



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



In the matter of:

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ISCR Case No. 25-00958

Applicant for Security Clearance

Appearances

For Government: Karen Moreno-Sayles, Esq., Department Counsel

For Applicant: Daniel P. Meyer, Esq.

02/12/2026

Decision

HARVEY, Mark, Administrative Judge:

Guideline F (financial considerations) security concerns are mitigated; Guideline H (drug involvement and substance misuse) security concerns are not mitigated; and Guideline E (personal conduct) security concerns are refuted. Eligibility for access to classified information is denied.

Statement of the Case

On November 28, 2024, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). (Government Exhibit (GE) 1) On August 19, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and Security Executive Agent Directive 4, establishing in Appendix A, the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guidelines F, H, and E. (HE 2) On September 4, 2025, Applicant provided his response to the SOR. This decision was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a federal government shutdown due to a lapse in federal funding. On November 24, 2025, Department Counsel was ready to proceed. On December 1, 2025, the case was assigned to me.

On December 11, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing on January 12, 2026. (HE 1) The hearing was held as scheduled using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered seven exhibits into evidence, Applicant provide five exhibits; there were no objections, and all proffered exhibits were admitted into evidence. (Tr. 8, 16-18; GE 1-GE 7; Applicant Exhibits (AE) A-AE E) On January 22, 2026, DOHA received a copy of the transcript. The record was not held open after the hearing. (Tr. 75-76)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted most of the information underlying the SOR allegations in ¶¶ 1.a through 1.k, 2.a through 2.c, and 3.a. His admissions are accepted as findings of fact.

Applicant is a 44-year-old building automation systems engineer and programmer. (Tr. 20; GE 1) In 2012, he received a General Educational Development (GED) diploma. (Tr. 21) He served in the Army National Guard (ARNG) from 2014 to 2017, and he received an honorable discharge. (Tr. 20; GE 1 at 20) He served in the military police at an overseas location for one year. (Tr. 20) He received several civilian technical certifications. (Tr. 21) He was married from 2010 to 2020. (GE 1 at 27) He is engaged to be married, and he has a two-year-old daughter. (Tr. 23) He held a security clearance since 2014. (Tr. 23)

Financial Considerations

In his September 4, 2025 SOR response, Applicant explained why he had the delinquent debts listed on the SOR. He said:

I admit that I have outstanding unsecured debt in the amount of \$87,612.00. The primary cause of the debt was a sharp drop in my income following my arrest and termination in February 2023. Prior to that event I was earning

approximately \$90,000.00 per year; after the termination my income fell to approximately \$30,000.00 per year. Since then, I have regained stable, fulltime employment. . . . where I earn \$118,000.00 annually. (HE 3)

Applicant also said his employer in 2023 failed to honor a promise to timely reimburse business expenses, which he charged on a credit card, and to timely pay for his services. (Tr. 27-28)

Applicant's July 3, 2024 credit bureau report (CBR), the earliest CBR of record, states he has a total of five debts in collection or charged off. (GE 4) The SOR alleges 11 delinquent debts totaling \$87,592. The SOR alleges six of the 11 debts were charged-off, and they total \$69,941 as follows:

SOR ¶ 1.a for about \$12,559. Applicant said this debt resulted from a repossessed vehicle. (Tr. 38) The debt became delinquent in November 2023. (January 6, 2026 CBR at page 20 of 130 pages; AE E) Around June of 2025, he contacted the creditor, and on December 19, 2025, he paid the debt. (Tr. 38, 55-56; AE E at 374)

SOR ¶ 1.c for about \$9,471. This debt resulted from a credit card used to pay bills and business expenses. (Tr. 39) In June or July of 2025, Applicant paid the debt. (Tr. 39, 57) Applicant's January 6, 2026 CBR at page 32 of 130 pages shows a balance of \$11,000, and on September 9, 2025, the account was paid in full. (AE E)

SOR ¶ 1.d for about \$4,273. Applicant said the debt was incurred by purchasing appliances from a department store when he moved into his house. (Tr. 40) On December 12, 2025, Applicant settled the debt with a payment of \$2,500. (Tr. 40, 57; AE E at 380)

SOR ¶ 1.f for about \$18,637. Applicant said the debt was a vehicle loan for a vehicle purchased in 2022, and he was behind on payments. (Tr. 40-41, 59) In June or July of 2025, he settled and paid the debt for about \$15,000. (Tr. 41, 59) His January 6, 2026 CBR at page 27 of 66 pages states, "Paid in settlement. \$18,637 written off." (AE E at 202)

SOR ¶ 1.g for about \$2,571. Applicant said the debt was a motorcycle loan, which he purchased in 2018 for about \$10,000. (Tr. 41, 59) The loan became delinquent, and he settled and paid it about two weeks before his hearing. (Tr. 41, 59-61) He did not provide documentation showing payment.

SOR ¶ 1.i for about \$22,450. Applicant said he was injured in a motorcycle accident in about 2019, and he did not have medical insurance. (Tr. 42, 61) His January 6, 2026 CBR at page 4 of 66 pages indicates he stopped making payments to the account in September 2023. (AE E) He learned the collection agent was out of business, and he was unable to locate the new collection agent, if any, currently seeking payment. (Tr. 43; AE C at ¶ 9) His January 6, 2026 CBR at page 7 of 130 pages shows date closed of February 29, 2024; high balance of \$22,450 from January to February 2024; and comments of "purchased by another lender; unpaid balance; charged off." (AE E) The collection agent in the SOR is not rated by the Better Business Bureau. (AE E at 378)

The SOR alleges five of the 11 total accounts are placed for collection, and they total \$17,651 as follows:

SOR ¶ 1.b for about \$11,528. This debt is from a credit card, and Applicant said he contacted the original creditor and the collection agent; however, he was unable to obtain sufficient information to resolve the debt. (Tr. 38) He is waiting for the creditor to contact him. (Tr. 38-39) He has funds available to pay the debt. (Tr. 38-39)

SOR ¶ 1.e for about \$2,914. Applicant said he used this jewelry account to purchase engagement rings for his fiancée. (Tr. 40) He said he paid the debt in the summer of 2025. (Tr. 40, 58) He did not provide proof of payment.

SOR ¶ 1.h for about \$2,442. Applicant said he did not apply for credit with the creditor, and he used a credit-repair application to dispute this debt. (Tr. 41) He pays the company \$35 monthly for the credit-repair application, and it sends dispute letters to the CBRs. (Tr. 42)

SOR ¶ 1.j for about \$587. Applicant said he did not receive his paycheck, and he obtained a payday loan to pay his utility bill. (Tr. 43) On December 15, 2025, he paid the debt. (Tr. 43, 62; AE E at 381)

SOR ¶ 1.k for about \$180. Applicant said he terminated an account with a telecommunication company, and they billed him for two months. (Tr. 44) He settled the debt for \$90. (Tr. 44, 62; AE E at 375)

Around June of 2025, Applicant received a loan of \$70,000 from his employer, which he said he used to pay several of his delinquent SOR debts. (Tr. 50, 63) His payments for this loan are \$1,000 monthly for 60 months. (Tr. 63) The payments are deducted from his salary, and the first payment was made in January 2026. (Tr. 63) His bank account for November 2025 to December 2025 shows deposits of \$46,010, withdrawals of \$38,029, and an ending balance of \$8,493. (AE E) He did not provide a detailed description of the allocation of the funds received from his employer beyond the provision of a checking account statement. (AE E)

Applicant provided a receipt for a \$2,359 payment on a debt for \$3,222 on January 6, 2026. (AE E at 376, 379) The receipt said the collection agent was a law firm; however, it was unclear whether it was for an SOR debt. *Id.*

Applicant's current annual income is \$118,000. (Tr. 54) His net monthly income is \$5,434; his net monthly expenses are \$3,458; and his net monthly remainder is \$1,976. (Tr. 48) His monthly mortgage payment is \$1,187. (Tr. 64) The \$1,000 monthly payments to his employer for the \$70,000 loan are included in his monthly expenses of \$3,458. (Tr. 64) He said he has filed his required federal and state income tax returns, and he does not have a delinquent tax debt. (Tr. 65) He did not provide his IRS tax transcripts to corroborate the absence of income tax debts and timely income tax filings.

Applicant completed online credit management courses and financial money management courses. (Tr. 32; AE E) He plans to complete two financial courses a year in the future to ensure he knows the latest strategies in financial management. (Tr. 32) He is in the process of saving three months of income, and he intends to save six months of income, which will enable him to handle financial emergencies without borrowing funds. (Tr. 46) He does not currently have any credit cards. (Tr. 46-47)

Drug Involvement and Substance Misuse and Personal Conduct

SOR ¶ 2.a alleges, “From January 2021 to about February 2023, you used marijuana with varying frequency while holding a sensitive position, i.e., one in which you held a security clearance.” SOR ¶ 2.b alleges, “In February 2023, you were arrested in [state A] and charged with possession of marijuana and possession of drug paraphernalia.” SOR ¶ 2.c alleges, “You failed a urinalysis test in about February 2023, testing positive for marijuana.” SOR ¶ 3.a alleges, “You were terminated from your employment at [employer S] in about February 2023, for failing a urinalysis test as set forth in subparagraph 2.c., above.”

Applicant’s description of events at his hearing about his arrest and employment termination was consistent with his statement to the DCSA background investigator. (Tr. 69-70) On February 17, 2025, a DCSA background investigator interviewed Applicant. The DCSA summary of interview stated that Applicant and his fiancée stopped at a gas station on February 26, 2023, to purchase gasoline. (GE 2 at 7) His fiancée was driving. *Id.* at 8. A police car stopped near her vehicle, and the police smelled the odor of marijuana. *Id.* The police searched the vehicle and found marijuana on the driver’s side of the vehicle. *Id.* The police arrested Applicant and his fiancée for possession of marijuana and marijuana paraphernalia (rolling papers for marijuana). (Tr. 70) Applicant said the marijuana belonged to his fiancée. (GE 2 at 7) The charges against Applicant for possession of marijuana and possession of drug paraphernalia were dismissed. (Tr. 70; AE E)

In Applicant’s November 28, 2024 SCA, he disclosed that he first used marijuana around January 2022, and his most recent marijuana use was in February 2023. (GE 1 at 38) He said he used marijuana to “deal with stress after the death of a girlfriend of two years, off and on.” *Id.* Applicant elaborated on his intention of future marijuana use:

I do not intend to use it ever again. This mistake cost me a good job, which put me into debt. I also have a child to think about now. She is my entire world and I never want to let her down. [M]y livelihood depends on my security clearance, and the ability to take care of my family depends on my security clearance. I have lived with this mistake for two years and it is a constant reminder of why I want to live my life on the straight and narrow. [I] never had issues or trouble in my life until this. (SCA at 38)

On December 18, 2025, in a prehearing statement, Applicant said:

I disclosed the wrongdoing to my immediate supervisor [at employer S]. Upon my release from jail, I verbally informed my supervisor over the phone of my arrest and provided full details regarding my prior marijuana use, including the frequency of use and that I had ceased using marijuana several weeks prior to the arrest. This disclosure was made voluntarily and in a timely manner to ensure transparency and accountability with my employer. (AE C at ¶ 15)

Applicant did not provide a statement from his supervisor at company S corroborating Applicant's description of this disclosure. Applicant told the DCSA background investigator that his supervisor at company S required him to take a drug test, which he failed. (GE 2 at 7) He was terminated from his company S employment because of the drug test. *Id.*

In his response to DOHA interrogatories, Applicant said that he first used marijuana in January 2021, and he most recently used marijuana in February 2023. (GE 2 at 4) He occasionally used marijuana during this time period. *Id.* In his September 4, 2025 SOR response, he said, "I acknowledge and admit the following facts: I used marijuana on multiple occasions while I held a security clearance (from January 2021 until approximately February 2023)." (HE 3)

Initially, in Applicant's hearing statement, the time period and duration of his marijuana use minimized his marijuana involvement. The following exchange occurred at his hearing:

Applicant: Sometimes I get really confused with the months when it becomes a new year. The one, the first one that you mentioned in 2022, I believe is the more accurate one. I don't know exactly how to explain it to you, but when we swap over to a new year, whether it be in January and February, sometimes I get the years mixed up in that. So, I apologize for that discrepancy.

Department Counsel: Okay. So what is your testimony regarding when you first began using marijuana?

Applicant: I believe it was 2022. It was a very, very short time.

Department Counsel: What month in 2022?

Applicant: It was January, from that January to that February of the new year.

Department Counsel: Okay. So January 2022 to February of 2023; is that accurate?

Applicant: It's -- it was like a one-month period of time, if that makes more sense. But I don't want to say like 2023, and it may be like a whole other year. Like I said, it was a short period of time. So from January to where it rolled around into the month of February, and then the rest happened and everything ceased after that.

Department Counsel: Okay. Let's try it this way, because I'm still confused. How many months would you say you used marijuana for?

Applicant: One month, roughly. (Tr. 65-66)

Department Counsel reminded him that he was arrested for possession of marijuana and subsequently tested positive at work for marijuana in a drug test in February of 2023. (Tr. 67-68) Applicant conceded he smoked marijuana a few times around January 20, 2023, to February of 2023, when he was arrested. (Tr. 68) He said he stopped using marijuana after he was arrested and fired in February 2023. (Tr. 68-69, 72) He explained the date discrepancy by indicating he was confused about dates. (Tr. 69) He said he started smoking marijuana about one year after his girlfriend died. (Tr. 69) He did not specify when his girlfriend died.

Applicant smoked marijuana to help him sleep. (Tr. 26, 67) His parents and his fiancée provide support to him. (Tr. 34, 73) His daughter has an important stabilizing role in his life. (Tr. 34) Applicant does not believe an entity seeking classified information could pressure or coerce him because of his finances or marijuana use because the government is aware of these issues. (Tr. 35) He would decline to succumb to coercion and pressure. (Tr. 35)

In a January 8, 2026 written statement, Applicant declared his "intent not to illegally use any drugs henceforth, to include marijuana, in the future. [He] further agree[s] that any such violation shall constitute grounds for automatic revocation of [his] security clearance." (AE E at 1)

Applicant's possession of marijuana was illegal under state law at the time he possessed it. (Tr. 71) He was aware that his marijuana use violated his employer's drug policy before he used marijuana. (Tr. 74) He held a security clearance when he used marijuana. He used marijuana with his fiancée and friends. (Tr. 71) He does not currently associate with people involved with illegal drugs. (Tr. 36, 71) He has not used any other illegal drugs. (Tr. 72) He has not had any drug tests by his employers except the one in which he tested positive for marijuana in February of 2023. (Tr. 72)

Applicant received some professional counseling, which provided coping skills to help him handle stress. (Tr. 51, 73) Additional counseling is available if the need arises. (Tr. 51) He promised to seek counseling in the future if he has stress and promised not to use marijuana. (Tr. 33) He loves his work and would like to retain a security clearance because it enables him to contribute to the national defense. (Tr. 53)

Character Evidence

During Applicant's military service, he received the following awards and recognitions: U.S. Coast Guard Meritorious Team Commendation Ribbon; Army Achievement Medal; National Defense Service Medal; Global War on Terrorism Expeditionary Medal; Global War on Terrorism Service Medal; Army Service Ribbon; Overseas Service Ribbon; Armed Forces Reserve Medal with M Device; [state A] National Guard Ribbon, M4 Marksmanship Badge, M9 Marksmanship Badge, and Driver Badge. (AE A)

Three coworkers provided statements on Applicant's behalf. (AE D) The general sense of their letters is that Applicant is diligent, professional, responsible, reliable, and trustworthy. Their statements support reinstatement of his security clearance.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no 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, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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, these guidelines are applied 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, 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 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 "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. Thus, this decision should not be construed to suggest that it is based on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence 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. 95-0611 at 2 (App. Bd. May 2, 1996).

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 ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

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.

AG ¶ 19 includes disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(a) inability to satisfy debts” and “(c) a history of not meeting financial obligations.”

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the

totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained the role of CBRs in financial considerations analysis:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted).

The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*. The financial considerations mitigating conditions under AG ¶ 20 which may be applicable in this case are as follows:

(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;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; 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.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

AG ¶ 20(a) does not apply to the SOR debts. "It is also well established that an applicant's ongoing, unpaid debts demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017)).

Applicant lost his employment because he used marijuana, and his new employment was at a substantially lower salary. These circumstances were **not** beyond his control. AG ¶ 20(b) does not apply.

Applicant's SOR alleges 11 delinquent debts totaling \$87,592. "[A] single debt can be sufficient to raise Guideline F security concerns." ISCR Case No. 19-02667 at 3 (App. Bd. Nov. 3, 2021) (citing ISCR Case No. 14-05366 at 3 (App. Bd. Feb. 5, 2016)). "Additionally, a single debt that remains unpaid over a period of years can properly be characterized as a history of not meeting financial obligations." *Id.*

A security clearance adjudication is not a debt-collection procedure. It is a procedure designed to evaluate an applicant's judgment, reliability, and trustworthiness. Applicants are not required to be debt-free to qualify for a security clearance. All that is required is that an applicant act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by actions which evidence a serious intent to effectuate the plan. There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 23-01434 at 2-3 (App. Bd. May 7, 2024).

Applicant did not provide adequate mitigating information for four SOR debts totaling \$41,905 as follows: ¶ 1.b (\$11,528-unable to receive cooperation from creditor); ¶ 1.e (\$2,914-Applicant said paid but no proof); ¶ 1.g (\$2,571-Applicant said paid but no proof); and ¶ 1.i (\$22,450-Applicant had difficulty obtaining information from collection agent).

The Appeal Board has stated that it is reasonable for a Judge to expect an applicant to present documentation corroborating actions taken to resolve debts. ISCR Case No. 19-03757 at 3 (App. Bd. Aug. 18, 2021) (citing ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 15, 2020)). For these four SOR debts, Applicant did not provide documentation showing: (1) proof of payments, such as checking account statements, photocopies of checks, or a letter from the creditor proving that he paid or made any payments to these four creditors; (2) correspondence to creditors or CBRs showing credible debt disputes indicating he did not believe he was responsible for the debts and why he held such a belief; or (3) evidence of attempts to negotiate payment plans, such as settlement offers or agreements to show that he was attempting to resolve his delinquent debts. Applicant failed to establish mitigation under AG ¶ 20(e) because he did not provide documented proof to substantiate the existence, basis, or the result of any debt disputes.

Applicant borrowed funds from his employer, and he provided proof that he paid six SOR debts totaling \$45,687 in the seven months before his hearing: ¶ 1.a (\$12,559); ¶ 1.c (\$9,471); ¶ 1.d (\$4,273); ¶ 1.f (\$18,637); ¶ 1.j (\$587); and ¶ 1.k (\$90). Most of these debts were paid after the SOR was issued on August 19, 2025. In ISCR Case No. 24-01994 at 2 (App. Bd. Aug. 12, 2025), the Appeal Board stated:

It is well-settled that the timing of debt resolution efforts is an important factor in evaluating mitigation “because an applicant who begins to resolve financial problems only after being placed on notice that his clearance was in jeopardy may lack the judgment and self-discipline to follow rules and regulations over time or when there is no immediate threat to his own interests.” ISCR Case No. 15-06440 at 4 (App. Bd. Dec. 26, 2017). Moreover, until an applicant has a “meaningful financial track record,” it cannot be said “that he has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.” ISCR Case No. 01-21386 at 2 (App. Bd. Jun. 11, 2003).

Further, Applicant borrowed \$70,000 from his employer, and he proved that he applied \$45,687 of the loan to pay his SOR debts. “In effect, he substituted one form of indebtedness (credit card debt and personal loans) for another form (a debt-consolidation loan) or, looking at it in a different way, he converted old debt into new debt.” See ISCR Case No. 20-01510 at 3-4 (App. Bd. July 14, 2021) (reversing grant of security clearance). Applicant’s total debt increased in the last year because he did not apply all of the borrowed funds to pay his delinquent SOR debts.

In this instance, Applicant demonstrated a meaningful track record of debt payments prior to losing his employment with annual income of \$90,000 in 2023, and he showed good faith in the payment of six of his 10 SOR debts. His annual income is now \$118,000. He received financial counseling, and he has the income available to maintain his financial responsibility. He AG ¶¶ 20(a), 20(c), and 20(d) are established. Based on his overall history of financial responsibility, I am confident that he will establish payment plans, pay, or otherwise resolve his remaining SOR debts. Financial considerations security concerns are mitigated.

Drug Involvement and Substance Misuse

AG ¶ 24 provides the security concern arising from drug involvement and substance misuse stating:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. *Controlled substance* means any "controlled substance" as defined in 21 U.S.C. 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed above.

AG ¶ 25 provides conditions that could raise a drug involvement and substance misuse security concern and may be disqualifying in this case: "(a) any substance misuse (see above definition)"; "(b) testing positive for an illegal drug"; "(c) illegal possession of a controlled substance . . . ; or possession of drug paraphernalia"; and "(f) any illegal drug use while granted access to classified information or holding a sensitive position."

AG ¶¶ 25(a), 25(b), 25(c), and 25(f) are established. Discussion of the disqualifying conditions is in the mitigating section *infra*. AG ¶ 26 lists conditions that could mitigate drug involvement and substance misuse security concerns:

(a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:

(1) disassociation from drug-using associates and contacts;

(2) changing or avoiding the environment where drugs were used; and

(3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility;

(c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and

(d) satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Applicant possessed and used marijuana. He tested positive for marijuana in his employer's drug test. He held a security clearance when he was using marijuana. Marijuana is currently listed on Schedule I of the Controlled Substances Act. See 21 U.S.C. § 812(c); Drug Enforcement Administration (DEA) listing at <https://www.dea.gov/drug-information/drug-scheduling> (information link on bottom of web page). His multiple possessions of marijuana are federal crimes. Drugs listed as Schedule I Controlled Substances, have "no 'currently accepted medical use in treatment.' 21 U.S.C. § 812(a)(1)(B)." ISCR Case No. 24-01307 at 3 (App. Bd. July 17, 2025). See DEA website, *supra*; Executive Order, *Increasing Medical Marijuana and Cannabidiol Research* (December 18, 2025). The scheduling of marijuana is under DEA review, and it may be downgraded from Schedule I to Schedule III, which would permit marijuana possession and use based on prescriptions. *Id.* Applicant did not present any information that he used marijuana with a marijuana prescription.

The DOHA Appeal Board provided a detailed discussion of the mitigating conditions pertaining to marijuana possessions and use:

In recognition of the changing landscape of marijuana law and in consideration of the Director of National Intelligence's Clarifying Guidance Concerning Marijuana, the Board has noted that significant factual and legal differences may exist between an applicant's state-compliant marijuana use and use of other illegal drugs, holding that such differences are an important aspect of the case that a reasonable person would expect to be addressed. See ISCR Case No. 22-02132 at 3 (App. Bd. Oct. 27, 2023). In initial eligibility determinations, if the record reflects such differences, the judge must articulate a rational basis for why, after consideration of those differences and the Clarifying Guidance, the conduct continues to cast doubt on the individual's current reliability, trustworthiness, and good judgment.

ISCR Case No. 23-02402 at 4 (App. Bd. Feb. 19, 2025) (internal footnotes omitted).

The SecEA promulgated clarifying guidance concerning marijuana-related issues in security clearance adjudications the Appeal Board cited states as follows:

[Federal] agencies are instructed that prior recreational marijuana use by an individual may be relevant to adjudications but not determinative. The SecEA has provided direction in [the adjudicative guidelines] to agencies that requires them to use a "whole-person concept." This requires adjudicators to carefully weigh a few variables in an individual's life to determine whether that individual's behavior raises a security concern, if at all, and whether that concern has been mitigated such that the individual

may now receive a favorable adjudicative determination. Relevant mitigations include, but are not limited to, frequency of use and whether the individual can demonstrate that future use is unlikely to recur, including by signing an attestation or other such appropriate mitigation. Additionally, in light of the long-standing federal law and policy prohibiting illegal drug use while occupying a sensitive position or holding a security clearance, agencies are encouraged to advise prospective national security workforce employees that they should refrain from any future marijuana use upon initiation of the national security vetting process, which commences once the individual signs the certification contained in the Standard Form 86 (SF-86), Questionnaire for National Security Positions.

SecEA Guidance at 2 (quoted in ISCR Case No. 20-02974 at 3-4 (App. Bd. Feb. 1, 2022)).

The DOHA Appeal Board has cited the importance of consideration of “the changing landscape of marijuana law and . . . of the Director of National Intelligence’s *Clarifying Guidance Concerning Marijuana*.” ISCR Case No. 23-02402 at 4 (App. Bd. Feb. 19, 2025). See also ISCR Case No. 24-00914 at 3 (App. Bd. Apr. 9, 2025) (noting the “evolving landscape of marijuana law and policy,” “the resulting increasing prevalence of marijuana use,” and in some instances “recreational marijuana use deserves less, or even no negative inference on judgment.”).

The DOHA Appeal Board has “never established a ‘bright line’ rule as to recency of drug use. The extent to which security concerns may have become attenuated through the passage of time is a question that must be resolved based on the evidence as a whole.” See ISCR Case No. 14-01847 at 3 (App. Bd. Apr. 9, 2015). See also ISCR Case No. 24-01307 at 5 (App. Bd. July 17, 2025) (stating same).

Several factors are important in the assessment of mitigation of possession and use of illegal drugs: the duration of abstinence; state law; company policy; use after completion of an SCA; use while holding a sensitive position; use while having access to classified information; types of other illegal drugs used; continued association with drug users; broken promises not to use in the future; and promises not to use in the future. See ISCR 24-01001 (App. Bd. Apr. 22, 2025) (affirming denial of security clearance; factors: one year of abstinence from marijuana use; used marijuana after completion of an SCA; and used marijuana after promising not to use marijuana on SCA and during an DCSA background interview); ISCR Case No. 24-01005 (App. Bd. Apr. 11, 2025) (denial of security clearance reversed; factors: two years of abstinence from marijuana use; no marijuana use while holding a security clearance or occupying sensitive position; marijuana possession and use were not illegal under state law; no marijuana use after notice that marijuana use was federally illegal; and no evidence of broken promises not to use marijuana).

“The [DOHA Appeal] Board has ‘long held that applicants who use marijuana [or other illegal drugs] after having been placed on notice of the security significance of such conduct may be lacking in the judgment and reliability expected of those with access to classified information.’” ISCR Case No. 24-01001 (App. Bd. Apr. 22, 2025) (quoting ISCR

Case No. 20-01772 at 3 (App. Bd. Sept. 14, 2021)). See also ISCR Case No. 24-00468 at 6 n.7 (App. Bd. Apr. 16, 2025). Applicant possessed and used marijuana while holding a security clearance.

In ISCR Case No. 22-02623 at 4 (App. Bd. Jan. 24, 2024), the DOHA Appeal Board discussed the term of “holding a sensitive position” as follows:

For purposes of national security eligibility determinations, the Directive defines “sensitive position” as:

Any position within or in support of an agency in which the occupant could bring about, by virtue of the nature of the position, a material adverse effect on the national security regardless of whether the occupant has access to classified information, and regardless of whether the occupant is an employee, military service member, or contractor.

SEAD 4, ¶ D.8. We have previously held that this broad language is “designed to be inclusive and encompass a wide range of positions, including those that require eligibility for access to classified information (i.e., a security clearance).” ISCR Case No. 22-01661 at 4 (App. Bd. Sep. 21, 2023). The term “sensitive position” is not so broad, however, to encompass any and all employment with a defense contractor.

Applicant held a sensitive position, which required a security clearance, as discussed, *supra*, when he occasionally possessed, and used marijuana from January of 2021 to February of 2023. AG ¶ 25(f) adds a significant security element to his drug-involvement security assessment.

Applicant provided some important mitigating information. He promised not to use marijuana in the future. He disclosed his marijuana involvement to his employer after he was arrested in February 2023. His marijuana involvement did not include selling marijuana, and there is no evidence he currently possesses illegal drugs. He provided a signed statement of his intention not to use illegal drugs in the future.

Applicant first used marijuana in January 2021, and he most recently used marijuana in February of 2023. (SCA; GE 2 at 4; SOR response) He occasionally used marijuana during this two-year time period. (GE 2 at 4) He made some inconsistent statements about when he started using marijuana and when he stopped using marijuana. The most credible statements about his marijuana use were in his SCA, response to DOHA interrogatories, and SOR response.

Applicant did not provide accurate information at his hearing about his marijuana use. He minimized the period of marijuana use indicating it was only for about one month. He initially claimed he stopped using marijuana in 2022 and then conceded it was in February of 2023. His provision of false information at his hearing about his history of marijuana possession and use was not alleged in the SOR. In ISCR Case No. 03-20327

at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

- (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation.
- (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3.

Id. (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See *also* ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). This non-SOR allegation (false or misleading information at his hearing about marijuana possession and use) will be considered in the credibility assessment, application of mitigation including rehabilitation, and under the whole-person concept. It will not be considered for disqualification purposes.

None of the mitigating conditions fully apply because Applicant has not established a sufficient period of abstinence from marijuana possession and use. His decisions to possess and use illegal drugs, while occupying a sensitive position, and while having a security clearance may indicate he lacks the qualities expected of those with access to national secrets and continue to cast doubt on his current reliability, trustworthiness, and judgment. His false statement at his hearing about the extent and recency of his marijuana possession and use shows a lack of rehabilitation and damages his credibility. Guideline H security concerns are not mitigated.

Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern stating:

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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. . . .

AG ¶ 16 lists three personal conduct disqualifying conditions that are potentially relevant in this case as follows:

- (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: (1) untrustworthy or unreliable behavior . . . ; (2) any . . . other inappropriate behavior; (3) a pattern of . . . 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.”

The SOR alleges and Applicant admitted he was terminated from his employment based on a drug test, which was positive for marijuana. This conduct is relevant under AG ¶¶ 16(c) (firing not covered under other guidelines), 16(d)(2) (inappropriate behavior), 16(d)(3) (rule violation), and 16(e)(1) (vulnerability to exploitation). However, the underlying misconduct, marijuana use, is specifically detailed under Guideline H, and is sufficient for disqualification. AG ¶¶ 16(c) and 16(d) do not apply. Applicant has been open about his drug test revealing marijuana use; security officials and his fiancée are aware of his marijuana involvement; and he is not vulnerable to coercion, manipulation, exploitation, or duress. Applicant has refuted the Guideline E security concerns.

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 the 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), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall common-sense judgment based upon careful consideration” of the guidelines and the whole-person concept. My comments under Guidelines F, H, and E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 44-year-old building automation systems engineer and programmer. He served in the ARNG from 2014 to 2017, and he received an honorable discharge. He served in the military police at an overseas location for one year. He received several civilian technical certifications. During his military service, he received numerous awards and recognitions. Three coworkers provided statements on Applicant’s behalf. The general sense of their letters is that Applicant is diligent, professional, responsible, reliable, and trustworthy. The character evidence and his military record support reinstatement of his security clearance.

The evidence against grant of a security clearance is detailed in the drug involvement and substance misuse section, *supra*, and this evidence is more substantial than the evidence of mitigation.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With continued compliance with rules and laws restricting possession and use of illegal drugs and honesty in security matters, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board’s jurisprudence, to the facts and circumstances in the context of the whole person. Applicant mitigated financial considerations security concerns; he refuted personal conduct security concerns; however, he failed to mitigate drug involvement and substance misuse security concerns.

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 F: Subparagraphs 1.a through 1.k:	FOR APPLICANT For Applicant
Paragraph 2, Guideline H: Subparagraphs 2.a through 2.c:	AGAINST APPLICANT Against Applicant
Paragraph 3, Guideline H: Subparagraph 3.a:	FOR APPLICANT (Refuted) For Applicant (Refuted)

Conclusion

I conclude that it is not clearly consistent with the interests of national security to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge