



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



In the matter of:)
)
)
) ISCR Case No. 24-01721
)
Applicant for Security Clearance)

Appearances

For Government: John Renehan, Esq., Department Counsel
For Applicant: *Pro se*

06/04/2026

Decision

DRISKILL, A. M., Administrative Judge:

Applicant did not mitigate the security concerns under Guideline E (Personal Conduct), Guideline D (Sexual Behavior), and Guideline F (Financial Considerations). The security concerns under Guideline J (Criminal Conduct) are mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On April 16, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines E, D, J, and F. Applicant responded to the SOR on June 2, 2025 (Answer) and requested a decision on the written record in lieu of a hearing. The Government's written case was submitted on January 21, 2026. 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 February 6, 2026, and he did not respond. The case was assigned to me on April 3, 2026. The Government exhibits included in the FORM (Items 3-11) are admitted in evidence without objection.

Findings of Fact

The SOR alleges Applicant falsified material facts on his security clearance application (SCA) in March 2024 when he failed to disclose a sexual assault charge (SOR ¶ 1.a) and a drug charge (SOR ¶ 1.b); it cross-alleges¹ the underlying sexual assault charge (SOR ¶¶ 2.a, 3.a) and the drug charge (SOR ¶ 3.a); and it alleges that he has 12 delinquent debts totaling about \$59,429 (SOR ¶ 4). He denied all the allegations pertaining to the two criminal charges (SOR ¶¶ 1, 2, 3) as well as the financial allegation pertaining to delinquent child support in State A (SOR ¶ 4.a). He admitted the remaining alleged debts.

Applicant is 31 years old. He earned a high school diploma in 2013. He served on active duty in the Air Force from 2014 to 2019, receiving an other than honorable discharge. He married in about 2018 and divorced within a year. He has two minor children. He has worked for his current employer since 2021. (Items 3, 4)

Personal Conduct, Sexual Behavior, and Criminal Conduct

These allegations are intertwined and cross-alleged. Applicant's Federal Bureau of Investigation (FBI) criminal record reflects four charges of violation of Article 112a of the Uniform Code of Military Justice (UCMJ) in November 2016: wrongful use of a controlled substance (marijuana); possession of Schedule I, II or III drugs (marijuana); distribution of Schedule I, II or III drugs (marijuana); and possession of controlled substance (marijuana). The February 2018 Disposition File Maintenance Submission (DPSE) reflects a charge of wrongful use of a controlled substance, marijuana, less than 30 grams, and that the charge was not prosecuted. (Item 5)

An Air Force Office of Special Investigations (AFOSI) Report of Investigation (ROI) shows that Applicant was investigated from August 2016 to February 2017 for suspected drug use of less than 30 grams of marijuana. His investigation was part of a larger drug ring case in which Applicant was named as someone who had smoked marijuana with three other individuals under investigation. Applicant's then-wife was interviewed, and she stated that Applicant did not smoke marijuana, nor had she ever observed him use or be in possession of any drugs. She said that he told her he never used any drugs. Applicant declined to provide a statement to investigators but consented to submitting a urine sample, which tested negative for drugs. He also consented to a search of his cell phone, which revealed recent internet searches for "how long does a hair drug test go back" and "how to pass a hair follicle drug test for marijuana." The report notes that agents had seized hair samples from several of Applicant's friends who were associated with the drug ring. Applicant consented to a search of his vehicle and residence, and nothing was

¹ SOR ¶¶ 2 and 3 cross-allege the SOR ¶ 1 allegations by stating, "Information as set forth under paragraph [1.a./1.a. and 1.b.], above." That information set forth under paragraph 1 alleges falsifications of information on Applicant's SCA. The underlying conduct is not alleged independently. The alleged falsifications are not appropriately alleged under Guidelines D or J; however, it seems apparent that the Government is trying to cross-allege the underlying conduct, and I am treating SOR ¶¶ 2 and 3 as such. Review of Applicant's Answer shows that he made clear that he denied the alleged underlying conduct specified in SOR ¶ 1.

seized from either. On February 2, 2018, the Air Force determined there was “insufficient evidence to prosecute” Applicant for violation of Article 112a, UCMJ. (Item 6)

On his March 2024 SCA under Section 22 – Police Record, Applicant was asked, “Have you EVER been charged with an offense involving alcohol or drugs?” Applicant answered “No.” (Item 3)

Applicant had a background subject interview (SI) with a government investigator in May 2024. Applicant was confronted with criminal charges related to marijuana. When asked about an August 2016 charge of marijuana use, he disagreed that he was charged with the offense and explained that people came to the barracks that month and searched for marijuana but did not find any and he was not charged. He was then confronted with November 2016 charges of wrongful use of a controlled substance (marijuana), possession of marijuana, and distribution of marijuana. He disagreed that he was ever charged with the offenses. He explained that in that month he threw a party at his house, and someone reported that there were drugs at the party. He and his home were searched, and no drugs were found. He denied he had drugs or that there were drugs at the party. He stated he did not go to court and was not arrested or cited. (Item 4)

In response to Government interrogatories, Applicant stated that he had never used or purchased marijuana. He became aware that it remains illegal under Federal law when he was in boot camp. He does not intend to use marijuana or other drugs in the future, and he does not associate with people who use illegal substances or frequent places where he has reason to believe illegal substances are being used. (Item 4)

Applicant’s FBI criminal record reflects one September 2018 charge of sexual assault in violation of Article 120 of the UCMJ. The May 2019 DPSE lists the same charge and indicates that the final result was a “discharge in lieu of courts-martial; administrative discharge.” (Item 5)

An AFOSI ROI shows that Applicant was investigated from September to November 2018 for suspected sexual assault. It reflects that Applicant’s ex-girlfriend (GF) made a report in September 2018 that he had sexually assaulted her at his on-base residence in September 2017. She reported that they had been dating at the time, and on the night in question, Applicant took GF to two house parties where she became heavily intoxicated. She did not remember many details about the second party or anything else from that night. She awoke the next day in great pain in her vaginal area, with blood on her legs and on Applicant’s bedsheets. She concluded from this scene that Applicant had had sex with her when she was passed out. GF was on her menstrual cycle at the time of the incident and was unable to find the tampon she had last inserted. Applicant drove her to the hospital, where medical professionals were able to locate and remove the tampon. (Item 7)

The report reflects that agents overheard a conversation between Applicant, GF, and another individual during which Applicant stated, “I took advantage of you when you were drunk and I raped you.” Applicant declined to be interviewed by investigators. An

individual who was at one of the parties in 2017 confirmed that GF was intoxicated, could barely walk, struck her head on a car as she fell, was speaking loudly, slurring her words, and vomited in the bathroom. The following morning GF messaged that individual: “My underwear were [sic] off. There is blood everywhere. He said he had sex with me [frowning face emoji] I don’t remember. It hurts down there.” (Item 7)

Another witness said Applicant drank alcohol regularly, often throughout the day. The witness stated that Applicant took a shot of vodka when he woke up in the mornings and continued taking shots as the day progressed, opining that Applicant had a very high tolerance for alcohol. The report also states that Applicant told GF and his ex-wife that he would kill himself if GF reported him for sexual assault. Applicant’s request for discharge in lieu of trial by court-martial was approved on May 8, 2019. (Item 7)

On his 2024 SCA under Section 13A – Employment Activities, Applicant listed his period of active duty in the Air Force and gave his reason for leaving the employment as “Left by mutual agreement following charges or allegations of misconduct.” He also answered “Yes” to a question asking if he had been fired, quit after being told he would be fired, or left by mutual agreement following charges or allegations of misconduct or notice of unsatisfactory performance from this employment, and he described the charges or allegations of misconduct as “alleged sexual misconduct.” When asked under Section 22 – Police Record whether he had been charged, convicted, or sentenced of a crime in any court in the last seven years, Applicant answered, “No.” (Item 3)

When asked about his reason for leaving the Air Force in his SI, Applicant explained that, in the spring of 2019, GF accused him of sexual assaulting her a year prior. On the night in question, he and GF were still dating and had intercourse at his home. The next day, she complained of stomach pain, so he took her to the hospital. A tampon was found lodged in her vagina, which was causing the pain. They later stopped dating and, according to Applicant, when GF found out that he was back in a relationship with his ex-wife, GF reported the sexual assault to Applicant’s command. He denied committing the sexual assault and told the investigator that he was never charged, arrested, or cited with any offenses. He agreed to be discharged because he “wanted the allegations to be over.” (Item 4)

In his Answer to the SOR, Applicant stated that he did not understand the terms “charged” and “convicted” when he completed the SCA. With regard to the sexual assault allegation, he said that he only opted for the discharge in lieu of court-martial because he was “going through a lot at the time” and was “young, scared, and didn’t know what to do.” He said that GF lied and said he assaulted her after she found out that he had gotten back together with his ex-wife. With regard to the drug allegations, he stated he was “charged but not sent to trial” and that he is willing to submit to a drug test. (Item 2)

Financial Considerations

On his SCA, Applicant reported that he had \$12,000 in past-due child support due to administrative difficulty setting up the payment arrangement with his employer but that

he was working to get it resolved and was paying extra every month toward this child support account (SOR ¶ 4.a). He reported five additional delinquent debts that correspond to SOR ¶¶ 4.b, 4.c, 4.e, 4.i, and 4.k. For the debts in SOR ¶¶ 4.c and 4.i, he stated he could not afford to pay them at the time and was looking into options to settle the debts. The debt in SOR ¶ 4.k is for a cable and internet service, and he explained that he stopped paying when the internet stopped working. He stated that he did not recognize the debt in SOR ¶ 4.b but would contact the company and try to settle the debt. For the credit card debt alleged in SOR ¶ 4.e, he stated that it became delinquent because he was young and let it get out of hand but that he was going to see if he could settle the debt. (Item 3)

In his SI, Applicant explained that he was originally paying child support for his oldest child in State A (SOR ¶ 4.a), but the child then moved to State B and State A did not update their records. He stated he had never missed a payment and was voluntarily paying his child support (as opposed to it being court-ordered). He intended to keep paying the State B child support and would try to contact the State A office to have them update their records. (Item 4)

For his consumer debts, Applicant explained to the investigator that he could not afford the accounts he reported on his SCA because he was helping his mother with her bills. When asked about the debt in SOR ¶ 4.d, he explained that it was a rental account that became delinquent in 2022 when he was hospitalized for two weeks and unable to work, and therefore unable to pay this account. He was also asked about the debts alleged in SOR ¶¶ 4.h and 4.i, but he did not recognize them. He described his financial situation as “needing work.” (Item 4)

In his Answer to the SOR, Applicant denied the allegation in SOR ¶ 4.a, explaining that his oldest son’s mother moved from State A to State B several years ago, so he switched his payments to State B and has been paying regularly on that account. He included a history of payments made to the State B child support office, showing payments made twice a month since May 2023. He stated he contacted the State A child support office and was told that he just needed to send the record over, which he said he did two days before submitting his Answer in June 2025. His most recent credit report from January 2026 still lists this debt with a past-due amount of \$26,137 and a current balance of \$26,644. (Items 2, 11)

In his Answer, he admitted to the second child support debt alleged in SOR ¶ 4.j, also with State B, explaining that this was a “newly instated” child support payment for his second child. He stated he has been making those payments and has not missed any, but he did not provide a record of payments made. His January 2026 credit report lists this account as “current/was collection account, insurance or government claim or terminated for default” with a current balance of \$39,953. It does not list a past-due amount. (Items 2, 11)

In his Answer, Applicant admitted to the remaining alleged debts and did not provide evidence of efforts made to resolve the debts. SOR ¶¶ 4.a – 4.j² are all listed on the January 2026 credit report. SOR ¶ 4.k is last listed on the March 2024 credit report, and SOR ¶ 4.l is last listed on the November 2024 credit report. A new, unalleged delinquent debt is listed on the most recent credit report, reflecting an open date of June 14, 2025, a payment status of 120 days past due, a past-due amount of \$20, and a current balance of \$55. (Items 2, 8-11)

Policies

This case is adjudicated under Executive Order 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) 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.” 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

² Items 9-11 reflect a balance of \$806 for SOR ¶ 4.g, not \$647 as alleged on the SOR.

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 E, Personal Conduct

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. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . . .

The following disqualifying condition is relevant to this case:

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;

When a falsification allegation is controverted, as in this case, the Government has the burden of proving it. An omission, standing alone, does not prove falsification. An administrative judge must consider the record evidence as a whole to determine an applicant's state of mind at the time of the omission. See ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004). An applicant's experience and level of education are relevant to determining whether a failure to disclose relevant information on a security clearance application was deliberate. ISCR Case No. 08-05637 (App. Bd. Sep. 9, 2010).

SOR ¶ 1.a alleges that Applicant falsified his March 2024 SCA by deliberately failing to disclose his sexual assault charge. He did, however, report being discharged from the military for misconduct, specifically "alleged sexual misconduct," under the Employment section of the SCA. Although ideally, he would have also listed this charge under the Police Record section of the SCA, his listing it under the Employment section clearly put the Government on notice as to the charge and, more importantly, shows that Applicant was not deliberately trying to hide this part of his history. As to SOR ¶ 1.a, AG ¶ 16(a) is not established.

SOR ¶ 1.b alleges that Applicant falsified his March 2024 SCA by deliberately failing to disclose his drug charges. Although he has at times stated that he was not charged as a result of the drug investigation, he himself stated in his Answer that he was "charged but not sent to trial," and the FBI records and AFOSI ROI substantiate the fact that he was charged but not further prosecuted. Because he was charged, he should have reported the charges on the SCA. Based on his Answer admitting he was charged, and the otherwise inconsistent responses he has given regarding the drug charges, I find Applicant's omission to be deliberate. As to SOR ¶ 1.b, AG ¶ 16(a) is established.

The following mitigating conditions are relevant:

AG ¶ 17(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and

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(a) is not established. Applicant did not attempt to correct this omission and had to be confronted with information that the interviewer had during the SI.

AG ¶ 17(c) is not established. Applicant's deliberate falsification of material facts on his SCA was recent and did not occur under unique circumstances. It is not minor, because it undermined the integrity of the adjudication of his SCA. Falsification of an SCA "strikes at the heart of the security clearance process." ISCR Case No. 09-01652 (App. Bd. Aug. 8, 2011). SOR ¶ 1.b is not mitigated.

Guideline D: Sexual Behavior

The security concern under this guideline is set out in AG ¶ 12:

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.

The following disqualifying condition is relevant to this case:

AG ¶ 13(a): sexual behavior of a criminal nature, whether or not the individual has been prosecuted.

Applicant was accused of and charged with sexual assault after allegedly having sex with his girlfriend while she was passed out. He has maintained his innocence and claims that the sexual encounter was consensual. In light of the record evidence as a whole, however, I do not find his claims of innocence to be credible. Applicant's own admission, the witness's observations of GF's intoxication just prior to the assault, her contemporaneous reporting to the witness that was consistent with her reporting a year later, and her pain and need to seek medical care to remove a tampon from her vagina the morning after the encounter are all persuasive indicators and substantial evidence that this was a nonconsensual sexual encounter. I find the record evidence, as a whole, establishes AG ¶ 13(a).

The following mitigating condition is relevant:

AG ¶ 14(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.

Although this incident happened over eight years ago and there is no evidence that he has been accused of similar behavior since that time, the severity of the accusation and Applicant's unwillingness to accept responsibility for his actions leaves me with lingering questions about his current reliability, trustworthiness, and judgment. SOR ¶ 2.a is not mitigated.

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.”

The following disqualifying conditions are relevant to this case:

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; and

AG ¶ 31(e): discharge or dismissal from the Armed Forces for reasons less than “Honorable.”

The sexual assault charge and the drug charge are alleged together under the Guideline J cross-allegation at SOR ¶ 3.a. For the same reasons as set forth above in my Guideline D analysis, I find that AG ¶ 31(b) is established for the sexual assault charge. The record evidence, including Applicant’s own admissions, establishes AG ¶ 31(e) for the sexual assault charge.

Applicant was investigated for drug use, possession, and distribution. The record evidence reflects that he was identified as a user of marijuana and had conducted internet searches about how to pass drug tests. AG ¶ 31(b) is established.

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.

After the drug investigation was completed, the chief military justice officer found that there was “insufficient evidence to prosecute” Applicant for a violation of Article 112a, UCMJ. AG ¶ 32(c) is established for SOR ¶ 3.a as it pertains to the drug charge. The charges are nearly ten years old, and Applicant has had no further drug-related arrests or incidents since that time, which indicates that this is behavior that is unlikely to recur and does not cast doubt on his reliability, trustworthiness, or good judgment. AG ¶ 32(a) is established for SOR ¶ 3.a as it pertains to the drug charge.

I find for Applicant on the Guideline J cross-allegation as it pertains to the sexual assault charge, because the same concerns were adequately considered, and are sufficient for an adverse determination, under Guideline D.

Guideline F, Financial Considerations

The 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. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The evidence in the FORM, specifically the four credit reports and Applicant's own admissions, establish the following disqualifying conditions under this guideline:

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

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

The following mitigating conditions are potentially applicable:

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(e): the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant denied the State A child support debt for his oldest child alleged under SOR ¶ 4.a. Although he provided proof that he has been making child-support payments to State B for several years for his oldest child, in the absence of documentation from

State A, the State B information alone is insufficient to be able to conclude that the State A debt is illegitimate and/or resolved. Although he said he provided records to State A to resolve the issue, the debt is still listed on his most recent credit report, obtained approximately six months after he sent the records to State A, and he did not provide any update to the account in response to the FORM. AG ¶ 20(e) is not established for this debt.

Although Applicant admitted to the debt in SOR ¶ 4.j, he stated that these were new child support payments for his second child and that he has been making the payments. His most recent credit report reflects a balance on the account, but there is no past-due amount listed, and it lists the account as “current,” which corroborates Applicant’s description of the status of the account. AG ¶ 20(d) is established for SOR ¶ 4.j.

Applicant attributed the remainder of his delinquent debts to insufficient funds and to helping his mother with her bills. All the debts except SOR ¶ 4.j remain delinquent, and he has a new delinquent debt listed on his most recent credit report; therefore, the financial concerns are recent and ongoing. He has not established that his financial problems are being resolved or are under control. He did not provide any proof of responsible action taken toward the debts, so even if they had arisen under circumstances beyond his control, they are not mitigated. AG ¶¶ 20(a) and 20(b) are 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 E, D, J, and F 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). After weighing the disqualifying and mitigating conditions under Guidelines E, D, J, and F and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised regarding the personal conduct, sexual behavior, and financial considerations allegations. Criminal conduct security concerns are found for Applicant as duplicative and mitigated.

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 E:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Paragraph 2, Guideline D:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Paragraph 3, Guideline J:	FOR APPLICANT
Subparagraph 3.a:	For Applicant
Paragraph 4, Guideline F:	AGAINST APPLICANT
Subparagraphs 4.a-i:	Against Applicant
Subparagraph 4.j:	For Applicant
Subparagraphs 4.k-l:	Against Applicant

Conclusion

I conclude 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.

A. M. Driskill
Administrative Judge