



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



In the matter of:)	
)	
)	ISCR Case No. 24-00466
)	
Applicant for Security Clearance)	

Appearances

For Government: Tovah Minster, Esq., Department Counsel
For Applicant: *Pro se*

04/29/2026

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines F (Financial Considerations), J (Criminal Conduct), and E (Personal Conduct). Clearance is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on January 16, 2023. On June 12, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines F, J, and E. The DCSA acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), which became effective on June 8, 2017.

Applicant answered the SOR on August 18, 2025, denied all the allegations, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on October 2, 2025. The case was assigned to me on January 15, 2026. On

March 2, 2026, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted on March 23, 2026. I convened the hearing as scheduled. Government Exhibits 1 through 5 were admitted in evidence without objection.

Applicant testified but did not present the testimony of any other witnesses or submit any documentary evidence. I kept the record open until April 24, 2026, to enable him to submit documentary evidence. He did not submit any evidence. DOHA received the transcript on April 2, 2026. The record closed on April 24, 2026.

On April 20, 2026, Applicant notified DOHA that his employment by a federal contractor was terminated on April 10, 2026. (Hearing Exhibit I) In accordance with Directive ¶ 4.41, processing of his case will not be terminated, because the hearing in his case commenced before his termination of employment.

Findings of Fact

Until recently, Applicant was a 47-year-old information system administrator and security officer employed by a defense contractor since May 2021. He served on active duty in the U.S. Army from June 1998 to May 2001 and in the U.S. Air Force from October 2001 to October 2020, when he retired. He received associate degrees in March 2012 and June 2020, while on active duty, and a bachelor's degree in November 2021. He held a security clearance while he was on active duty. His SCA reflects that he does not hold a current security clearance. (GX 1 at 42)

Applicant married in August 2000 and divorced in January 2003. He married in February 2005 and divorced in January 2025. He married his current spouse in January 2026. (Tr. 17). He has four children, ages 25, 17, 15, and 9. (Tr. 17)

The evidence pertaining to the allegations in the SOR is summarized below.

SOR ¶ 1.a: failure to timely file federal income tax returns for tax years 2020, 2021, 2022, and 2023. Applicant testified that he was displaced from his residence in 2018, when it was destroyed in a hurricane, and he was relocated several times thereafter. He had his three children with him, because he was in the process of divorcing his then wife, who had abandoned the children. He was able to collect the required documents and filed his federal taxes returns for tax year 2019. He testified that he could not file his returns for subsequent years until the issues regarding his tax return for 2019 were resolved. (Tr. 29-30) No irregularities in his filing of the returns for 2019 are alleged. He filed his federal returns for 2020 and 2021 in November 2023 and received refunds. (GX 2 at 75-77) No penalties were assessed for late filing of the 2020 and 2021 returns. (GX 2 at 75) He received an extension of time to file his federal return for 2022, filed it in

April 2024, and received refund. (GX 2 at 79). He filed his federal return for 2023 in April 2024 and received a refund. (GX 2 at 9)

SOR ¶ 1.b: failure to file state income tax returns for tax years 2019, 2020, 2021, 2022, and 2023. Applicant testified that he did not file state returns for 2019, 2020, 2021, and 2022, because he was a resident of a state that had no income tax. (Tr. 30) He testified that he could not remember when he changed his state residency to his current state, but he thought it was in 2023. (Tr. 33) His SCA reflects that he retired from the Air Force in October 2020, and that he continued to live in a state that has a state income tax return after that date. Under the Servicemembers Civil Relief Act, 50 U.S.C. App, §§ 571, he would have been entitled to continue claiming residence in a non-tax state while on active duty, but that entitlement ended when he retired and decided to continue residing and working in a state with a state income tax. He has provided no explanation or justification for not filing a part-year return for 2020 or full-year returns for 2021, 2022, and 2023.

SOR ¶ 1.c: delinquent child-support arrearage of about \$9,848. In February 2024, Applicant was ordered to pay child support of \$1,798 per month. The amount was reduced upon emancipation of two children. In January 2020, his monthly payments were reduced to \$1,808. In May 2023, they were increased to \$2,011 because he received a pay increase. In September 2023, they were reduced to \$1,930 when his ex-wife received a pay increase. The court records reflected that his total obligation from January 2020 was \$89,892, and he had paid \$73,487, resulting in an arrearage of \$16,404. He was making the child-support payment by automatic deduction from his retired pay, and he apparently did not adjust those automatic deductions to conform to charges in his child-support obligation. He was ordered to pay a minimum of \$359 per month on the arrearage. (GX 2 at 106) He made the \$359 payments in March, April, and May of 2024, but has not made the payments since May 2024, because he claimed that his ex-wife has not reimbursed him for the expenses of about \$2,200 he has incurred for the travel of the children to and from his ex-wife's residence to his residence, as she is required to do by the divorce decree. (Tr. 46) Even though he was given additional time to submit documentary evidence, he did not provide any documents showing that his ex-wife was required to reimburse him for the travel expenses.

SOR ¶ 2.a: arrest and charge of simple domestic assault in December 2006. In October 2006, Applicant and his second wife were working opposite shifts and had difficulties in communicating. Applicant was on active duty and about to be deployed. They began to argue after his wife disclosed that she was pregnant. His wife began crying and went into the bathroom. Applicant came behind her, wrapped his arms around her, picked her up, and then walked away. He claimed that he hugged her. His wife called the police and reported that Applicant had assaulted her. He admitted to the police that he grabbed her with more force than a hug and that he was trying to scare her. He told the police that they grabbed each other "all the time," and he thought nothing of it. (GX 4 at

7) In December 2006, he was charged with misdemeanor assault. He retained an attorney and requested a jury trial. After two pretrial conferences, the charge was dismissed, and the case was closed. (GX 4 at 2-4, 7) Applicant was not disciplined by his military unit. (GX 2 at 12) At the hearing, he testified that his second wife routinely used the threat of calling the police as a weapon to hurt him. (Tr. 70)

SOR ¶ 2.b: arrest and charge of assault and battery on a family member in June 2021. In July 2021, Applicant and his then cohabitant, now his wife, began arguing after he accused his cohabitant of being unfaithful. Police responded and noticed that the cohabitant's eye was swollen. Applicant explained to the police that her eye was swollen due to an allergy, but they arrested him for assault and battery. On three previous occasions, Applicant's cohabitant had assaulted him, and he had called the police, who arrested the cohabitant for domestic violence. On this occasion, the police officer consulted with his supervisor because he could not decide who was at fault, and the supervisor advised that, since his wife had called the police and claimed she was assaulted, he should arrest Applicant. (GX 5 at 5) Applicant appeared in court, and the charge was *nolle prosequi*. (GX 5 at 15) At the hearing, he testified that whenever he and his wife had an argument, she threatened to call the police. (Tr. 71) He testified that he and his wife have been involved with couples therapy and counseling for about a year and a half, because "nobody's listening or we're hearing two separate things," and he believed that they needed to work on effective communication. (Tr. 73-74)

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* at 531. Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019). It is “less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “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. ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan* at 531.

Analysis

Guideline F, Financial Considerations

The security concern under this guideline is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's admissions and the evidence submitted at the hearing establish the disqualifying conditions under this guideline:

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

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

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

The following mitigating conditions are potentially relevant:

AG ¶ 20(a): the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

AG ¶ 20(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;

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

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

AG ¶¶ 20(a) and 20(b) are established for Applicant's failure to timely file his federal income tax returns. His failures to timely file his federal income tax returns were recent and frequent, but they occurred under circumstances making recurrence unlikely. His failure to timely file his tax returns was caused by the destruction of his residence and his tax records, but he has acted responsibly by reconstructing his tax records and filing his federal returns as soon as he was able. These two mitigating conditions are not established for his failure to file state income tax returns or his delinquent child-support payments.

AG ¶¶ 20(d) is not established for Applicant's delinquent child-support payments, which remain unpaid.

AG ¶ 20(g) is established for Applicant's federal income tax returns, which he has filed for the years alleged. It is not established for his failure to file state income tax returns.

Guideline J, Criminal Conduct

The concern under this guideline is set out in AG ¶ 30: "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."

Applicant's arrests for domestic violence in December 2006 and June 2021 are sufficient to raise the following disqualifying conditions:

AG ¶ 31(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

AG ¶ 31(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;
The following mitigating conditions are potentially relevant:

AG ¶ 32(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

AG ¶ 32(c): no reliable evidence to support that the individual committed the offense.

AG ¶ 32(a) is established for the arrest in December 2006, alleged in SOR 2.a, which happened long ago and involved a woman with whom Applicant is no longer involved. It is not established for the incident in January 2021, alleged in SOR ¶ 2.b, which was recent and involved his current wife.

AG ¶ 32(c) is not established for the incident alleged in SOR ¶ 2.a. Applicant admitted that he grabbed his wife with more force than a hug and intended to scare her. This mitigating condition is established for the incident alleged in SOR ¶ 2.b, which Applicant denied. The evidence shows that Applicant was arrested after a false claim. The police officer who responded was uncertain that a crime had occurred, but arrested Applicant solely because his then-wife had called the police. Applicant appeared in court to contest the arrest, and the case was *nolle prosequi*.

Guideline E, Personal Conduct

SOR ¶ 3.a cross-alleges the criminal conduct alleged in SOR ¶¶ 2.and 2.b The security concern under this guideline 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. . . .”

The following disqualifying conditions under this guideline are potentially applicable:

AG ¶ 16(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;

AG ¶ 16(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 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: . . . (2) any disruptive, violent, or other inappropriate behavior . . .; and

AG ¶ 16(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. Such conduct includes . . . :engaging in activities which, if known, could affect the person's personal, professional, or community standing.

AG ¶ 16(c) is not established because the domestic assaults alleged in SOR ¶¶ 2.a and 2.b do not fall in “several adjudicative areas.” AG ¶ 16(d) is not established because the domestic assault is explicitly covered under Guideline J. AG ¶¶ 16(d) and 16(e) are established because personal conduct involving domestic violence is reflects questionable judgment and is “disruptive, violent, or other inappropriate behavior” and could affect Applicant’s personal, professional, or community standing.

The following mitigating conditions are potentially applicable:

AG ¶ 17(c): the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

AG ¶ 17(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

AG ¶ 17(f): the information was unsubstantiated or from a source of questionable reliability.

AG ¶ 17(c) is established for the domestic assault alleged in SOR ¶ 2.a. It involved a single hug intended to frighten and has not occurred again. It is not established for the domestic assault alleged in SOR ¶ 2.b, which was recent.

AG ¶ 17(d) is established for the domestic assault alleged in SOR ¶ 2.b. Applicant has recognized that he and his wife have encountered difficulty in communicating, and they have been receiving counseling to improve their ability to communicate, and it is unlikely to recur.

AG ¶ 17(f) is established for the domestic assault alleged in SOR ¶ 2.b, because the accusation by Applicant’s wife was unfounded.

Whole-Person Analysis

Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. An administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the relevant circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

I have incorporated my comments under Guidelines F, J, and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under those guidelines and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by his failures to timely file federal income tax returns (SOR ¶ 1.a), but he has not mitigated the security concerns raised by his failure to file state income tax returns (SOR ¶ 1.b) and failure to pay a child support arrearage (SOR ¶ 1.c). The allegation of domestic assault in December 2006 (SOR ¶ 2.a) is mitigated by the passage of time. He has refuted the allegation of domestic assault in January 2021 (SOR ¶ 2.b).

Formal Findings

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

Paragraph 1, Guideline F (Financial Considerations): AGAINST APPLICANT

Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant

Paragraph 2, Guideline J (Criminal Conduct): FOR APPLICANT

Subparagraphs 2.a and 2.b:	For Applicant
----------------------------	---------------

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

Subparagraphs 3.a and 3.b:

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.

LeRoy F. Foreman
Administrative Judge