



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



In the matter of: )  
)  
) ISCR Case No. 25-01208  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Brian Farrell, Esq., Department Counsel  
For Applicant: *Pro se*

03/20/2026

**Decision**

WESLEY, ROGER C., Administrative Judge:

Based upon a review of the case file, pleadings, exhibits, and testimony, Applicant did not mitigate financial considerations concerns. Eligibility for access to classified information or to hold a sensitive position is denied.

**Statement of the Case**

On November 24, 2025, the Defense Counterintelligence and Security Agency Adjudication and Vetting Services (DCSA AVS) issued a statement of reasons (SOR) to Applicant detailing reasons why under the financial considerations guideline the DCSA AVS could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken 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*, (January 2, 1992) (Directive); 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.

Applicant responded to the SOR on October 3, 2025, and requested that her case be resolved on the written record without a hearing. She received the File of Relevant Material (FORM) on December 11, 2025, and she elected to respond to the FORM with a letter reaffirming her response and adding attachments. Applicant's attachments consisted of federal tax transcripts, federal and state tax returns, and other tax data covering tax years 2019 through 2023. Applicant's case was assigned to me on February 17, 2026. The Government's case consisted of five exhibits that were admitted without objection as Government Exhibits (GE) 1 through 5. Applicant's post-FORM submission was admitted without objection as Applicant's Exhibit (AE) 6.

### **Summary of Pleadings**

Under Guideline F, Applicant1 allegedly (a) failed to file, as required, Federal income tax returns for tax years 2019 through 2021 and (b) failed to file, as required, state income tax returns for tax years 2020 through 2023. Allegedly, Applicant's tax filing issues remain unresolved.

In Applicant's response to the SOR, she denied the allegations pertaining to her finances with explanations and clarifications. She claimed that she has since filed her federal and state income tax returns. She also claimed that her tax-filing lapses were attributable in part to time-consuming personal issues associated with a broken intimate relationship and health problems involving both her and her mother. She further claimed that she has worked hard to maintain her financial livelihood and stay up to date with her financial obligations. And, she claimed that she was an active-duty enlisted Army member between 2008 and 2012 and an Army reservist from 2012 to 2016. (Item 2) Applicant attached documentation of her claimed federal and state income tax filings through her retained tax preparer

### **Findings of Fact**

Applicant is a 44-year-old employee of a defense contractor who seeks a security clearance. Allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

### **Background**

Applicant never married and has no children. (GE 3) She has taken some post-high school classes without earning a degree or diploma. (GEs 3 and 4) She enlisted in the Army's Active Reserve in May 2012 and served four years of active duty. Applicant was honorably discharged in May 2016 and served two additional years of Army Reserve duty. (Items 2-4)

Since June 2024, Applicant has been employed by her current employer as an armed security officer. (Item 3) Previously, she worked for multiple employers in various jobs. She reported periods of unemployment in 2017. (Items 2-3) She held a security clearance during her Army enlistment and is presently sponsored by her current employer.

### **Applicant's Finances**

Records document that for tax years 2019 through 2021, Applicant failed to timely file her federal income tax returns, as required. (Items 2-4) For these tax years, Applicant's tax account transcripts confirm the absence of any income tax returns filed by Applicant at any time for these tax years. (Item 4) Based on the reports of her retained tax accountant, he filed federal income tax returns on Applicant's behalf for tax years 2019 and 2021 in December 2025 (sans any approved extensions) and provided tax transcripts confirming her federal income tax filing for tax year 2021. (Item 6) Because of the absence of any furnished federal tax transcripts for tax year 2020 in the record, no favorable inferences can be drawn that either Applicant or her tax accountant filed a federal tax return in her behalf for this tax year, (Items 4-6) Her latest furnished tax transcript of record for tax year 2020 confirmed the absence of any filed tax return for that year. (Item 4)

Applicant attributed her tax-filing lapses in part to time-consuming personal issues associated with a broken intimate relationship, and health problems involving both her and her mother. (Item 2) For the same cited reasons, Applicant also failed to timely file her state income tax returns for tax years 2020 through 2023. (Items 2-6) In her post-FORM submission her retained tax accountant documented his filing a state income tax return on her behalf for tax year 2020. (Item 6)

Without a confirming transcript or other evidence documenting her filing state income tax returns for tax years 2021 through 2023, no favorable inferences can be drawn that she filed her state income returns for these tax years in issue. In the only other furnished correspondence from her tax preparer from the same reporting tax preparer firm, the tax preparer in an undated letter reported that his firm "prepared and filed" tax returns (presumably referring to both federal and state returns) for tax years 2020 through 2024. (Item 5) Noting that Applicant had already filed her 2017 and 2018 income tax returns on her own, he indicated that his firm was "waiting on information to finalize the 2019 taxes" and had requested federal and state transcripts for tax years 2017 through 2024. (Item 5) In the absence of a date of the tax preparer's letter, confirmation of when the requested information was posted cannot be ascertained.

### **Policies**

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), "no one has a 'right' to a security clearance." 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.

Eligibility for access to classified information may only be granted “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 AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual’s reliability, trustworthiness, and ability to protect classified information.

These AGs include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns, if any. These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant’s life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant’s conduct, the relevant guidelines are to be considered together with the following ¶ 2(d) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

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, Feb. 20, 1960, § 7. See *also* Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

### **Burdens of Proof**

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 (4<sup>th</sup> 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. Sept. 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**

The Financial Considerations security concern is stated in AG ¶ 18:

Failure or inability 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 or 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 acts or otherwise questionable acts to generate funds.

Security issues are raised over Applicant's failure to timely file federal and state income tax returns for multiple years, as required. Applicant's filing lapses raise trust, reliability and judgment concerns that warrant the application of one of the disqualifying conditions (DC) of the financial consideration guidelines. DC ¶ 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."

Applicant's admitted tax-filing lapses and tax debt delinquency require no independent proof to substantiate them. See Directive 5220.6 at E3.1.14; *McCormick on Evidence* § 262 (6<sup>th</sup> ed. 2006). Her admitted tax-filing failures are fully documented and raise judgment issues over the management of her finances. See ISCR Case No. 03-01059 (App. Bd. Sept. 24, 2004).

The timing of addressing and resolving an applicant's tax-filing delinquencies are critical to an assessment of the applicant's trustworthiness, reliability, and good judgment in following rules and guidelines necessary for those seeking access to classified information or to holding a sensitive position. See ISCR Case No. 14-06808 at 3 (App. Bd. Nov. 23, 2016); ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015); ISCR Case No. 14-00221 at 2-5 (App. Bd. June 29, 2016).

Conditions that could mitigate the security concerns are listed in AG ¶ 20. Three are potentially applicable to the facts of this case:

- (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; and
- (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.

Given the nature of Applicant's federal and state tax-filing lapses, little mitigation can be afforded based on the passage of time or late filings of Applicant's federal and state tax returns in issue. Neither mitigating condition (MC) ¶ 20(a), ¶ 20(b), nor 20(g) warrant more than partial application under the developed evidence of his case. While Applicant is entitled to credit for making progress in the filing of her back federal and state income tax returns, none of her filed returns have been timely. Other flagged tax

returns bear no documentation of filing. In the past, the Appeal Board has consistently imposed evidentiary burdens on applicants to provide documentation corroborating actions taken to resolve financial problems associated with tax-filing lapses and debt delinquencies. See ISCR Case No. 19-02593 at 4-5 (App. Bd. Oct. 18, 2021); ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 20, 2020).

### **Whole-person assessment**

Whole-person assessment of Applicant's clearance eligibility requires consideration of whether her history of tax-filing lapses is fully compatible with minimum standards for holding a security clearance. While Applicant is entitled to credit for her work in the defense industry, her efforts are not enough at this time to overcome her repeated failures or inability to file her federal and state tax returns, as required, for the years in issue. Overall good judgment, reliability and trustworthiness are not established.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude financial considerations security concerns are not mitigated. Eligibility for access to classified information is denied.

### **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:

GUIDELINE F (FINANCIAL CONSIDERATIONS): AGAINST APPLICANT

Subparagraphs 1.a-.1.b:

Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

---

Roger C Wesley  
Administrative Judge