



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



In the matter of:)
)
) ISCR Case No. 24-02425
)
Applicant for Security Clearance)

Appearances

For Government: Daniel P. O'Reilley, Esq., Department Counsel
For Applicant: Billy Smith, Personal Representative

05/26/2026

Decision

HARVEY, Mark, Administrative Judge:

Guidelines F (financial considerations) and J (criminal conduct) security concerns are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

On January 4, 2024, Applicant completed an Electronic Questionnaire for Investigations Processing (e-QIP) or security clearance application (SCA). (Government Exhibit (GE) 1) On February 13, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and Security Executive Agent Directive 4, establishing in Appendix A, the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 1)

The SOR detailed reasons why DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and stated his case would be submitted to an Administrative

Judge for a determination as to whether to grant, deny, or revoke his security clearance. Specifically, the SOR set forth security concerns arising under Guidelines F and J. (HE 1) On March 14, 2025, Applicant responded to the SOR. (HE 2) On December 2, 2025, Department Counsel was ready to proceed. On January 4, 2026, the case was assigned to me. On January 6, 2026, DOHA issued a notice scheduling the hearing for February 19, 2026. (HE 3) The hearing was held as scheduled, using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered five exhibits; Applicant offered three exhibits; and all proffered exhibits were admitted into evidence without objection. (Tr. 14-15, 19-21; GE 1-GE 5; Applicant Exhibit (AE) A-AE C) On February 27, 2026, DOHA received a copy of the transcript. Applicant provided seven post-hearing exhibits, which were admitted into evidence. (AE D-AE J) The record closed on May 12, 2026. (HE 4)

Department Counsel moved to amend the SOR to add SOR ¶ 2.c, which alleges under Guideline J that Applicant refused a police breathalyzer request on June 16, 2025; Applicant did not object; and I granted the motion. (Tr. 48)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he denied all of the SOR allegations. (HE 2) He also provided extenuating and mitigating information.

Applicant is 26 years old, and he has worked as an able seaman unlimited for six years. (Tr. 7-8) He earns \$410 a day when he is working. (Tr. 24) In 2016, he graduated from high school, and he completed two semesters of college. (Tr. 7) He has not served in the military. (Tr. 7) He has never married, and his two children are three and six years old. (Tr. 8) His monthly child support is \$586. (Tr. 23) He has not had any adverse employment actions in his current employment. (Tr. 24) He has a good reputation at work for being diligent and responsible. (Tr. 49-50) He described himself as trustworthy and responsible. (Tr. 53)

Financial Considerations

SOR ¶ 1.a alleges Applicant has a charged-off debt for about \$30,431. On June 5, 2021, the creditor received a contract related to purchase of a truck. His down payment was \$2,500, and the original price was \$32,000. (Tr. 27) He allowed the gap insurance on the truck he purchased to lapse. (Tr. 57) In 2022, the truck was totaled in an accident. (Tr. 28, 30) He did not make any payments after December 16, 2022. (AE E) The truck was sold at auction; however, Applicant was never able to find out what the creditor received from the sale at auction. (Tr. 58) From December of 2022 to April of 2026, he was unable to pay the debt because of insufficient income. (Tr. 31) In April of 2026, the

balance owed to the creditor was \$30,431. (AE E) On May 8, 2026, he paid \$609 and settled the debt. (AE E) The creditor agreed to release a lien on the vehicle's title. (AE E)

SOR ¶ 1.b alleges Applicant has a medical debt placed for collection for about \$6,394. He was in a different car accident from the one in SOR ¶ 1.a, and he received medical care. (Tr. 31) In January 2024, the original balance was \$7,242. (AE G) He has been consistently making \$106 monthly payments since he received the first bill, and the current balance as of February 9, 2026, was \$4,893. (Tr. 32-33; AE G)

SOR ¶ 1.c alleges Applicant has a debt for tuition and fees, which was placed for collection for about \$1,625. He attended college from 2018 to 2020. (Tr. 33) He believed he had paid it; however, he said he would research it after his hearing. (Tr. 33-35) After his hearing, he provided a receipt showing he paid \$1,837 toward an original debt of \$2,287, and he owed \$442. (AE F) On March 26, 2026, he paid \$442, and this debt is resolved. (AE F)

SOR ¶ 1.d alleges Applicant has a fine and assessments ordered by a municipal court for \$466. A receipt dated March 18, 2025, indicates he paid the court \$466. (AE C) He said all court fees have been paid. (Tr. 37)

A court record indicates on March 5, 2019, Applicant received a \$400 fine. (AE C) On September 13, 2024, he paid \$150, and on March 22, 2025, he paid \$250. (AE C) The receipt indicates the account balance is \$0. (AE C)

On March 5, 2019, Applicant received a \$216 fine for parking in a handicap parking area, and on March 22, 2025, he paid the \$216 fine. (AE C) The receipt indicates his account balance is \$0. (AE C)

Applicant's February 18, 2026 three-bureau credit report shows all accounts are in paid or current status. (AE B) There are no accounts in collection or charged off. (AE B)

Criminal Conduct

SOR ¶ 2.a alleges that in October of 2023, Applicant received a summons for a seatbelt violation. He failed to appear in court and a failure to appear notice was issued. (Tr. 38-39) In about April of 2024, his driver's license was suspended. On September 13, 2025, Applicant paid the court \$50, and the receipt for a seatbelt violation indicates his balance owed is \$0. (AE C)

SOR ¶ 2.b alleges that in about May of 2018, Applicant was charged with improper parking and no insurance. (Tr. 41-42) He failed to appear in court as required. In about March of 2019, a warrant was issued for his arrest. As indicated previously, all fines have been paid, and there is no evidence that this allegation remains unresolved.

SOR ¶ 2.c alleges on June 16, 2025, Applicant refused a breathalyzer test. On June 16, 2025, he received a ticket for tag light, improper equipment, no proof of liability insurance, disorderly conduct, and driving under the influence of alcohol. (Tr. 45; AE D)

He said he was pulled over for a tag light violation, and the police officer wanted to detain him. (Tr. 43) The officer wanted to put handcuffs on Applicant while his vehicle was searched, and he objected to the handcuffs. (Tr. 44) He disclosed he had a firearm in his vehicle, and he was not charged with a firearms offense. No contraband was found in his vehicle. (Tr. 46) Applicant was arrested for failure to comply with the officer's orders. When they arrived at the police station, he refused a breathalyzer test. (Tr. 43) He denied that he had been drinking, and he decided not to cooperate with the police because he was upset about the way the police were treating him. (Tr. 43-44, 51-52)

The police report indicates the police officer smelled alcohol during the search of Applicant's vehicle. (AE J) The report does not indicate he smelled alcohol on Applicant's person before the arrest. He did not give Applicant a field sobriety test. (AE J) He was arrested primarily for being uncooperative and making obnoxious comments to the police officer. (AE J) The police officer said he smelled alcohol on Applicant at the police station; Applicant was continuing to make obnoxious comments to the police; and his eyes were bloodshot. (AE J)

Applicant's father has a law enforcement background, and he advised his children not to cooperate with police breathalyzer tests. (Tr. 55) He believes in small towns the tests are often flawed. (Tr. 55)

On September 16, 2025, Applicant received an order of non-adjudication. (AE D) His driver's license was suspended for about 90 days; and he agreed to complete a class and pay a fine. (Tr. 38, 52-53) On March 13, 2026, he paid \$114, reducing a court debt for \$441 for DUI refusal, and \$441 for no proof of insurance. (AE D) The balance owed for no proof of insurance is \$0. (AE D)

Non-SOR allegation

This allegation was not alleged in the SOR, and it was not discussed at Applicant's hearing; however, it is detailed in his Office of Personnel Management (OPM) personal subject interview. (GE 5 at 3) On September 12, 2014, Applicant was arrested for DUI. *Id.* He pleaded guilty to DUI and received a fine of \$899 and costs of \$319. *Id.* He paid the fine and costs, and he attended an alcohol-awareness class. *Id.* He told the OPM investigator that he could not remember whether he received a breathalyzer test at the time of his arrest. *Id.*

Character Evidence

One of Applicant's coworkers said:

[Applicant] has been [my coworker] for over a year and has been a pleasure to work with. He always brings great attention to detail in his work and everything that he is involved in. His communication and people skills are excellent, and he has some of the best innovative ideas. I can highly recommend him for the opportunity to fix the issue that has come about, as he has clearly shown his responsibilities and attentiveness to any past

mistakes. [He] is a very talented young man, and everyone here wishes him all the best in this matter. (AE I)

Applicant's father described his son as qualified, capable, and highly motivated to be successful in his current employment. (Tr. 54-55) He believes his son should receive a security clearance. (Tr. 54-55)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no 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 applicant 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, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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, these guidelines are applied 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, 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 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 "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. Thus, nothing in an unfavorable decision should be construed to suggest that it is based on any express or implied determination about an applicant's allegiance, loyalty, or patriotism. An unfavorable decision is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence 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. 95-0611 at 2 (App. Bd. May 2, 1996).

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 ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sept. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

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 Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

AG ¶ 19 includes disqualifying conditions that could raise a security concern and may be disqualifying in this case, “(a) inability to satisfy debts,” and “(c) a history of not meeting financial obligations.”

The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*. The financial considerations mitigating conditions under AG ¶ 20, which may be applicable in this case, are as follows:

(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;

(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;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

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

(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.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained Applicant’s responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant’s security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.” Directive, Enclosure 2 ¶ 2(b).

Applicant has a charged-off debt for about \$30,431. On May 8, 2026, he paid \$609 and settled the debt. He has a medical debt placed for collection of about \$6,394. He has been consistently making \$106 monthly payments since he received the first bill, and the current balance as of February 9, 2026, was \$4,893. He has an established payment plan, which is addressing this debt.

Applicant has a debt for tuition and fees, which was placed for collection for about \$1,625. On March 26, 2026, he paid the remaining \$442, and this debt is resolved. He has paid all fines and court costs ordered by a municipal court with jurisdiction over his multiple driving and parking offenses.

AG ¶ 20(a) does not apply to the SOR issues. “It is also well established that an applicant’s ongoing, unpaid debts demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions.” ISCR Case No. 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017)).

AG ¶ 20(b) does not apply. Applicant did not assert unexpected reasons or other circumstances partially or fully beyond his control, which caused him not to be able to make more progress sooner to resolve the delinquent SOR debts.

AG ¶¶ 20(c) and 20(d) apply. Applicant has received and is receiving financial counseling from his father. He acted in good faith to repay overdue creditors or otherwise resolve debts. There are clear indications that his financial problems are being resolved or are under control.

Applicants are not required “to be debt-free in order to qualify for a security clearance. Rather, all that is required is that an applicant act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by ‘concomitant conduct’ that is, actions which evidence a serious intent to effectuate the plan.” ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017) (denial of security clearance remanded) (citing ISCR Case No.13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014)). There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). See *also* ISCR Case No. 23-01434 at 2-3 (App. Bd. May 7, 2024).

Applicant provided proof of his financial responsibility, and he has an overall track-record of paying his debts as shown by his most recent credit report. There are clear indications that the problem is resolved, and his finances are under control. Under all the circumstances, and considering the evidence as a whole, Applicant’s financial issues are mitigated.

Criminal Conduct

AG ¶ 30 provides the security concern arising from criminal conduct stating, “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.”

AG ¶ 31 lists two conditions that could raise a criminal conduct security concern and may be disqualifying in this case:

(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

(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 record establishes AG ¶¶ 31(a) and 31(b). Additional discussion of the disqualifying conditions is in the mitigation section, *infra*.

AG ¶ 32 lists conditions that could mitigate criminal conduct security concerns:

(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;

(b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;

(c) no reliable evidence to support that the individual committed the offense; 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.

On September 12, 2014, Applicant committed a DUI. This offense is not recent and has limited connection to his DUI arrest on June 16, 2025. His DUI in 2014 was not alleged in the SOR and cannot be considered for disqualification purposes; however, it will be considered in the mitigation, credibility, and whole-person assessments.

In about May of 2018, Applicant was charged with improper parking and no insurance. He failed to appear in court as required. In about March of 2019, a warrant was issued for his arrest. He paid a fine and resolved the issue.

In October of 2023, Applicant received a summons for a seatbelt violation. He failed to appear in court and a failure to appear notice was issued. On September 13, 2025, Applicant paid his fine.

On June 16, 2025, Applicant received a ticket or citation for tag light, improper equipment, no proof of liability insurance, disorderly conduct, and refusing a breathalyzer. He said he was pulled over for a tag light, and the police officer wanted to detain him. He attended a class and paid a fine. The refusal of the breathalyzer was not adjudicated.

On multiple occasions from 2018 to June 16, 2025, Applicant showed poor judgment as a driver. His traffic infractions and misdemeanors have cost him hundreds of dollars. Several of his driving offenses are relatively recent, and driving offenses are not unusual because he has a driver's license and continues to drive. The payment of the fines should deter him from making such errors in the judgment in the future. The offenses do "not cast doubt on the [his] reliability, trustworthiness, [and] good judgment." AG ¶ 32(a) partially applies.

Applicant is a good employee. There is no evidence of disciplinary problems at work. He has been successfully rehabilitated. He paid his fines, complied with the court orders, and the refusal of the breathalyzer did not result in a conviction. Criminal conduct security concerns under Guideline J are mitigated.

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 the 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), "[t]he 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. My comments under Guidelines F and J are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is 26 years old, and he has worked as an able seaman unlimited for six years. In 2016, he graduated from high school, and he completed two semesters of college. He has not had any adverse employment actions in his current employment. He

has a good reputation at work for being diligent and responsible. Applicant's father and a coworker positively described his duty performance and reliability. The character evidence supports approval of his access to classified information.

The evidence supporting approval of Applicant's security clearance is detailed in the financial considerations and criminal conduct section, *supra*, and this evidence is more substantial than the evidence supporting denial of his access to classified information.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. *See Dorfmont*, 913 F. 2d at 1401. "[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant's eligibility for access to classified information." ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No.12-00270 at 3 (App. Bd. Jan. 17, 2014)).

I have carefully applied the law, as set forth in *Egan*, *Dorfmont*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant mitigated financial considerations and criminal conduct security concerns.

Applicant is warned that in future security clearance assessments his entire history will be considered, including this decision. Future alcohol-related incidents may demonstrate a pattern and may result in revocation of his security clearance.

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 F:	FOR APPLICANT
Subparagraphs 1.a through 1.d:	For Applicant

Paragraph 2, Guideline J:	FOR APPLICANT
Subparagraphs 2.a through 2.c:	For Applicant

Conclusion

I conclude that it is clearly consistent with the interests of national security of the United States to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is granted.

Mark Harvey
Administrative Judge