



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



In the matter of:)
)
) ISCR Case No. 25-00909
)
Applicant for Security Clearance)

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel
For Applicant: *Pro se*

04/23/2026

Decision

HALE, Charles C., Administrative Judge:

This case involves security concerns raised under Guidelines H (Drug Involvement and Substance Misuse), E (Personal Conduct), and J (Criminal Conduct). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on February 21, 2024. On October 2, 2025, the Department of War (DoW) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines H and E. The DoW acted under Executive Order (Exec. Or.) 10865, Safeguarding Classified Information within Industry (February 20, 1960), as amended; Department of Defense Directive 5220.6, Defense Industrial Personnel Security Clearance Review Program (January 2, 1992), as amended (Directive); and the Security Executive Agent Directive 4, National Security Adjudicative Guidelines (AG) (December 10, 2016).

Applicant submitted his Answer to the SOR on November 13, 2025, and requested a decision on the written record without a hearing. Department Counsel submitted the Government's written file of relevant material (FORM) on January 12, 2026. On February 4, 2026, a complete copy of the file of relevant material (FORM) was sent to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. He elected not to respond to the Government's

FORM. The period for his response lapsed on March 20, 2026. The case was assigned to me on April 7, 2026.

The SOR and the Answer are the pleadings in the case. Government Exhibits (GE) 2 through 5 are admitted into evidence without objection. In the FORM, the government withdrew SOR ¶¶ 2.b and 2.c, as Applicant's alleged drug use would have fallen outside of the seven-year reporting period queried in the SCA. (FORM at 2; GE 2.)

Findings of Fact

Applicant is 36 years old. He graduated high school in 2008 and attended two universities between 2009 and 2012, without receiving a degree. He has never been married and has no children. He is applying for his first security clearance. Since December 2024, he has worked for his sponsor, a defense contractor, as a field engineer. The SOR alleges multiple concerns under Guidelines H, E, and J with respect to Applicant's illegal purchase and use of hydrocodone and oxycodone, both Schedule II controlled substances, without a valid prescription between 2010 and 2018; his falsifications with respect to his illegal drug use; and the criminal concerns connected with his illegal drug use. He developed a dependency and addiction to pain medication after a 2008 knee surgery. He admitted seven of the allegations and denied five allegations, on the basis that there was no drug use after July 2016. After a thorough and careful review of the pleadings and exhibits submitted, I make the following additional findings of fact. (GE 2, GE 3.)

SOR ¶¶ 1.a and 1.b: You purchased and used hydrocodone and oxycodone, both Schedule II controlled substances, without a valid prescription from 2010 to 2018. Applicant denied these allegations and, in his Answer, stated:

After being arrested for the DUI offense on [date in 2016], professional counseling was engaged at [a therapy clinic]. Therapy included monthly drug testing along with weekly group therapy. The initial hearing for my DUI offense was on [date in 2016]. I reported to this hearing prepared to pass a drug test, and use this as the definite date, after which there has been no drug use.

The Government's summary of SOR ¶¶ 1.a and 1.b accurately reflects the evidence in the record:

[Applicant's statement he] ceased his drug use comes from his PSI which he adopted and clearly states that his "dependency and addiction" lasted "from 2010 to 12/2018." GE 3 page 5. Further, it states "He has not used any illegal drugs nor abused prescription medication since 12/2018." GE 3 page 6. Yet in that same paragraph he states he did not list the drug use because he thought it was outside the seven-year reference in the e-QIP. His failure to list the drug use due to the seven-year requirement would match his assertion that his use ended in 2016. He goes on in the

interrogatories to state on multiple occasions in his own hand that the date he ceased using drugs was July 2016. GE 3 page 9. With that, the government is willing to accept that Applicant ceased using hydrocodone and oxycodone, without a valid prescription as of July 2016. In fact, the interrogatories provide a more definitive timeline for his use, as it appears he used Hydrocodone for a decade from June 2006 through July 2016, and Oxycodone for a shorter period from June 2014 through July 2016. (FORM at 2.)

Applicant's use of hydrocodone and oxycodone is mitigated by time.

SOR ¶ 1.c: On or about [September 2011], you were arrested by the [county sheriff] and charged with the following felony: Possession of a Controlled Substance (methadone and morphine). You were enrolled in a Pre-trial Diversion Program but failed to comply with the terms and were later arrested on or about [June 2013] for Failure to Appear. Applicant admitted the allegation without explanation, which is supported by records of his criminal history. He discussed the incident with the investigator during his security clearance interview. (Answer; GE 3, GE 4-5.) Applicant's conduct is mitigated by time.

SOR ¶ 1.d: On or about [October 2013], you were arrested by the [state police] for the following offenses: (1) Possession of a Controlled Substance (Xanax) and (2) Obstruction of Justice (false identity). Subsequent to your completion of a Pre-trial Intervention Program, the District Attorney entered a *nolle prosequere* with the court on or about [October 2014]. Applicant admitted the allegation without explanation, which is supported by records of his criminal history. He discussed the incident with the investigator during his security clearance interview. (Answer; GE 3, GE 4-5.) Applicant's conduct is mitigated by time.

SOR ¶ 1.e: On or about January 8, 2016, you were arrested by the [highway patrol] for the following misdemeanor offenses: (1) Driving Under the Influence; (2) Implied Consent (refusing a blood test); (3) Reckless Driving; (4) Drug Paraphernalia; (5) Financial Responsibility (failure to have insurance); (6) Driving on the Wrong Side; and (7) Felony Possession of a Controlled Substance (Buprenorphine and Xanax). In accordance with your pleas, on or about July 18, 2016 you were sentenced to 11 months and 29 days of confinement (all but 57 days suspended), supervised probation, \$1,500 fine, court costs. Applicant admitted the allegation without explanation, which is supported by records of his criminal history and was disclosed on his SCA. (Answer; GE 2, GE 4-5.) Applicant's conduct is mitigated by time.

SOR ¶ 2.a: You falsified material facts on an Electronic Questionnaires for Investigations Processing (e-QIP), executed by you on [February 2024], in response to the following questions: "Section 22 – Police Record (EVER) Have you EVER been charged with an offense involving alcohol or drugs?" You answered "Yes" regarding the information as set forth in subparagraph 1.e. above, but

deliberately failed to disclose that information as set forth in subparagraphs 1.c. and 1.d. above. Applicant admitted the allegation without explanation. Applicant admitted subparagraphs 1.c. and 1.d. above, which were supported by records of his criminal history and were not disclosed on his SCA. He discussed the incidents with the investigator during his security clearance interview after being confronted. (Answer; GE 2-5.)

SOR ¶ 2.b: You falsified material facts on an Electronic Questionnaires for Investigations Processing (e-QIP), executed by you on [February 2024], in response to the following questions: “Section 23 - Illegal Use of Drugs or Drug Activity Illegal Use of Drugs or Controlled Substances In the last seven (7) years, have you illegally used any drugs or controlled substances? Use of a drug or controlled substance includes injecting, snorting, inhaling, swallowing, experimenting with or otherwise consuming any drug or controlled substance?”. You answered “No” and thereby deliberately failed to disclose that information as set forth in subparagraphs 1.a. and 1.b. above. Applicant denied the allegation on the basis that there was no drug use after February 19, 2016, which the Government subsequently withdrew.

SOR ¶ 2.c: You falsified material facts on an Electronic Questionnaires for Investigations Processing (e-QIP), executed by you on February 21, 2024, in response to the following questions: “Section 23 - Illegal Use of Drugs or Drug Activity Illegal Use of Drugs or Controlled Misuse of Prescription Drugs In the last seven (7) years have you intentionally engaged in the misuse of prescription drugs, regardless of whether or not the drugs were prescribed for you or someone else?”. You answered “No” and thereby deliberately failed to disclose that information as set forth in subparagraphs 1.a. and 1.b. above. Applicant denied the allegation on the basis that there was no drug use after February 19, 2016, which the Government subsequently withdrew.

SOR ¶ 2.d: You falsified material facts on an Electronic Questionnaires for Investigations Processing (e-QIP), executed by you on February 21, 2024, in response to the following questions: “Section 23 - Illegal Use of Drugs or Drug Activity Have you EVER been ordered, advised, or asked to seek counseling or treatment as a result of your illegal use of drugs or controlled substances?”- You answered “No” and thereby deliberately failed to disclose the court-ordered diversion programs set forth in subparagraphs 1.c., 1.d., and 1.e. above. Applicant admitted the allegation without explanation. Applicant admitted subparagraphs 1.c, 1.d, and 1.e above, which were supported by records of his criminal history. He disclosed the subparagraph 1.e incident in another section of his SCA, which I consider mitigating to the alleged subparagraph 1.e portion of the SOR allegation. However, he failed to disclose on his SCA the incidents alleged in subparagraphs 1.c and 1.d. He discussed these two incidents with the investigator during his security clearance interview after being confronted. (Answer; GE 2-5.)

SOR ¶ 2.e: You falsified material facts during an August 2, 2024 interview with an authorized investigator for the U.S. Department of Defense about your illegal drug use. During the interview, you did not initially disclose any illegal drug use or prescription drug abuse, nor previous counseling or treatment related to such use or abuse until confronted by the investigator about the information as set forth in paragraph 1 above. Applicant admitted the allegation and stated after the interview with the investigator he understands he should have listed a pretrial intervention as court-ordered counseling. (Answer; GE 3.)

SOR ¶ 3.a: Information as set forth under paragraph 1, above. Applicant's answers to SOR ¶¶ 1.a-1.e were accepted as his response to the allegation and the facts are discussed above.

SOR ¶ 3.b: On or about March 10, 2018, you were arrested by the [Sheriff] for the following misdemeanor offense: Probation Violation (failure to provide proof of lawful employment, failure to provide proof of DUI school attendance, and failure to report to the probation office as required). Applicant denied the allegation on the basis that no arrest occurred after his July 2016 hearing, until he was pulled over for speeding and taken to jail in May 2018. He stated he was not aware until the speeding arrest that he was in violation of his probation. He discussed incident with the investigator during his security clearance interview. (GE 3-5.)

SOR ¶ 3.c: On or about May 24, 2018, you were arrested by the [Sheriff] for the following misdemeanor offenses: (1) Driving on a Suspended License and (2) Failure to Appear. Applicant admitted the allegation without explanation, which is supported by his criminal history records. (Answer; GE 4-5.)

Applicant explained to the investigator he had made changes to his life. The investigator summarized their exchange as follows:

The drug dependency contributed to legal problems and family relationship problems but did not affect work. From 2010 to 12/2018, Subject socialized and worked with people involved in criminal activity, particularly drug dealers. The likelihood of returning to illegal drug use and prescription drug abuse is none. Subject is a different person. He is more mature, learned a lesson after serving 57 days custody for the DUI, attends church and has faith, and has the support of his family. Subject is no longer dependent on pain medication or drugs. He has not used any illegal drugs nor abused prescription medication since 12/2018. (GE 3 at 6.)

Policies

"[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.” Exec. Or. 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.” Exec. Or. 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*, 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. 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*, 484 U.S. at 531.

Analysis

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 record establish the following disqualifying conditions under this guideline, as detailed in AG ¶ 25:

- (a) any substance misuse (see above definition); and
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.

Applicant discussed his drug use with the investigator during his security clearance interview and admitted he failed to disclose his drug related incidents. AG ¶¶ 25(a) and 25(c) apply.

The following mitigating conditions are potentially applicable as detailed in 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; and
- (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.

The Appeal Board has stated:

AG ¶ 26(a) affords mitigation where “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.” The Directive is silent on what constitutes a sufficient period of reform and rehabilitation. That silence, however, does not relieve a judge of the obligation to construe and apply pertinent provisions of the Directive in a reasonable, common-sense way. See ISCR Case No. 02-08032, 2004 WL 1434394 at *5 (App. Bd. May 14, 2004). The Board has repeatedly held that, if the record reflects a significant period of time has passed without misconduct by an applicant, then the judge must articulate a rational basis for concluding why that time does not demonstrate changed circumstances or conduct sufficient to warrant a finding of reform or rehabilitation. *Id.*

AG ¶¶ 26(a) and 26(b) are established for SOR ¶¶ 1.a-1.e. Applicant’s drug misuse happened so long ago and happened under such circumstances that it is unlikely to recur, his 2008 knee surgery, as such, does not cast doubt on his current reliability, trustworthiness, or good judgment. Additionally, he has acknowledged his drug involvement and substance misuse and has not misused drugs since 2016. He has established a pattern of abstinence. He has dissociated himself from people involved in criminal activity and attends church and has faith and the support of his family to maintain his abstinence. He is more mature and, given the lack of recurrence since serving 57 days in custody, he has demonstrated his changed behavior.

Guideline E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15, as follows:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

Applicant’s intentional failure to disclose the full extent of his criminal history in his SCA, as alleged, raises the following disqualifying condition, under 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 national security eligibility or trustworthiness, or award fiduciary responsibilities.

The following mitigating conditions, under AG ¶ 17, are potentially relevant:

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

(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.

AG ¶¶ 17(a) and 17(c) are not established for SOR ¶¶ 2.a, 2.d, and 2.c. Applicant admitted he deliberately failed to fully disclose his criminal history on his SCA, and he did not disclose any additional arrests or convictions, aside from the 2016 arrest. He only disclosed the information of his 2011 and 2013 arrests upon being confronted by the investigator in his security clearance interview. The 2011 arrest resulted in a later arrest for failure to comply with the terms his diversion program. The evidence reflects that he failed to make a prompt and good-faith effort to correct his omissions and falsifications before being confronted with the facts by the investigator. See ISCR 22-02601 at 5-6 (App. Bd. Feb. 22, 2024).

Guideline J: Criminal Conduct

AG ¶ 30 expresses the security concern for criminal conduct:

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.

31: The following disqualifying condition is potentially applicable as detailed in AG ¶

(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.

Applicant's criminal conduct is documented in his SCA, security clearance interview, and records of his criminal history. The above disqualifying conditions apply.

32: The following mitigating conditions are potentially applicable as detailed in AG ¶

(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; 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.

AG ¶¶ 32(a) and 32(d) apply. Applicant's criminal history, as detailed in the record, ends in 2018. Given the amount of time since his last incident, Applicant has established evidence of successful rehabilitation and a lengthy period of responsible behavior and compliance with rules, regulations, and the law to mitigate his criminal conduct.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall common sense 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 H, E, and J in my whole-person analysis and have 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 to determine if his omissions were simply oversights on his part. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003).

I considered that Applicant is applying for a security clearance for the first time. I considered his honesty in disclosing his drug use on his SCA. After weighing the disqualifying and mitigating conditions under Guidelines H, E, and J, and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the Guideline H and J concerns but has not mitigated the security concerns raised by his conduct under Guideline E.

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.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1: Guideline H:	FOR APPLICANT
Subparagraphs 1.a - 1.e:	For Applicant
Paragraph 2: Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a, 2.d - 2.e:	Against Applicant
Subparagraphs 2.b. and 2.c.:	Withdrawn
Paragraph 3: Guideline J:	FOR APPLICANT
Subparagraphs 3.a - 3.c:	For Applicant

Conclusion

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

Charles C. Hale
Administrative Judge