



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



In the matter of: )  
)  
) ISCR Case No. 24-02192  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Mark D. Lawton, Esq., Department Counsel  
For Applicant: *Pro se*

02/17/2026

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**Decision**

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DRISKILL, A. M., Administrative Judge:

Applicant did not mitigate the security concerns under Guidelines F (Financial Considerations), H (Drug Involvement and Substance Misuse), and E (Personal Conduct). Eligibility for access to classified information is denied.

**Statement of the Case**

On March 26, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines F, H, and E. Applicant responded to the SOR on April 2, 2025 (Answer) and requested a decision on the written record in lieu of a hearing. The Government’s written case was submitted on June 20, 2025. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on July 14, 2025, and he did not respond. The case was assigned to me on December 9, 2025. The Government exhibits included in the FORM are admitted in evidence without objection.

## Findings of Fact

The SOR alleges that Applicant failed to timely file his tax year (TY) 2017 and 2018 Federal income tax returns (SOR ¶ 1.a); that he used cocaine in 2020 (SOR ¶ 2.a); that he tested positive for cocaine in 2020 on an employer-administered urinalysis (SOR ¶ 2.b); that he falsified material facts on his security clearance application (SCA) in October 2023 when he failed to disclose his 2020 cocaine use (SOR ¶ 3.b) and the real reason (i.e., failing a urinalysis) for his subsequent termination from his employment (SOR ¶ 3.a); and that he falsified material facts in his January 2024 subject interview (SI) with a government investigator when he denied using illegal drugs or controlled substances within the last seven years (SOR ¶ 3.c) and when he denied being fired due to misconduct (SOR ¶ 3.d). In his Answer, Applicant admitted all the allegations without further explanation.

Applicant is 30 years old. He has never married and does not have children. He earned a high school diploma in 2013 and served in the U.S. Navy from 2013 to 2016, receiving a General Under Honorable Conditions discharge. He has been employed with a defense contractor since August 2023. He was first granted a clearance in about 2013, but it was revoked in about 2015. (Item 2)

### Tax Returns

In his 2023 SCA, Applicant reported failing to file and pay his TY 2017 and 2018 Federal income tax returns. He attributed his failure to file to “Financial Hardships” and stated he was working with a tax professional to get the matter resolved. In his 2024 SI, he explained that after being discharged from the Navy in 2016, he made very little money. He did not file his TY 2017 and 2018 tax returns because he could not afford to pay the taxes he owed, which he estimated to be about \$4,000 in total. As of the date of the SI, he had set aside money to pay his taxes and had an accountant helping him. He stated that all his other tax returns were filed. (Items 2, 3)

In his September 2024 response to interrogatories, Applicant stated that he had failed to file his returns due to inattention and a lack of money and admitted he should have been more proactive in resolving his tax situation. He stated all tax returns had been filed. His account transcripts reflect a timely-filed TY 2015 return and a TY 2016 return filed in April 2019. His TY 2017 transcript, created on May 20, 2024, states “no tax return filed,” but lists a “payment with return” transaction on May 14, 2024, with a \$823 payment. His TY 2018 transcript, created on June 15, 2024, states “no tax return filed,” but lists a “payment with return” transaction on June 6, 2024, with a \$4,506 payment. These entries and dates on the TY 2017 and 2018 transcripts appear to indicate that returns were submitted on the dates listed but had not yet been processed. (Item 4)

Regarding the interrogatory’s specific request for State A income tax return transcripts for TY 2015-2018, Applicant asserted that he was considered a State B

resident for tax purposes while he was in State A because he was in State A pursuant to military orders. State B does not have state income tax. Although this explains a lack of state tax returns for TY 2015, when he was stationed in State A, and for TY 2018, when he was living and working in State B, it does not explain why he does not have a State A tax return for TY 2016 and 2017, when he worked as a civilian in State A after his discharge. He provided evidence that he had applied for a State A tax clearance certificate, which would certify compliance with the tax laws of State A, but he did not provide an issued certificate, if one exists. (Item 4)

In his February 2025 response to interrogatories, Applicant provided account transcripts for TY 2019-2023. All were filed between March and September 2024, with the TY 2023 return being the only one filed on time. He does not currently owe any Federal taxes. (Item 3)

## **Drug Use and Employment**

In his 2023 SCA, Applicant reported receiving non-judicial punishment in March 2016 for three specifications of wrongful use of a controlled substance. He reported he was discharged several months later due to this misconduct. When asked on the SCA whether he had used any illegal drugs or controlled substances in the last seven years, Applicant answered “no.”<sup>1</sup> In the Employment Activities section of the SCA, he listed Employer A, with employment dates from December 2018 to October 2020, and provided the reason for leaving as “End of Contract.” He also answered “no” to a question asking whether he was fired, quit after being told he would be fired, left by mutual agreement following charges or allegations of misconduct, or left by mutual agreement following notice of unsatisfactory performance from Employer A. (Item 2)

In his 2024 SI, Applicant stated that sometime in 2015, while on active duty in the Navy, he used lysergic acid diethylamide (LSD) and marijuana at a party. He received non-judicial punishment for use of LSD, marijuana, and psychotropic mushrooms, but he told the investigator that he had not actually used mushrooms. His security clearance was revoked because of his misconduct. (Item 3)

During his 2024 background interview, Applicant was asked if, while working for Employer A, he had ever been fired, quit after being told he would be fired, left by mutual agreement following charges or allegations of misconduct or notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace. He answered “no.” He was then asked if he had used any illegal drugs or controlled substances within the last seven years, and he answered “no.” The investigator confronted Applicant with a failed drug test administered by Employer A from October 2020. Applicant asked if it was too late to recant his previous

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<sup>1</sup> Applicant’s reported drug use while on active duty in the Navy fell just outside the seven-year reporting window; however, it should have still been reported in the section that asks if an applicant has EVER used drugs while possessing a security clearance.

answers and admitted that it was “another one-time thing with drugs.” He admitted to using cocaine at a party and stated that he was drug tested by his employer a day or two later. He admitted that Employer A fired him immediately. He told the investigator that he lied about the incident because he was not proud of it. He did not intend to use drugs in the future. (Item 3)

In his February 2025 response to an interrogatory, Applicant reported one use of LSD in October 2015, one use of marijuana in October 2015, and one use of cocaine in October 2020. He stated he had no intention to use the drugs again. (Item 3)

### **Policies**

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

“[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.” EO 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.” EO 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* 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* at 531.

## **Analysis**

### **Guideline F, Financial Considerations**

The concern under this guideline 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 evidence establishes the following disqualifying conditions under this guideline:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(c): a history of not meeting financial obligations; and

AG ¶ 19(f): failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

The following mitigating conditions are potentially applicable:

AG ¶ 20(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; and

AG ¶ 20(g): the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Applicant provided evidence that he has filed all Federal income tax returns from TY 2015 to 2023. Of that nine-year span, only two of the returns were filed on time. The remainder were filed years after they were due. Failure to comply with tax laws suggests that an applicant has a problem with abiding by well-established government rules and systems. Voluntary compliance with rules and systems is essential for protecting classified information. *See, e.g.*, ISCR Case No. 16-01726 at 5 (App. Bd. Feb. 28, 2018). A person who fails repeatedly to fulfill his or her legal obligations, such as filing tax returns when due, does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. *See, e.g.*, ISCR Case No. 17-01382 at 4 (App. Bd. May 16, 2018).

Although AG ¶ 20(g) has some application here now that Applicant's TY 2017 and 2018 returns are filed, it is not sufficiently mitigating due to the length of time it took for the returns to be filed, the filing of the returns after completing an SCA and SI, and Applicant's lengthy history of failing to timely file his returns. In ISCR Case No. 15-06440 at 4 (App. Bd. Dec. 26, 2017) the Appeal Board reversed the grant of a security clearance, discussed how AG ¶ 20(g) applied, and noted:

The timing of the resolution of financial problems is an important factor in evaluating an applicant's case for 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. In this case, applicant's filing of his Federal income tax returns for 2009-2014 after submitting his SCA, undergoing his background

interview, or receiving the SOR undercuts the weight such remedial action might otherwise merit.

Furthermore, Applicant's history of failing to timely file his returns extended beyond the tax years alleged, indicating this is current and ongoing behavior, it did not occur under circumstances making it unlikely to recur, and it casts doubt on his current reliability, trustworthiness, and good judgment. AG ¶ 20(a) does not apply.

### **Guideline H, Drug Involvement and Substance Misuse**

The concern under this guideline is set out in AG ¶ 24:

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.

Applicant's admissions and the evidence in the FORM establish the following disqualifying conditions under this guideline:

AG ¶ 25(a): any substance misuse (see above definition); and

AG ¶ 25(b): testing positive for an illegal drug.

The following mitigating conditions are potentially applicable:

AG ¶ 26(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;

AG ¶ 26(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.

Applicant has admitted to just two occasions of drug use over the course of his life. Shortly following both occasions, he was drug tested and subsequently terminated from his employment. While the possibility that he was unlucky enough to be caught the only two times he ever used drugs in his life is not impossible to believe, it is significantly harder to accept given Applicant's established history of lying about his drug use. Because Applicant has demonstrated that his self-reporting is unreliable, I am unable to conclude that the mitigating information he has provided about his drug use, such as the date of last use, is accurate. Specifically, I cannot confidently conclude that his misconduct has been mitigated by the passage of time nor by his assertion that he does not intend to use drugs in the future. Applicant has not carried his burden of mitigating the drug involvement and substance misuse concerns.

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

The security concern 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 national security investigative or adjudicative processes.

Applicant's admissions and the evidence in the FORM establish the following disqualifying conditions under this guideline:

AG ¶ 16(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 security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and

AG ¶ 16(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 admitted that he purposely omitted his drug use and employment termination on the SCA and in his SI because he was not proud of it. AG ¶¶ 16(a) and 16(b) are established.

The following mitigating conditions potentially apply in Applicant's case:

AG ¶ 17(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and

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 it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment.

Applicant had to be confronted with his drug use and employment termination omissions. Only then did he ask if he could change his answers. This does not qualify as a good-faith effort to correct his omissions. AG ¶ 17(a) does not apply.

AG ¶ 17(c) is not established. Applicant's deliberate falsifications of material facts on his SCA and during his SI were recent, occurred more than once, and did not occur under unique circumstances. They were not minor, because they undermined the integrity of the adjudication of his most recent SCA. Falsification of an SCA "strikes at the heart of the security clearance process." ISCR Case No. 09-01652 (App. Bd. Aug. 8, 2011.)

### **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 F, H, and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003).

“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.” ISCR Case No. 09-01652 at 3 (App. Bd. Aug. 8, 2011), *citing Dorfmont v. Brown*, 913 F.2d 1399, 1401 (9<sup>th</sup> Cir. 1990), *cert. denied*, 4999 U.S. 905 (1991). Applicant has not overcome this presumption. After weighing the disqualifying and mitigating conditions under Guidelines F, H, and E and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the financial considerations, drug involvement and substance misuse, and personal conduct 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 (Financial Considerations): AGAINST APPLICANT

Subparagraph 1.a: Against Applicant

Paragraph 2, Guideline H (Drug Use): AGAINST APPLICANT

Subparagraphs 2.a-2.b: Against Applicant

Paragraph 3, Guideline E (Personal Conduct): AGAINST APPLICANT

Subparagraphs 3.a-3.d: Against Applicant

### **Conclusion**

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

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A. M. Driskill  
Administrative Judge