



**DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 25-01165
)
Applicant for Security Clearance)

Appearances

For Government: Cynthia Ruckno, Esq., Department Counsel

For Applicant: *Pro se*

05/18/2026

Decision

MURPHY, Braden M., Administrative Judge:

Applicant engaged the services of prostitutes for sexual services on numerous occasions between 2009 and October 2023. He did not provide sufficient evidence to mitigate resulting security concerns alleged under Guideline D (sexual conduct) and cross-alleged under Guideline E (personal conduct). Applicant’s eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on April 17, 2024. Following a background investigation, the the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant on December 31, 2025, detailing security concerns under Guidelines D and E. The DCSA issued the SOR 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 Security Executive Agent Directive (SEAD) 4, *National Security Adjudicative Guidelines* (AG), effective June 8, 2017.

Applicant answered the SOR on January 7, 2026, and requested a decision by an administrative judge from the Defense Office of Hearings and Appeals (DOHA) based on the administrative (written) record, in lieu of a hearing. On February 25, 2026, Department Counsel submitted the Government's File of Relevant Material (FORM), including documents identified as Items 1 through 4. DOHA sent the FORM to Applicant electronically on February 27, 2026. He was afforded an opportunity to note objections and to submit material in refutation, extenuation, or mitigation, within 30 days from receipt of the FORM. He submitted an email response on February 27, 2026 (FORM Response). He did not note any objections to the Government's evidence.

The case was forwarded to the DOHA hearing office on March 31, 2026, and assigned to me on May 11, 2026. Government Items 1 and 2, the SOR and Applicant's Response, are the pleadings in the case. Item 3 is Applicant's SCA, Item 4 is Applicant's Response to Interrogatories from DOHA, in which he adopted the summaries of several background interviews as accurate on September 24, 2025. Items 3 and 4 are admitted without objection, as is the FORM Response.

Findings of Fact

In his SOR Response, Applicant admitted SOR ¶ 1.a and the cross-allegation at SOR ¶ 2.a without comment. His admissions are incorporated into the findings of fact. Additional findings follow.

Applicant is 40 years old. He served in the Army from 2008 to 2012 and was discharged honorably. He earned a bachelor's degree in February 2016. Applicant was married from 2009 until he and his wife separated in August 2023 and divorced a year later. They have two children, now ages 15 and 12, and his wife also has a child from an earlier relationship, now 20. (Items 3, 4)

Applicant disclosed on his April 2024 SCA that he had held a clearance since about June 2015, if not earlier, through DOD, though this is not independently verified. (Item 3 at 47) After leaving the Army, Applicant held a variety of jobs in the defense industry, mostly as a help-desk technician, until mid-2021. He held other jobs with the same employer between 2021 and 2023, also while working a second job for a large online retailer. Since April 2024 he has worked as a team lead for a defense contractor, his most recent clearance sponsor. (Item 3)

The record reflects multiple background interviews relating to Applicant's most recent SCA, as well as an earlier interview, in 2018. (Item 4) His first background interview after his most recent SCA occurred in February 2025. A month later, he had another background interview, which began with reference to Applicant's being "confronted" with information in the investigator's possession about Applicant's history of soliciting prostitutes.

Applicant then acknowledged that he first solicited prostitutes when he was in the Army, beginning in 2009, about four times. He would search for prostitutes on the internet,

contact them via phone, text, or email, negotiate a price for their services and arrange to meet them at residences and hotels. His conduct continued after he left the Army and moved to another location in the United States. All told, he engaged the services of prostitutes an additional 10-20 times, until October 2023. (Item 4 at 9)

Applicant said he engaged in the behavior despite knowing it was considered criminal activity. He was married at the time and eventually his wife became suspicious. According to his background interview, she searched his internet history, emails, and text messages and accused him of infidelity. They separated in October 2023 and divorced in August 2024. As a result of this change in circumstance, Applicant said in his interview that he was unlikely to engage in the activity in the future. (Item 4)

Applicant renewed this explanation in his FORM Response. He said his former wife had been aware of his activities “from year one of the marriage.” He said she, too, had been in a “clandestine relationship” with someone she now lives with, “which was the real reason for her leaving the marriage.” He said that the fact that she informed their children about his conduct means he cannot be pressured or shamed through them. If he were to occur again, he said he would inform his facility security officer (FSO). He said he had not engaged in the activity since his ex-wife left him. He said, “while it in no way excuses that behavior, the over-arching reason as to the behavior (the end of the relationship with her) remedied the impetus to commit the behavior.” (FORM Response)

Applicant waived his right to a hearing. He did not provide any evidence from supporting references.

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. 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 of potential, rather than actual, risk of compromise of classified information.

Analysis

Guideline D: Sexual Behavior

AG ¶ 12 expresses the security concern for sexual conduct:

Sexual behavior that involves a criminal offense; reflects a lack of judgment or discretion; or may subject the individual to undue influence of coercion, exploitation, or duress. These issues, together or individually, may raise questions about an individual's judgment, reliability, trustworthiness, and ability to protect classified or sensitive information. Sexual behavior includes conduct occurring in person or via audio, visual, electronic, or written transmission. No adverse inference concerning the standards in this Guideline may be raised solely on the basis of the sexual orientation of the individual.

AG ¶ 13 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are applicable to Applicant's admitted conduct:

(a) sexual behavior of a criminal nature, whether or not the individual has been prosecuted;

(c) sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress; and

(d) sexual behavior of a public nature or that reflects lack of discretion or judgment.

AG ¶ 14 sets forth the potentially applicable mitigating conditions for sexual conduct:

(b) the sexual behavior happened so long ago, so infrequently, or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or judgment; and

(c) the behavior no longer serves as a basis for coercion, exploitation, or duress.

Applicant engaged the services of prostitutes numerous times over a 12-year period from 2009 to late 2023. He was married at the time. While Applicant says his now former wife knew about his actions, he also said in his background interview that she became suspicious and accused him of infidelity after checking his phone records, emails, and texts. She left him soon after the last time he engaged a prostitute, in October 2023. Applicant's actions occurred not only during his marriage but while he was in the Army and later, while working in the defense industry. In these circumstances, it put him in a position where he might have been subject to coercion, exploitation, or duress.

Applicant disclosed his engagement with escorts during a background interview. His wife also found out and their marriage ended soon after. AG ¶ 14(c) has at least some application. However, the extended nature of his activity as well as its relative recency weighs against application of AG ¶ 14(b). Even though his marriage has now ended, I cannot conclude that Applicant's actions happened so long ago, so infrequently, or under such unusual circumstances, and no longer cast doubt on his current reliability, trustworthiness, or judgment. AG ¶ 14(b) does not apply.

Guideline E: Personal Conduct

AG ¶ 15 details the security concern regarding personal conduct:

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

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(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;

(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: (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing; and

(g) association with persons involved in criminal activity.

SOR ¶ 2.a is a cross-allegation of Applicant's conduct under Guideline D, already discussed above. SOR ¶ 1.a is already "sufficient for an adverse determination," under Guideline D, so AG ¶ 16(c) does not apply. However, engaging the services of prostitutes satisfies both AG ¶¶ 16(e)(1) and 16(g).

AG ¶ 17 details the personal conduct mitigating conditions. The following warrant discussion:

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

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

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

(g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

AG ¶ 17(c) does not apply to Applicant's engagement with prostitutes under Guideline E for the same reasons AG ¶ 14(b) does not apply under Guideline D. Similarly, AG ¶ 17(e) does not fully apply for the same reasons as set forth in AG ¶ 14(c).

As with AG ¶ 17(c), AG ¶ 17(d) does not fully apply because Applicant did not provide sufficient evidence to establish that his conduct will not recur. For instance, there is no indication that he has participated in counseling to change his behavior.

AG ¶ 17(g) only partially applies. Applicant's engagement with prostitutes has ceased. It was not unwitting, however, and as addressed above, his actions occurred under circumstances that cast doubt upon his reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

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

Under AG ¶ 2(c), 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. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines D and E in my whole-person analysis.

Since Applicant elected a decision on the written record, in lieu of a hearing, I did not have the opportunity to ask him questions about his conduct and examine the veracity of his claims that it is unlikely to recur. I also had no opportunity to observe Applicant's demeanor, and thus, to assess his credibility. Applicant engaged in a pattern of extremely poor judgment. He did not provide sufficient evidence to establish that he has mitigated the security concerns in this case. He has not shown that it is clearly consistent with the national interest to grant him eligibility for access to classified information. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility for access to classified information.

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 D:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant

Conclusion

In light of all of the circumstances, it is not clearly consistent with the interests of national security to grant Applicant a security clearance. Eligibility for access to classified information is denied.

Braden M. Murphy
Administrative Judge