



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

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ISCR Case No. 24-02260

Applicant for Security Clearance )

**Appearances**

For Government: Andre Gregorian, Esq., Department Counsel  
For Applicant: *Pro se*

01/23/2026

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**Decision**

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HOGAN, Erin C., Administrative Judge:

On December 23, 2022, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline D, Sexual Behavior; Guideline E, Personal Conduct; Guideline F, Financial Considerations; and Guideline M, Use of Information Technology. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented within the Department of Defense on June 8, 2017.

Applicant timely answered the SOR and requested a hearing before an administrative judge. The case was assigned to me on September 2, 2025. On September 23, 2025, a Notice of Hearing was issued, scheduling the hearing on December 9, 2025. The hearing was held as scheduled. During the hearing, the Government offered five exhibits, which were admitted without objection as Government (GE) Exhibits 1 - 5. Applicant testified and offered one exhibit, which was admitted as Applicant Exhibit (AE) A. The transcript was received on December 19, 2025. Based upon

a review of the case file, pleadings, and exhibits, eligibility for access to classified information is denied.

### **Procedural Issue**

At the beginning of the hearing, the Government withdrew all allegations under Guideline F, Financial Considerations, located in SOR ¶ 3, subparagraphs a. – e.

### **Findings of Fact**

In his answer to the SOR, Applicant denied the allegations in SOR ¶¶ 1.a, 2.b, and 4.a, and admitted the allegation in SOR ¶ 2.a.

Applicant is a 52-year-old employee of a Department of Defense (DOD) contractor who seeks to maintain a security clearance. He has worked for numerous DOD contractors over 20 years. He has worked for his current DOD contractor since January 2025. He has held a security clearance during his past employment with various DOD contractors. The highest level of clearance held by Applicant is a Top Secret with access to sensitive compartmented information (TS/SCI). He has a high school diploma. He has earned numerous computer certifications. He is divorced and has three children, ages 17, 13, and 11. He has a steady girlfriend who he hopes to marry. (GE 1, Tr. 18-29)

(Note: The facts in this decision do not specifically describe employment, names of witnesses, or locations in order to protect Applicant's privacy. The cited sources contain more specific information.)

### **SOR Allegations**

Under Guideline D, Sexual Behavior, it is alleged that Applicant used his company-issued laptop issued by DoD Contractor A to attempt to view pornography from about November 2022 to about May 2023. (SOR ¶ 1.a: GE 2 at 7-9; GE 4). Guideline E, Personal Conduct, alleged Applicant's termination from DoD Contractor A in about June 2023 for a violation of the company's "Business Ethics and Conduct/Prohibited Use of Equipment" policy. (SOR ¶ 2.a: GE 2 at 9; GE 3; GE 4); and the allegation in SOR ¶ 1.a was cross-alleged under the personal conduct concern (SOR ¶ 2.b) and under Guideline M, Use of Information Technology. (SOR ¶ 4.a)

On or about May 23, 2023, an employee with DOD Contractor A's security division reported to the Internal Audit division (IA) that a computer threat monitoring tool detected an increasing amount of pornographic web traffic on Applicant's work computer. The attempts to access pornographic websites were blocked by the company computer system's firewall. (GE 3 at 2)

The IA division opened an investigation against Applicant for time mischarging and asset misuse. The investigation looked at Applicant's recent internet and browsing logs. The search revealed that Applicant had made attempts to access inappropriate material

as far back as November 2022. On June 2023, IA made a remote connection into Applicant's laptop. It was discovered that Applicant intentionally performed browser searches for inappropriate photos and images. The searches coincided with the dates and times Applicant was blocked from accessing pornographic images by the company's firewall. From about November 2022 to about May 2023, he attempted to access pornographic websites on approximately 70 occasions using his work computer. (GE 4) Applicant did not access the websites for material lengths of time. As a result, he was not charged with mischarging his time. (*Id.*)

The investigation also revealed Applicant had several photographs of various women on his hard drive. All of the women were clothed. Some wore bikinis or skimpy clothing. While the photographs are not pornographic, several of the photographs would be considered inappropriate to display at work. (GE 5)

On June 5, 2023, Applicant was interviewed by the IA division and the Employee Relations division. He denied doing intentional searches for pornography on his work computer. The interviewers did not find him credible. The investigation concluded Applicant misused his work computer to search and attempt to access inappropriate material. It was recommended disciplinary action be taken against him. (*Id.*)

On June 15, 2023, DOD Contractor A terminated Applicant's employment due to violations of Contractor A's policies regarding business ethics and conduct and the prohibited use of equipment. (GE 3 at 1) Applicant did not fight his termination.

During the hearing, Applicant admitted to searching for inappropriate images and attempting to access pornographic websites using his work computer while working for DOD Contractor A. He knew it was wrong but did it anyway. He claims it was a severe lapse in judgment. When he searched for images, he claims he was searching for specific things. He was not attempting to access the pornographic sites for his sexual gratification. (Tr. 37-46)

Applicant testified that he never searched for pornography on his personal time using his personal computer. He spends time taking care of his children such as driving them to school. His elderly father lives with him so he spends time with him in the evenings. He claims the last time that he looked at pornography was when he was a teenager. (Tr. 45-46)

He told several people about his termination from DoD Contractor A for searching for inappropriate images and pornography on his work computer to include his girlfriend, his father, his best friend, and his priest. He did not tell his children, his neighbors and his co-workers about it. He is trying to set a better example for his children. He has not attended sexual counseling. He does not believe he has a problem with sexual deviancy. (Tr. 49-50)

Applicant admits he made a mistake in judgment. He has not searched for inappropriate images or pornography since his firing from DOD Contractor A. He has

moved ahead in his life and career. He believes he has demonstrated over the past two and a half years that he has moved on personally and professionally. (Tr. 51-52)

### **Whole-Person Factors**

Applicant submitted four character letters. Mr. B. was a co-worker of Applicant's during the last two years he worked at DOD Contractor A. They shared an office. Applicant told him that he searched for pornography online using his work computer. Mr. B. says he worked in the same office daily and never saw him search for pornography online. He describes Applicant's work ethic as "second to none." He came to work on time and often stayed late. He was responsible. He was always willing to tutor less-experienced employees. (AE A at 1)

Ms. H. has worked with Applicant since January 2025. She finds him to be a consistently trustworthy, reliable, responsible and dedicated member of the team. He performs his work with "utmost diligence and accuracy." Her organization trusts him implicitly to manage sensitive communications without supervision. She finds him to be a person of high moral character. He takes his job seriously and demonstrates professionalism in all aspects of his work. She is aware that he is facing a review of his security clearance due to viewing inappropriate material on a workplace system. While she acknowledges the seriousness of the review, she believes Applicant's overall character and work ethic demonstrate he is a valuable and trustworthy individual. She would not recommend Applicant if she had any doubts about his ability to handle sensitive information. She recommends him for a security clearance. (AE A at 2-3)

Ms. E.U. is the Operations Manager of a DOD Contractor that Applicant worked for from July 2023 to December 2024. She had the opportunity to observe his professional conduct daily. He demonstrated the highest levels of professional integrity. She is aware that Applicant is facing allegations of intentionally searching pornography on his previous employer's computer system. She finds the allegations to be inconsistent with the character and work ethic that he demonstrated when he worked with her. (AE A at 4)

Ms. C.B. has known Applicant over the past three years. Their paths have crossed professionally which has given her opportunity to observe his conduct, values, and work ethic. He has consistently demonstrated a strong moral compass and unwavering ethical behavior. She describes Applicant as "person of integrity, honesty, and sound ethical principles." She holds him in high regard and believes he will continue to exemplify the same strong character he has shown over the past three years. (AE A at 5)

### **Policies**

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

Under Directive ¶ E3.1.14, the Government must 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 applicant or proven by Department Counsel. . ." The applicant has the ultimate burden of persuasion as to obtaining 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 that 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 information.

Section 7 of EO 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See also EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Guideline D, Sexual Behavior**

AG ¶ 12 describes the security concern arising from sexual behavior as follows: Sexual behavior that involves a criminal offense; reflects a lack of judgment or discretion; or may subject the individual to undue influence of coercion, exploitation, or duress. These issues, together or individually, may raise questions about an individual's judgment, reliability, trustworthiness, and ability to protect classified or sensitive information. Sexual behavior includes conduct occurring in person or via audio, visual, electronic, or written transmission. No adverse inference concerning the standards in this Guideline may be raised solely on the basis of the sexual orientation of the individual.

AG ¶ 13 lists three conditions that could raise a security concern about sexual behavior and may be disqualifying in this case:

- (c) sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress; and
- (d) sexual behavior of a public nature or that reflects lack of discretion or judgment.

Both of the above disqualifying conditions apply. Applicant's attempts to access pornographic websites on his work computer more than 70 times over a six-month period from November 2022 to May 2023 made him vulnerable to coercion, exploitation or duress. One could argue the behavior was of a public nature because it was in the workplace and subject to monitoring. The primary issue in Applicant's case is his extremely poor judgment. He was aware of the rules but repeatedly attempted to violate them.

The following mitigating conditions under AG ¶ 14 could potentially mitigate sexual behavior security concerns:

- (b) the sexual behavior happened so long ago, so infrequently, or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
- (c) the behavior no longer serves as a basis for coercion, exploitation, or duress;
- (d) the sexual behavior is strictly private, consensual, and discreet; and
- (e) the individual has successfully completed an appropriate program of treatment, or is currently enrolled in one, has demonstrated ongoing and consistent compliance with the treatment plan, and/or has received a favorable prognosis from a qualified mental health professional indicating the behavior is readily controllable with treatment.

AG ¶ 14(b) does not apply. Not enough time has passed to conclude Applicant has learned from his past mistakes. His behavior was not infrequent and did not happen under unusual circumstances. AG ¶ 14(c) applies because Applicant admitted his behavior and is no longer vulnerable to coercion or exploitation.

AG ¶ 14(d) does not apply because Applicant attempted to access pornographic websites on his work computer. The workplace is not a private or discreet place to access pornographic websites. AG ¶ 14(e) does not apply because Applicant has not sought counseling or treatment or received a favorable prognosis from a qualified mental health professional that he has no issues with pornography.

The issues under Guideline D are not mitigated.

### **Guideline E, Personal Conduct**

The security concern relating to the guideline for Personal Conduct is set out 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 the national security or adjudicative processes. . . .

The following disqualifying conditions under AG ¶ 16 potentially apply to Applicant's case:

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 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

AG ¶ 16(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.

While the security concerns are more appropriately alleged under Guideline D, Sexual Behavior; and Guideline M, Use of Information Technology, Personal Conduct concerns are appropriate because Applicant's conduct raises serious questions about his

judgment, trustworthiness, unreliability, and unwillingness to comply with rules and regulations, which raise doubts about his ability to properly safeguard classified information. Specifically, he repeatedly violated the rules when he attempted to access pornographic websites on his work computer when he worked for DOD Contractor A. AG ¶ 16(d) applies.

AG ¶ 16(e) also applies because Applicant's use of his work computer to attempt to access pornographic websites on more than 70 occasions during a six-month period had the potential to affect his personal, professional or community standing making him vulnerable to exploitation or duress by a foreign intelligence agency or other group.

Under Guideline E, the following mitigating conditions potentially apply in Applicant's case:

AG ¶ 17(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 is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

AG ¶ 17(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

AG ¶ 17(c) does not apply. Applicant's conduct raised serious questions about his reliability, trustworthiness, and judgment. His multiple attempts to access pornographic websites on his work computer is a serious offense. Not enough time has passed to mitigate the offense. The circumstances of the offense are so egregious that questions remain about Applicant's reliability, trustworthiness and judgment.

AG ¶ 17(e) is found for Applicant. He disclosed his behavior to close friends and family members. He is no longer vulnerable to exploitation, manipulation, or duress.

Despite his disclosures, there is insufficient evidence to mitigate the personal conduct security concerns at this time.

## **Guideline M, Use of Information Technology**

The security concern relating to the guideline for Use of Information Technology is set out in AG ¶ 39:

Failure to comply with rules, procedures, guidelines, or regulations pertaining to information technology systems may raise security concerns about an individual's reliability and trustworthiness, calling into question the willingness or ability to properly protect sensitive systems, networks, and information. Information Technology includes any computer-based, mobile, or wireless device used to create, store, access, process, manipulate, protect, or move information. This includes any component, whether

integrated into a larger system or not, such as hardware, software, or firmware, used to enable or facilitate these operations.

The guideline notes several disqualifying conditions that could raise security concerns. I find the following Use of Information Technology disqualifying condition applies to Applicant's case.

AG ¶ 40(e) unauthorized use of any information technology system.

AG ¶ 40(e) applies because Applicant was not authorized to use a company computer system to access pornographic websites. His long career as a DOD contractor indicates he was aware of the rules yet he attempted to access pornographic websites on his work computer approximately 70 times over a six-month period.

Guideline M also includes examples of conditions that could mitigate security concerns arising from Use of Information Technology. The following mitigating conditions potentially apply to the Applicant's case:

AG ¶ 41(a) so much time has elapsed since the behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

AG ¶ 41(d) the misuse was due to improper or inadequate training or unclear instructions.

None of the above mitigating conditions apply. Applicant's conduct was serious and recent. There were no unusual circumstances. Applicant has worked as a government contractor for over 20 years. There is no evidence to support that he received improper or inadequate training or was provided unclear instructions. His conduct raised questions about his reliability, trustworthiness, and judgment. The security issue raised under Guideline M is not mitigated.

### **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(a):

- (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 Applicant's 20-year history of employment with various DOD contractors. I considered his favorable reference letters. I considered his favorable record of employment before and after he was terminated from DOD Contractor A. I considered that he has a steady girlfriend who he plans to marry, that he moved his father into his home, and that he supports his three children, who live with his ex-wife. I considered that he has held a security clearance for a long period of time. These factors are supportive of mitigation.

I find the factors against mitigation more compelling. Applicant attempted to access pornographic websites using his work computer on more than 70 occasions over a period of six months. The only thing preventing him from gaining access to pornography was the company's firewall. Applicant was aware of the rules pertaining to computer security and workplace policies but attempted to access pornography on his work computer anyway. His actions were in extremely poor judgment.

While Applicant's employment has been favorable since his termination from DOD Contractor A, it has been only two and a half years since his termination. Not enough time has passed to mitigate the security concerns. I considered the potentially disqualifying and mitigating conditions as well as the facts and circumstances surrounding this case. The security concerns under Sexual Misconduct, Personal Conduct, and Use of Information Technology are not mitigated.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of true reform and rehabilitation necessary to be eligible for a security clearance. The determination of an individual's eligibility and suitability for a security clearance is not a once in a lifetime occurrence, but is based on applying the factors, both disqualifying and mitigating, to the evidence presented. Under his current circumstances, a clearance is not warranted. In the future, he may well demonstrate persuasive evidence of his security worthiness.

## **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 D:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a – 2.b:	Against Applicant
Paragraph 3, Guideline F:	WITHDRAWN
Subparagraphs 3.a – 3.e:	Withdrawn
Paragraph 4, Guideline M:	AGAINST APPLICANT
Subparagraph 4.a:	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 eligibility for a security clearance. Eligibility for access to classified information is denied.

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ERIN C. HOGAN  
Administrative Judge