and claimed he believed he did not do anything wrong, although he acknowledged he could have handled the situation better. (GE 3 – 6)

SCA Section 22 – Police Record, asks the following relevant questions:

In the last (7) years have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official?

In the last (7) years have you been charged, convicted, or sentenced of a crime in any court? (Include all qualifying charges, convictions, or sentences in any Federal, state, local, military, or non-U.S. court, even if previously listed on this form). (GE 3 at 34)

Applicant responded “no” and said he misunderstood the questions because he “was never charged or convicted of anything from that night” and that he “was never made aware that the arrest was on [his] record.” (Answer, AE A)

SCA Section 26 – Financial Record asks whether any of the following has happened:

In the last (7) years you had bills or debts turned over to a collection agency? (Include financial obligations for which you were the sole debtor, as well as those for which you were a cosigner or guarantor)

In the last (7) years you had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed?

In the last (7) years you have been over 120 days delinquent on any debt not previously entered?

You are currently over 120 days delinquent on any debt? (GE 3 at 37)

Applicant responded “no” to these questions, stating he “was just unsure of the question” the night he completed the questionnaire and claimed the questions were “phrased in a confusing format” that made them hard to understand. He said he felt “overwhelmed by the questionnaire” but that he cooperated with the investigator during his background interview.

The DOD investigator noted that he provided Applicant two opportunities to correct undisclosed information in the SCA, specifically, the opportunity to disclose his arrest and his financial delinquencies. He stated that Applicant initially maintained his negative responses and only discussed the matters after being confronted with specific facts uncovered during the investigation. (GE 3 – 6; Answer, AE A)

The SOR also alleges seven delinquent debts totaling about \$8,800, which Applicant admitted and expressed his intent to pay each debt “before the year is over.” He knew about these debts but told the background investigator he was not sure if he needed to list them. He did not submit documentary evidence as proof of payment on any of the debts alleged in the SOR. (GE 6 at 9; Answer, AE A)

SOR ¶ 2.a alleges a delinquent debt of \$4,132 related to a rental property. Applicant admitted the debt, explaining that he decided to move back to his home state and needed to break the lease agreement. He also claimed there were unsanitary conditions (bed bugs) associated with the rental property that created problems for his wife. The debt was assigned in September 2021 and is supported by all three credit bureau reports (CBRs) from 2023 and 2024. No payments have been made, nor has Applicant set up payment arrangements with the creditor. (GE 6 – 10; Answer, AE A)

SOR ¶ 2.b alleges a delinquent debt of \$880, a utility bill from the same rental property in ¶ 2.a. Applicant admitted this debt, and stated his wife maintained the account and that he assumed the bill was paid when they vacated the property. This debt was assigned in January 2022 and is supported by all three CBRs. No payments have been made, nor has Applicant set up payment arrangements with the creditor. (GE 6 – 10; Answer, AE A)

SOR ¶ 2.c alleges a delinquent debt of \$2,000, an insurance deposit on the same rental property in ¶ 2.a above. Applicant admitted this debt and said it was charged when he broke the lease agreement. He appears to have disputed the debt through the credit bureau at one point but later admitted the debt in his Answer, and said he would pay the account. No other details about the dispute were provided. No payments have been made on the debt, nor has Applicant set up payment arrangements with the creditor. The debt is supported by evidence in the 2023 and 2024 CBRs. (GE 6 – 9; AE A)

SOR ¶¶ 2.d (\$271), 2.e (\$153), and 2.f (\$63) allege delinquent debts for consumer purchases, which Applicant admitted in his Answer. These debts are supported by the 2023 and 2024 CBRs. Though Applicant expressed his intent to pay these debts and others alleged in the SOR, no evidence was submitted as proof these debts have been paid. (GE 6 - 9; Answer, AE A)

SOR ¶ 1.g alleges a medical debt of \$1,393, which Applicant admitted. He said he injured his hand and was taken to the emergency room for treatment. In his September 2023 background interview, Applicant said he never received notice of the bill but that he would contact his insurance provider for more information. In his October 2024 response to interrogatories, however, he said he did not have money to pay the debt at that time. The debt was assigned in 2021 and is supported by the 2023 CBR. (GE 6 – 8; AE A)

In Applicant’s October 2024 response to interrogatories, he made the following statement about the debts alleged in the SOR:

The initial plan to start paying off these debts was to use income tax money to start paying. After filing we realized we were not going to get much back to pay. After filing we have just been trying to pay bills with wife's job very unstable and now unemployed, we have been trying to catch up on trying to make a budget for our family. With a recent move and starting school, we have now become stable to figure out the way we pay off these debts. (GE 7 at 8)

In April 2025, Applicant admitted he had "lived outside of [his] means" and said it was "difficult to pay back these debts due to having three children and taking care of a sister-in-law in high school." He said his wife returned to school and was not working, but that he had "every intention to pay back these debts within this year." He said he expected to receive grant money through his wife's education program, and he was also applying for disability benefits through the Department of Veterans Affairs (VA). He expressed his intent to use these funds to pay the debts alleged in the SOR. He did not submit any documentary evidence in response to this FORM, and it is unclear whether he ever received a grant and VA benefits. This is no evidence he ever paid any of the alleged debts. (Answer, AE A)

Policies

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531.

Analysis

Guideline E, Personal Conduct

The security concern under this guideline is described in AG ¶ 15:

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 employment qualifications,

award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities; and

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative.

Applicant did not disclose his arrest for domestic violence and child endangerment in his SCA, nor did he disclose any of the financial delinquencies alleged in the SOR. During his background interview, he initially denied the existence of this information and discussed these matters only after the investigator confronted him with specific facts. AG ¶¶ 16(a) and 16(b) are applicable.

AG ¶ 17 provides conditions that could mitigate security concerns. The following are potentially applicable:

(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; and

(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.

None of the above mitigating conditions are established in this case. Applicant did not disclose his arrest for domestic violence and child endangerments in Section 22 of the SCA, nor did he disclose his financial delinquencies in Section 26 of the SCA. When the investigator initially asked, he denied having any issues. Applicant's post-confrontation assertion that he misunderstood the question because he was not charged or convicted, and was not made aware the arrest was in his record suggest his failure to disclose the information was deliberate.

Similarly, Applicant's statements that the SCA financial questions were unclear, and he was unsure of the information being asked when he completed the questionnaire are not entirely credible. This was not his first SCA and, as an experienced security clearance holder, he was sufficiently exposed to the requirement to disclose financial problems. His after-the-fact discussion with the investigator on matters he failed to disclose did not amount to a prompt, good-faith effort to correct prior omissions, and is

insufficient to mitigate personal conduct security concerns. Applicant's omissions raise questions about his reliability, trustworthiness, and ability to protect classified or sensitive information. Personal conduct remains a security concern in this case.

Guideline F, Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant's admissions and the evidence in the record establish the disqualifying conditions listed above. AG ¶¶ 19(a) and 19(c) apply.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

None of the above mitigating conditions are established to mitigate the financial considerations security concerns in this case. Applicant's delinquent debts are recent, ongoing, and unresolved. He has been gainfully employed and earning a salary nearing \$80,000 annually since 2023. His discretionary income shows he has the financial means to address his delinquent debts. For whatever reason, he has not done so for any of the debts, not even the nominal ones. There is no evidence in the record that he has received or is receiving counseling for his financial problems.

Overall, I am unable to find that Applicant acted responsibly with respect to all the debts alleged in the SOR, or that he made a good-faith effort to pay his debts. His financial issues continue to cast doubt on his current reliability, trustworthiness, and judgment. I find that financial considerations security concerns remain unresolved in this case.

Whole-Person Concept

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. In applying the whole-person concept, an 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. An 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.

I have incorporated my comments under Guidelines E and F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because this case is decided on the written record, I had no opportunity to question Applicant about any of the security concerns in the case, nor did I have an opportunity to observe his demeanor and thereby assess his credibility.

After weighing the disqualifying and mitigating conditions under Guidelines E and F and evaluating all evidence in the whole-person context, I conclude Applicant failed to mitigate the security concerns raised in this case.

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

Subparagraph 1.a – 1.b: Against Applicant

Paragraph 2, Guideline F: AGAINST APPLICANT

Subparagraphs 2.a – 2.g: Against Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Gatha LaFaye
Administrative Judge