



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



In the matter of:

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ISCR Case No. 24-02099

Applicant for Security Clearance

**Appearances**

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

For Applicant: *Pro se*

03/26/2026

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**Decision**

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HARVEY, Mark, Administrative Judge:

Guidelines F (financial considerations) and J (criminal conduct) security concerns are mitigated. However, Guideline E (personal conduct) security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On October 2, 2023, Applicant completed a Questionnaire for National Security Positions (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1) On April 4, 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) 1)

The SOR detailed reasons why 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 said his case will be submitted to an Administrative Judge for

a determination as to whether to grant, deny, or revoke his security clearance. Specifically, the SOR set forth security concerns arising under Guidelines J, E, and F. (HE 1) On April 8, 2025, Applicant responded to the SOR. (HE 2) On August 13, 2025, Department Counsel was ready to proceed. On September 10, 2025, the case was assigned to me. On September 12, 2025, DOHA issued a notice setting the hearing for October 21, 2025. (HE 3) 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 28, 2025, DOHA issued a notice rescheduling the hearing for January 6, 2026. (HE 4) The hearing was held as rescheduled, using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered ten exhibits; Applicant offered one exhibit; and all proffered exhibits were admitted into evidence without objection, except for GE 3. (Tr. 12, 18-21; GE 1-GE 10; Applicant Exhibit (AE) A) Applicant objected to GE 3 because he believed the documents were not accurate, such as the status of certain debts and that he disclosed his firings from employments to the background investigators. (Tr. 19-20) His objections go to the weight not the admissibility of GE 3. I overruled his objections. (Tr. 20-21)

On January 15, 2026, DOHA received a copy of the transcript. Eleven post-hearing exhibits were admitted into evidence without objection. (AE B-AE L) The record was scheduled to close on March 12, 2026. (Tr. 67, 76-77) On March 13, 2026, I provided a list of exhibits to Applicant, and I asked him to provide a list of any exhibits not on my list. (AE L) I did not receive a response from Applicant, and I closed the record on March 19, 2026.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript. Unless stated otherwise the source for the information in the findings of fact is Applicant's response to the SOR.

### **Findings of Fact**

In Applicant's SOR response, he admitted the allegations in SOR ¶¶ 1.a through 1.e, 2.a through 2.e, and 3.a through 3.c, and he denied the allegations in SOR ¶¶ 3.d through 3.g. (HE 2) He also provided extenuating and mitigating information. (HE 2) His admissions are accepted as findings of fact. (HE 2)

Applicant is a 31-year-old network installation specialist, and he has worked for his current employer since September of 2023. (Tr. 7-8, 22-23) In 2013, he received a General Educational Development (GED) diploma. (Tr. 7) He is taking online college cybersecurity classes, and he is seeking a bachelor's degree. (Tr. 7-8) He has not served in the military. (Tr. 8) He has never married. (Tr. 8) His three children are ages five, five, and seven, and Applicant and his children live with Applicant's grandmother. (Tr. 8) He earned a commercial driver's license (CDL).

## **Criminal Conduct**

The record contains Applicant's statements during the security clearance process and court disposition records. It did not contain witness statements and police reports.

SOR ¶ 1.a alleges Applicant was arrested on a warrant in about February 2023 on charges of obtain rented vehicle by false representation and fail to return, and a related charge of fugitive when the arrest warrant was issued in April 2023. The charges were not prosecuted.

Applicant said his vehicle was in the shop, and his insurance company provided a rental vehicle. (Tr. 26-27) His insurance adjuster said he could keep the rental car so long as his vehicle was in the shop. (Tr. 27-29) His vehicle was in the shop for about 30 days because the car-repair company needed a part, and he kept the rental vehicle. (Tr. 26-28) The police arrested him because the rental car company said he failed to return the vehicle. (Tr. 27) The charge was dismissed before he went to court. (Tr. 27) The rental car company did not ask him to pay anything. (Tr. 29-30)

SOR ¶ 1.b alleges Applicant was arrested in about December 2022 and charged with simple battery and felony aggravated assault with a firearm. In September 2023, the prosecutor dismissed the charge.

Applicant's girlfriend and his brother's girlfriend were in an altercation. (Tr. 30-31) Applicant and his brother broke up the fight, and Applicant and his girlfriend drove away. (Tr. 31-33) Applicant was at work in his employer's vehicle, and the police stopped the vehicle and advised him there was a warrant for his arrest for simple battery and aggravated assault with a firearm. (Tr. 31, 33-34) His brother's girlfriend told the police that he assaulted her and had a firearm; however, she subsequently recanted her allegations. (Tr. 34) Applicant denied that he touched his brother's girlfriend and that he had a firearm. (Tr. 34) The charges were dismissed. (Tr. 34) Applicant requested expungement of the charge, and a judge granted his request for expungement. (Tr. 34)

SOR ¶ 1.c alleges Applicant was arrested in about August 2021 and charged with simple battery, simple battery of the infirm, and a related charge of fugitive when the arrest warrant was issued for said charge. In September 2021, the simple battery charge was dismissed, and in April 2022, the Judge found him not guilty of simple battery of the infirm.

An older woman went to Applicant's grandmother's house, and she was holding a stick. (Tr. 35) Applicant went outside, took the stick away from her, and threw the stick into the woods. (Tr. 35) Applicant's mother came outside and told the woman to leave, and she left. (Tr. 36) Applicant said he did not know why she had a stick or what she intended to do with it. (Tr. 37) He went to trial and was found not guilty based on self-defense because his neighbor was a trespasser. (Tr. 37)

SOR ¶ 1.d alleges Applicant was arrested in about November 2016 and charged with simple battery. He pleaded guilty to an amended charge of jury misconduct in

January 2017 and was sentenced to 30 days confinement (suspended), fines, and 30 days of probation.

Applicant's sister was intoxicated and combative. (Tr. 38) She tried to strike him, and he pinned her hands behind her back. (Tr. 39) She became angrier, and she called the police. (Tr. 39) He was arrested for simple battery, and when they went to court, he was charged with jury misconduct. (Tr. 39) He agreed to plead guilty to jury misconduct because his lawyer said he would not have to go to jail. (Tr. 40) He did not provide any facts explaining why he was found guilty of jury misconduct. (Tr. 39-40)

SOR ¶ 1.e alleges Applicant was arrested in about September 2015 and charged with contraband in a correctional center. Applicant said that in 2015, he was doing a lot of fishing. (Tr. 41) He said he went to visit his brother, who was incarcerated. (Tr. 41) Applicant had a fishhook in his hat, and he was charged with contraband in a correction center. (Tr. 41) The charge was dismissed before Applicant went to court. (Tr. 41)

## **Personal Conduct**

SOR ¶ 2.a alleges Applicant was terminated from his employment in about April 2023 because of "Work Performance" and his arrest for the criminal charges detailed in SOR ¶ 1.b. SOR ¶ 2.b alleges Applicant was terminated from his employment in about April 2021 for failure to maintain an active CDL, due to his license suspension and failure to appear in court for a traffic violation. Applicant admitted he was fired for the reasons in SOR ¶¶ 2.a and 2.b.

SOR ¶ 2.c alleges Applicant falsified material facts on his October 2, 2023 SCA. Section 13C - **Employment Record** asked "Have any of the following happened to you in the last 7 years at employment activities that you have not previously listed? (if 'Yes', you will be required to add an addition employment in Section 13A) ▪ Fired from a job? ▪ Quit after being told you would be fired? ▪ Have you left a job by mutual agreement following charges or allegations of misconduct? ▪ Left a job by mutual agreement notice of unsatisfactory performance? ▪ Received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as a violation of security policy?" Applicant answered, "No" and deliberately failed to disclose that he was terminated from his employment in about April 2023, as set forth in SOR ¶ 2.a., above.

SOR ¶ 2.d alleges Applicant falsified material facts on his October 2, 2023 SCA, when he answered, "No" to the same question in SOR ¶ 2.c, and deliberately failed to disclose that he was terminated from his employment in about April 2021, as set forth in SOR ¶ 2.b., above.

In his October 2, 2023 SCA, Applicant did not check the box indicating he was fired, and he stated that he left the employment in SOR ¶ 2.a to "start a new opportunity." (Tr. 42-43, 65; GE 1 at 13) For the employment in SOR ¶ 2.b, he again failed to check the box indicating he was fired, and he said on his SCA that he left the employment because he "received a better offer" from another employer. (Tr. 44-45, 65; GE 1 at 14) He did not indicate on his SCA that he was terminated from either of these employments.

(GE 1) He said he did not disclose the terminations because he was rushing through the application and he “felt as though that would have been something shorter to say.” (Tr. 43, 65) He acknowledged that it did not save any time to complete the SCA the way he completed it. (Tr. 65) He also said he knew he would have an opportunity to explain it to an investigator later. (Tr. 43) He said when he had his background interview he provided the details of his firings. (Tr. 43) He denied that he intended to conceal the terminations or deceive the government. (Tr. 65)

Applicant said he did not provide the information about the terminations during the first background interview on February 22, 2024, because he was nervous and overlooked the information. (Tr. 44; GE 2) His second background interview on March 20, 2024, states:

Subject was asked if he had ever been terminated from any employments? Subject stated that he was terminated from [two employments]. The reason subject failed to list these terminations was due to rushing when completing the security questionnaire form and overlooked the question. Subject failed to mention these terminations during the initial interview due [to] being nervous and having a lot on his mind. Subject wasn't trying to intentionally list misleading information and is aware that the government has access to employment related information. (GE 2 at 9)

In his SOR response for SOR ¶¶ 2.c and 2.d, Applicant said, “I admit. I was rushing through the e-QIP because I didn't have any access to a laptop or computer and I was only able to do very little with my phone.” (HE 3)

At his hearing, Applicant said that he failed to mention these terminations during the initial interview due to being nervous and having a lot on his mind. (Tr. 44) He concluded that he “was pretty much nervous and not really fully understanding, and had a lot on [his] mind and whatnot about what was going to transpire and take place.” (Tr. 45)

SOR ¶ 2.e cross alleges the information as set forth in SOR ¶¶ 1.a. through 1.e., above.

## **Financial Considerations**

Applicant helps his grandmother because she suffered with a stroke and COVID twice, and she has memory issues. (Tr. 60) He stays at her house. (Tr. 60-62) He provides some financial support to his grandmother and to his mother, who is currently unemployed. (Tr. 63) His current annual salary is about \$59,000. (Tr. 61) He is current on filing and paying his taxes. (Tr. 63) He has received financial counseling. (Tr. 64)

The SOR ¶ 3 lists seven delinquent debts totaling \$16,929, and their status is as follows.

SOR ¶ 3.a alleges a debt for rent of an apartment placed for collection for about \$8,823. Applicant lived in the apartment from October 2020 to October 2021. (Tr. 45-47) He moved out because the landlord did not make necessary repairs. (Tr. 45) The apartment had black mold, and his children had respiration issues. (Tr. 47) After his hearing, Applicant called the collection agent, and said he sent a \$20 payment to the creditor about a year ago; however, the creditor returned his payment. (Tr. 46, 48; AE D) In the telephone call, Applicant requested a payment plan; however, the creditor refused and demanded payment in full. (Tr. 46; AE D) On February 28, 2026, Applicant used his tax refund and a loan from his bank to pay the debt in full. (AE B) This debt is resolved.

SOR ¶ 3.b alleges a utility debt placed for collection for about \$1,580. The utility bill related to a residence where Applicant lived in 2016. (Tr. 49) He made some payments in 2024, and he reduced the debt to \$1,580. (Tr. 50) On February 26, 2026, Applicant used his tax refund and a loan from his bank to pay the debt in full. (AE B) This debt is resolved.

SOR ¶ 3.c alleges a debt placed for collection for about \$696. In 2019 or 2020, the creditor paid for Applicant's six weeks of truck-driving training, and then the company was unable to provide adequate employment. (Tr. 52-53) The creditor billed Applicant for the training. (Tr. 51-53) In 2024, he paid part of the debt. (Tr. 53) On February 25, 2026, Applicant paid the creditor \$510 and resolved the debt. (AE B)

SOR ¶ 3.d alleges a telecommunications debt placed for collection for about \$1,043, and SOR ¶ 3.e alleges a telecommunications debt placed for collection for about \$3,882. Applicant disputed the debts because he did not open the accounts. (Tr. 54-56) His girlfriend opened the accounts. (Tr. 54-56) The two debts were dropped from his credit report. (Tr. 54-56)

SOR ¶ 3.f alleges an insurance debt placed for collection for about \$500 and SOR ¶ 3.g alleges a debt placed for collection for about \$405. Applicant said he paid the two debts in 2024. (Tr. 58-59) Applicant's February 24, 2026 credit bureau report (CBR) indicates the debt in SOR ¶ 3.f is paid, and the balance is zero. (AE E) He is credited with paying these two debts.

The only negative accounts on his February 24, 2026 CBR are the debts in SOR ¶¶ 3.a through 3.c. (AE F; AE G) His CBRs show multiple debts in paid or pays as agreed status. (AE E-AE G)

### **Applicant's concluding statement**

Applicant provided the following post-hearing statement to summarize his case:

This clearance is not merely a procedural requirement but the cornerstone of my ability to continue serving in a role I have passionately dedicated myself to for the past three years. This position is the primary means through which I support my children and family, and my commitment to this work runs deep. My consistent performance and integrity in this role are

further attested to by the letters of recommendation submitted by my direct supervisor and colleagues, reflecting my value to the team and mission.

Regarding the financial concerns noted on my credit report, I have taken decisive and proactive steps to address these matters head-on. I have successfully established payment plans with several creditors and possess documented evidence, including voice recordings, confirming these arrangements and my commitment to fulfilling them. While I encountered a particular challenge with [the debt in SOR ¶ 3.a], who unfortunately declined my request for a payment arrangement and insisted on the full balance, I want to assure you that I am actively working towards resolving this outstanding debt. I am exploring all viable options and dedicating myself to settling this matter as swiftly as possible, demonstrating my unwavering resolve to manage my financial responsibilities.

My dedication extends beyond personal necessity; I genuinely cherish my role and the opportunity to contribute meaningfully. The positive rapport I've built with [service-member customers] I support daily further underscores my commitment and integration within the team. I believe I am a valuable asset and am deeply invested in continuing my service.

Your favorable decision to grant my clearance would not only secure my livelihood but also affirm my commitment to ethical conduct and responsibility. I pledge to uphold the trust placed in me and to continue performing my duties with the highest standards of integrity and dedication. I respectfully implore your Honor to consider my case favorably. (AE H)

## **Character Evidence**

Applicant provided five character statements from his brother, coworkers, and friends. (AE A) The general sense of the statements is that Applicant is dependable, reliable, loyal, skilled, honest, cooperative, professional, and trustworthy. (AE A)

## **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 War or his designee to grant applicant 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, nothing in an unfavorable decision should be construed to suggest that it is based on any express or implied determination about an applicant's allegiance, loyalty, or patriotism. An unfavorable decision is merely an indication the applicant has not met the strict guidelines the President, Secretary of War, 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**

### **Criminal Conduct**

AG ¶ 30 provides the security concern arising from criminal conduct stating, "Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness.

By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.”

AG ¶ 31 lists conditions that could raise a criminal conduct security concern and may be disqualifying in this case:

(a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness; and

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

AG ¶¶ 31(a) and 31(b) are established. Discussion of the disqualifying conditions is in the mitigating section *infra*. AG ¶ 32 lists conditions that could mitigate criminal conduct security concerns:

(a) so much time has elapsed since the criminal 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;

(b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;

(c) no reliable evidence to support that the individual committed the offense; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

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).

Applicant was arrested in about February 2023 on charges of obtain rented vehicle by false representation and fail to return, and a related charge of fugitive when the arrest warrant was issued in April 2023. Applicant said there was a misunderstanding about how long he could use a rental vehicle. The charge was not prosecuted, and he was not required to pay the rental fee. The incident “happened under such unusual circumstances, that it is unlikely to recur.” AG ¶¶ 32(a) and 32(c) apply to SOR ¶ 1.a.

Applicant was arrested in about December 2022 and charged with simple battery and felony aggravated assault with a firearm. Applicant said the woman allegedly assaulted recanted her statement about Applicant having a firearm and assaulting her and in September 2023, the prosecutor dismissed the charge. AG ¶ 32(c) applies to SOR ¶ 1.b.

Applicant was arrested in about August 2021 and charged with simple battery, simple battery of the infirm, and a related charge of fugitive when the arrest warrant was issued for said charge. Applicant said an elderly woman was in his yard with a stick. He took the stick away from her. In September 2021, the simple battery charge was dismissed, and in April 2022, the Judge found him not guilty of simple battery of the infirm. The incident “happened under such unusual circumstances, that it is unlikely to recur.” AG ¶¶ 32(a) and 32(c) apply to SOR ¶ 1.c.

Applicant was arrested in about November 2016 and charged with simple battery. He pleaded guilty to an amended charge of jury misconduct in January 2017 and was sentenced to 30 days confinement (suspended), fines, and 30 days of probation. Applicant denied that he assaulted his sister. He did not explain why he was convicted of jury misconduct. The offense occurred in around January of 2017, has not recurred, and is not recent. The incident “happened under such unusual circumstances, that it is unlikely to recur.” AG ¶¶ 32(a) and 32(c) apply to SOR ¶ 1.d.

Applicant was arrested in about September 2015 and charged with contraband in a correctional center. Applicant said he had a fishhook in his hat, when he went to visit his brother, who was in jail. Applicant was charged with contraband in a correction center. The charge was dismissed without Applicant needing to go to court. The offense occurred in around September of 2015, has not recurred, and is not recent. AG ¶ 32(a) applies to SOR ¶ 1.e.

Charges may be dismissed for many reasons. Lack of witness cooperation or prosecutors being too busy to address less-serious charges may result in dismissal of charges. The record lacks statements from prosecutors, police reports, and witness statements, including Applicant’s statements to police. Based on Applicant’s statements at his hearing and other security records, and dismissals of almost all of the charges, criminal conduct security concerns are mitigated.

## 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.

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 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.

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 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;

(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.

Applicant experienced some circumstances partially or fully beyond his control, that adversely affected his finances. His apartment had mold; his children had breathing issues; his grandmother was ill; and his mother was unemployed. However, “[e]ven if [an applicant’s] financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the [administrative judge] could still consider whether [the applicant] has since acted in a reasonable manner when dealing with those financial difficulties.” ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)). He did not present sufficient evidence that he acted responsibly under the circumstances with respect to the financial issues in the SOR because he did not establish his inability to make more progress sooner to resolve his delinquent debts. AG ¶ 20(b) is partially established.

Applicant’s SOR lists seven delinquent debts totaling \$16,929. He paid five debts, and he disputed two telecommunications debts. He provided a good reason for the disputes, that is, he was not the person who signed the contracts for telecommunications services. His disputes were successful, and the two disputed telecommunications accounts were dropped from his most recent CBRs.

In ADP Case No. 23-00547 at 3 (App. Bd. Apr. 23, 2024), the DOHA Appeal Board said:

[A]n applicant must act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by concomitant conduct even if it may only provide for the payment of debts one at a time. ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008). What constitutes responsible behavior depends on the facts of a given case and the fact that an applicant’s debts will not be paid off for a long time, in and of itself, may be of limited security concern. ISCR Case No. 09-08462 at 4. Relevant to the equation is an assessment as to whether an applicant acted responsibly

given [his or] her limited resources. See, e.g., ISCR Case No. 08-06567 at 3-4 (App. Bd. Oct 29, 2009).

“[U]ntil an applicant has a meaningful financial track record, it cannot be said as a matter of law that he has initiated a good-faith effort to repay overdue creditors or otherwise resolved debts. The phrase ‘meaningful track record’ necessarily includes evidence of actual debt reduction through payment on debts.” ISCR Case No. 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007)).

A security clearance adjudication is not a debt-collection procedure. It is designed to evaluate an applicant’s judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). Applicants are not required “to be debt-free in order to qualify for a security clearance. Rather, all that is required is that an applicant act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by ‘concomitant conduct’ that is, actions which evidence a serious intent to effectuate the plan.” ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017) (denial of security clearance remanded) (citing ISCR Case No. 13-00987 at 3, n.5 (App. Bd. Aug. 14, 2014)). 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. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant has taken meaningful actions to address his SOR debts and all delinquent SOR debts are resolved. AG ¶ 20(d) (good faith) applies to all of his debts. AG ¶ 20(e) partially applies to the two debts he disputed. AG ¶ 20(e) does not fully apply because he did not provide documentation showing the basis of the dispute or evidence of actions to resolve the issue. His CBRs show a track-record of paying his debts. Financial considerations security concerns are mitigated.

## **Personal Conduct**

AG ¶ 15 provides the security concern arising from personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

AG ¶ 16 provides conditions that could raise a personal conduct security concern and may be disqualifying in this case:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or

similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities;

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;

(2) any disruptive, violent, or other inappropriate behavior;

(3) a pattern of dishonesty or rule violations; and

(4) evidence of significant misuse of Government or other employer's time or resources; 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.

AG ¶¶ 16(a), 16(d), and 16(e) are established. Discussion of the disqualifying conditions is in the mitigating section *infra*. AG ¶ 17 lists conditions that could mitigate personal conduct security concerns:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(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;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

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

Applicant was terminated from his employment in about April 2023 because of “Work Performance” and his arrest for the criminal charges detailed in SOR ¶ 1.b. As stated previously, the charges in SOR ¶ 1.b were not substantiated. Applicant was terminated from his employment in about April 2021 for failure to maintain an active CDL due to his license suspension and failure to appear in court for a traffic violation. Applicant presented credible evidence of his excellent work performance in his current employment, and the two firings “happened under such unique circumstances that [being fired] is unlikely to recur and does not cast doubt on [his] reliability, trustworthiness, or good judgment.” AG ¶ 17(c) applies to SOR ¶¶ 2.a and 2.b.

The personal conduct security concerns cross-alleged under the criminal conduct guideline in SOR ¶ 2.e are mitigated for the same reasons they are mitigated under the criminal conduct guideline, *supra*.

The two falsification allegations in SOR ¶¶ 2.c and 2.d raise a separate serious security concern.

“To establish a falsification, it is not enough merely to demonstrate that an applicant’s answers were not true. To raise security concerns under Guideline E, the answers must be deliberately false. In analyzing an applicant’s intent, a Judge must consider the applicant’s answers in light of the record as a whole.” ISCR Case No. 14-05005 at 5 n.3 (App. Bd. Sept. 15, 2017) “Applicant’s statements about his intent and state of mind when he executed his Security Clearance Application were relevant evidence, but they [are] not binding on the Administrative Judge.” ISCR Case No. 04-09488 at 2 (App. Bd. Nov. 29, 2006) (citation omitted). In ADP Case No. 17-03932 at 3 (App. Bd. Feb. 14, 2019), the Appeal Board recognized the importance of circumstantial evidence of intent in falsification cases:

When evaluating the deliberate nature of an alleged falsification, a Judge should consider the applicant’s *mens rea* in light of the entirety of the record evidence. *See, e.g.*, ADP Case No. 15-07979 at 5 (App. Bd. May 30, 2017). As a practical matter, a finding regarding an applicant’s intent or state of mind may not always be based on an applicant’s statements, but rather may rely on circumstantial evidence. *Id.*

Applicant chose not to disclose negative information on his SCA about being fired from two previous employments in response to questions about whether he was terminated and why he left those employments. He intentionally provided false and

misleading information, and the information was provided with intent to deceive. He read and understood the questions as indicated by the misleading information he typed into the comment sections. He had an opportunity to disclose the two firings during his first background interview, and he did not disclose them. The second background interview was to address the firings, and he receives some mitigating credit for his disclosure of the information about the firings at that time.

Applicant's intentional falsification of his SCA is recent and serious. ISCR Case No. 24-00468 at 6 n.7 (App. Bd. Apr. 16, 2025) (citing ISCR Case No. 01-06852 at 2-3 (App. Bd. Aug. 21, 2002) ("Falsification of a security questionnaire constitutes misconduct that casts serious doubts on an applicant's judgment, reliability, or trustworthiness [and] provides a rational basis for an adverse security clearance decision."); ISCR Case No. 02-07555 at 3 (App. Bd. Jul. 19, 2004) ("An applicant who deliberately tries to deceive or mislead the federal government does not demonstrate the high degree of judgment, reliability, and trustworthiness that must be expected of persons granted access to classified information.")).

Applicant provided two false answers on his SCA. At his hearing and second background interview, he provided several reasons for the false information in his SCA. He said he was in a hurry; he wanted to provide a simple explanation; he was using a cell phone instead of a computer to complete his SCA; he "overlooked" something; and he intended to reveal accurate information during a follow-up interview. He did not take responsibility for intentionally omitting negative information. He did not admit that his falsification was intentional, which shows a lack of rehabilitation. Personal conduct security concerns are 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 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 J, E, and F 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 31-year-old network installation specialist, and he has worked for his current employer since September of 2023. In 2013, he received a GED diploma. He is taking online college cybersecurity classes, and he is seeking a bachelor's degree. He has a CDL. His three children are ages five, five, and seven, and they live with Applicant and his grandmother. The general sense of Applicant's five character statements is that Applicant is dependable, reliable, loyal, skilled, professional, honest, cooperative, and trustworthy. Applicant provided a credible concluding statement indicating his enjoyment of his current employment, his desire to support his family, his future honorable intentions, and his desire to continue to contribute to DOD. He is on the right track for a successful future.

The evidence against grant of a security clearance is detailed in the personal conduct section, *supra*, and this evidence is more substantial than the evidence of mitigation.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. *See Dorfmont*, 913 F. 2d at 1401. "[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant's eligibility for access to classified information." ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No.12-00270 at 3 (App. Bd. Jan. 17, 2014)).

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 criminal conduct and financial considerations security concerns; however, he failed to mitigate personal conduct security concerns.

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 effort to ensure honesty and candor when completing security documents, he may well be able to demonstrate persuasive evidence of his security clearance 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 J: Subparagraphs 1.a through 1.e:	FOR APPLICANT For Applicant
Paragraph 2, Guideline E: Subparagraphs 2.a and 2.b: Subparagraphs 2.c and 2.d: Subparagraph 2.e:	AGAINST APPLICANT For Applicant Against Applicant For Applicant

Paragraph 3, Guideline F:  
Subparagraphs 3.a through 3.g:

FOR APPLICANT  
For Applicant

### **Conclusion**

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

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Mark Harvey  
Administrative Judge