



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



In the matter of:)
)
) ISCR Case No. 25-00224
)
Applicant for Security Clearance)

Appearances

For Government: Troy L. Nussbaum, Esq., Department Counsel
For Applicant: *Pro se*

03/11/2026

Decision

DRISKILL, A. M., Administrative Judge:

Applicant mitigated the security concerns under Guidelines G (Alcohol Consumption) and E (Personal Conduct). Eligibility for access to classified information is granted.

Statement of the Case

On July 24, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines G and E. Applicant responded to the SOR on August 25, 2025 (Answer) and requested a decision on the written record in lieu of a hearing. The Government’s written case was submitted on December 8, 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 December 18, 2025, and he did not respond. The case was assigned to me on February 19, 2026. The Government exhibits included in the FORM (Items 3-7) are admitted in evidence without objection. Department Counsel requested that I take administrative notice of certain provisions of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). Without objection, I have taken administrative notice of the DSM-5 in general and specifically as requested (Hearing Exhibit (HE) I).

Findings of Fact

The SOR alleges that Applicant has consumed alcohol, at times in excess and to the point of intoxication, from about 2011 to at least November 2024 (SOR ¶ 1.a); that he resumed alcohol consumption in November 2024 after expressing an intention to stop drinking in July 2024 (SOR ¶ 1.b); that he has driven while under the influence of alcohol about once or twice a year since 2022 (SOR ¶ 1.c); that he was evaluated by a licensed psychologist in December 2024 and diagnosed with alcohol use disorder, mild, in early remission (SOR ¶ 1.d); that he occasionally consumed alcohol from November 2024 until April 2025, including to the point of intoxication on November 27, 2024 (SOR ¶ 1.e); and that he has never sought treatment for his alcohol use disorder (SOR ¶ 1.f). All Guideline G allegations were cross-alleged under Guideline E. In his Answer, Applicant admitted all the allegations.

Applicant is 49 years old. He was married from 2006 to 2017 and does not have children. He received an associate degree in 2001 and a bachelor's degree in 2008 and did not serve in the military. He has been employed with a defense contractor since 2002. He has never had a security clearance. (Item 3)

In his May 2023 security clearance application (SCA), Applicant reported that his alcohol use negatively affected him from 2014 to 2015 as his marriage was coming to an end. He stated, "Part of my defense mechanism was to isolate myself from my wife, and alcohol was part of that." He stated that by the time he stopped using alcohol, it was too late, and the marriage ended in divorce. (Item 3)

In his July 2023 subject interview (SI) with a government investigator, Applicant explained that in about 2014 to 2015, he would drink three to five drinks per day. It would take him four to five drinks to become intoxicated, and he would be intoxicated several times a week. He told the investigator he drank because his marriage was failing. His spouse would tell him he was drinking too much, that he needed to cut back, or that he needed counseling. No one else talked to him about his drinking. Applicant said that, at that time, he did not feel that he needed counseling, but he stopped drinking entirely in 2015 to try to please his spouse. The marriage still ended in divorce. (Item 5)

In the SI, Applicant stated that he started drinking again in about 2020 and from that time to the time of the SI, he estimated that he drank daily, about two to three drinks a day. He usually consumed alcohol at a restaurant or when playing billiards with friends. He stated the last time he drank to the point of intoxication was the Saturday prior to the SI. He estimated he drank to the point of intoxication about twice a month. He told the investigator that he did not feel his drinking was problematic or excessive, he did not believe he abused alcohol, and he had not been confronted by people making those claims. He expressed a desire to cut back on his drinking for health reasons. He neither had any arrests or citations due to his drinking, nor had he had any counseling or treatment. (Item 5)

In his July 2024 response to government interrogatories, Applicant stated that he did not currently drink. He described himself as a “regular drinker” from early 2019 until the end of June 2024. When he drank, he would drink four to six servings of bourbon per day, five to six days per week and two to three beers, two to four times per month. He stated that he stopped drinking after a recent physical indicated elevated blood pressure and blood sugar despite medication, which made him decide to improve his diet, eliminate alcohol, and begin exercising. He stated he did not intend to consume alcohol in the future. He listed his last date of intoxication as June 2024 and last date of blacking out as June 2019, and that it took four to five drinks for him to become intoxicated. He discussed his drinking during the end of his marriage, stating he would drink “as a means of escape or avoidance, typically 5 or 6 days a week.” He stated he stopped drinking in 2016, and that, “[w]hile not the main cause of the divorce, drinking was probably a factor that led to that outcome.” (Item 4)

Applicant was evaluated on December 13, 2024, by a licensed psychologist. She explained to him that a copy of the results would not be made available to him. She told him that he could request a copy if he wanted one, but he declined the contact information for making the request. Applicant disclosed an increase in his alcohol consumption towards the end of his marriage, and that he would consume four to five beers or bourbons on the rocks daily. He disclosed he stopped drinking in 2015 or 2016 after his wife expressed her concerns about his drinking. He disclosed he resumed drinking around 2019 when he began dating again. He disclosed he would consume about three drinks, three to four times weekly, and his consumption increased between 2020 and July 2024, when he drank almost daily and to the point of intoxication nearly weekly. He further disclosed he stopped drinking in July 2024 due to health concerns. When asked, he stated that he thought he had a problem with drinking at that time and that he was drinking too much and for no reason. (Item 6)

Applicant also told the evaluator that he had no desire to use alcohol daily and that cutting back on his consumption resulted in significant improvements in his health. These improvements reinforced his desire to continue abstaining from daily drinking and to only drink for special occasions. He denied any difficulties with alcohol use. The evaluator diagnosed him with alcohol use disorder, mild, in early remission and opined that he did not have a condition that posed a risk to his judgment, reliability, or trustworthiness concerning classified information. She highly recommended in her report that he continue to abstain from alcohol and pursue evidence-based psychotherapy, which would increase his chances of long-term success. She stated it was unclear if he would be able to sustain his remission due to the short time during which he had cut back. She recommended a reevaluation in one year after he had more time “to abstain from alcohol and/or pursue evidence-based psychotherapy to support developing a safe drinking plan should that ultimately be his choice.” (Item 6)

In his April 22, 2025, response to government interrogatories, Applicant reported that he did not currently drink. He stated that, prior to July 2024, he usually drank two to

four drinks, four to six times per week; he did not drink from July to October 2024; and then he drank occasionally from November 2024 to April 2025. He reported he stopped drinking again when he decided he wanted to refocus his efforts to continue losing weight and to control his blood pressure. He stated he did not intend to drink in the future. He stated he did not attend Alcoholics Anonymous (AA) or a similar program because he did not feel it was necessary for him. He stated his last date of consumption was April 20, 2025, and he last drank to the point of intoxication on November 27, 2024. He stated he had not vomited in the prior three years from drinking too much, and he blacked out from drinking too much less than once a year in the prior three years. When asked how many times per year, during the last three years, he had driven a car while being at least “buzzed” or “tipsy” from drinking alcohol, he stated, “once or twice.” (Item 5)

In his August 2025 Answer, Applicant stated he did not drink from the entire month of July 2024 through the month of October 2024, and that he overindulged on his birthday on November 27, 2024. He had resumed drinking since April 2025, but to a lesser degree than prior to July 2024, and he was now committed to abstaining from alcohol and he planned on attending AA the week of August 25, 2025. He also intended to seek additional counseling. He stated he did not remember a time when he was excessively intoxicated and drove, but he “could not definitively deny that on rare occasion [he] may have driven at or slightly over the legal BAC limit.”

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 G, Alcohol Consumption

The concern under this guideline is set out in AG ¶ 21:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

The following disqualifying conditions are relevant:

AG ¶ 22(a): alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder;

AG ¶ 22(c): habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder;

AG ¶ 22(d): diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder;

AG ¶ 22(e): the failure to follow treatment advice once diagnosed; and

AG ¶ 22(f): alcohol consumption, which is not in accordance with treatment recommendations, after a diagnosis of alcohol use disorder.

AG ¶ 22(c) is established for SOR ¶ 1.a based on Applicant's own admissions, including his last date of intoxication on November 27, 2024. I find SOR ¶¶ 1.b and 1.e duplicative with ¶ 1.a to the degree they cite to the same date of last intoxication. The remaining language of those allegations are relevant facts that I have considered in my decision, but there is no relevant disqualifying condition that relates to these allegations apart from what is already duplicative with SOR ¶ 1.a. I find for Applicant on SOR ¶¶ 1.b and 1.e.

AG ¶ 22(f) does not apply to Applicant's alcohol consumption after his December 2024 evaluation. A psychological evaluation prepared for and submitted to the Defense Counterintelligence and Security Agency, not the Applicant, is not a treatment recommendation within the meaning of AG ¶ 22(f) ("alcohol consumption, which is not *in accordance with treatment recommendations*, after a diagnosis of alcohol use disorder"). ISCR Case No. 20-00971 at 6 (App. Bd. July 18, 2022). Furthermore, there is no evidence Applicant received a copy of the evaluation containing his diagnosis and treatment recommendations until the FORM was sent to him, so he did not have the opportunity to consider whether to alter his consumption in light of the evaluator's findings. Notably,

based on the information in his Answer, he is now in compliance with both the abstinence and the counseling recommendation.

There is insufficient evidence that Applicant has driven under the influence of alcohol. The original question posed to Applicant in the second set of interrogatories was whether he had driven while being “buzzed” or “tipsy.” Those terms are imprecise descriptors and could indicate a wide range of alcohol consumption. “Driving under the influence of alcohol,” has many specific legal definitions across jurisdictions but, typically, it means operating a motor vehicle while impaired to a degree that affects safe operation due to alcohol. See *generally* 36 C.F.R. § 4.23 (Operating under the influence of alcohol or drugs); Driving under the influence, *Black’s Law Dictionary* (11th ed. 2019). Impairment is typically determined by observed behavior, field sobriety tests, or blood-alcohol content measurements. None of those indicators are in evidence in this case, nor has Applicant ever been arrested for driving under the influence. In his Answer, he could not recall any specific time when he drove under the influence of alcohol, but he could not “definitively deny” it ever happening. This is, at best, a scintilla of evidence, and far less than substantial evidence of driving while under the influence of alcohol. SOR ¶ 1.c is found for Applicant.

Applicant was diagnosed with alcohol use disorder, mild, in early remission. AG ¶ 22(d) is established for SOR ¶ 1.d. While SOR ¶ 1.f states relevant facts that I have considered in my decision, there is no relevant disqualifying condition that relates to this allegation. As with AG ¶ 22(f), the December 2024 evaluation was not treatment advice, and Applicant was not aware of his diagnosis and the evaluator’s recommendation until the FORM was sent to him. AG ¶ 22(e) therefore does not apply and SOR ¶ 1.f is found for Applicant.

The following mitigating conditions are potentially applicable:

AG ¶ 23(a): so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or judgment; and

AG ¶ 23(b): the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant’s alcohol consumption negatively impacted him personally toward the end of his marriage, over ten years ago. In response to the negative impact, he ceased drinking for a number of years. Although he was clearly a heavy drinker, he has had no alcohol-related personal, legal, or other issues since he resumed drinking around 2020. He was last intoxicated on his birthday over a year ago. A physical less than two years

ago indicated that his drinking (along with diet and lack of exercise) was affecting his health, and he has since modified his drinking, diet, and exercise regimen to improve his health.

While Applicant has vacillated between decreased consumption and complete abstinence, he is drinking less and his health is improving. Total abstinence is not required under the Guideline, and even the evaluator acknowledged the option of “developing a safe drinking plan” in her recommendations. Now that he has been made aware of the evaluator’s recommendations, he has expressed an openness to AA and counseling. His current alcohol consumption does not cast doubt on his current reliability, trustworthiness, or judgment. Both mitigating conditions apply to SOR ¶¶ 1.a and 1.d.

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.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. The following is potentially applicable in this case:

(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.

As discussed in my Guideline G analysis above, since the end of Applicant’s marriage over ten years ago, his drinking has not called into question his judgment, trustworthiness, reliability, candor, or willingness to comply with rules and regulations. In fact, he has been exceedingly candid in describing his alcohol consumption and in sharing the negative impact drinking had on his marriage. Faced with evidence of the negative health effects of alcohol consumption, he responsibly reduced his consumption and has not returned to his prior level of drinking. AG ¶ 16(c) is not established.

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 G 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). I note, however, that he was exceedingly forthcoming in the security clearance process, he has never been arrested or had an alcohol-related incident, and he decided on his own to modify his alcohol consumption to improve his health. After weighing the disqualifying and mitigating conditions under Guidelines G and E and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by his alcohol consumption and personal conduct.

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 G (Alcohol):	FOR APPLICANT
Subparagraphs 1.a-1.f:	For Applicant
Paragraph 2, Guideline E (Personal Conduct):	FOR APPLICANT
Subparagraph 2.a:	For Applicant

Conclusion

I conclude that it is clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Clearance is granted.

A. M. Driskill
Administrative Judge