DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	ISCR Case No. 25-00677
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Sakeena Farhath, Esq., Department Counsel
For Applicant: *Pro se*

06/18/2026

Decision

ROSS, Wilford H., Administrative Judge:

Applicant did not mitigate the security concerns under Guideline F (Financial Considerations) and Guideline H (Drug Involvement and Substance Misuse). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on July 11, 2024. On December 31, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines F and H. Applicant answered the SOR on January 17, 2026, and requested a decision on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on March 12, 2026. A complete copy of the file of relevant material (FORM) was sent to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. He received the FORM on March 23, 2026, and he did not respond. The case was assigned to me on June 10, 2026.

The Government's FORM consists of the pleadings in the case (Government Exhibit (GE) 1), Applicant's answer to the SOR, and the documents in support of the allegations in the SOR (GE 2-7). GE 2 through 7 are admitted into evidence, without objection.

Findings of Fact

The SOR alleges under Guideline F that Applicant failed to file his federal and state income tax returns for tax years 2020 and 2024 (SOR ¶¶ 1.d and 1.e), and that he has delinquent federal taxes totaling approximately $11,247 (SOR ¶¶ 1.c) and two delinquent consumer debts totaling approximately $4,094 (SOR ¶¶ 1.a-1.b). Although Department Counsel asserts in the Government's FORM that, "Applicant admits to all the allegations in his Response to the SOR," GE 2 reflects otherwise. Applicant admitted the allegations in SOR ¶¶ 1.a-1.c. For the allegation in SOR ¶ 1.d, he indicated admission to failing to file his 2020 tax year federal income tax return but remained silent regarding tax year 2024. For the allegation in SOR ¶ 1.e, he admitted failure to file his state income tax return for tax year 2024 but remained silent regarding tax year 2020. (GE 2 at 1-2) Applicant's silence is deemed as denials for failure to file his federal income tax return for tax year 2024 and state income tax return for tax year 2020, as alleged in SOR ¶¶ 1.d and 1.e.

The SOR also alleges, under Guideline H, that Applicant used marijuana with varying frequency from about March 2020 to April 2024 (SOR ¶ 2.a), he purchased marijuana on varying occasions (SOR ¶ 2.b), and he tested positive for marijuana on a drug test administered by his employer in about November 2022 (SOR ¶ 2.c). Again, although Department Counsel asserts in the Government's FORM that, "Applicant admits to all the allegations in his Response to the SOR," GE 2 reflects otherwise. The statement, "I admit," follows the allegation in SOR ¶ 2.b, while SOR ¶¶ 2.a and 2.c are neither admitted nor denied. (GE 2 at 2) Applicant's silence is deemed as denials of the allegations in SOR ¶¶ 2.a and 2.c.

Applicant is 50 years old, married, with one child and one stepchild. He has no history of prior military service and has been employed by his government contractor sponsor since December 2022. (GE 3) He attributes his financial difficulties to "unplanned expenses and life circumstances" that "snowballed," to include the birth of his child, car accidents requiring him to purchase new vehicles, and being out of work during the COVID-19 pandemic. He was recently promoted and expects the pay increase that comes with the promotion will allow him to pay off any outstanding debts he owes and get back on track. (GE 5 at 5)

Applicant disclosed in his SCA his failure to pay his federal and state taxes for tax years 2017 and 2018 when due, estimating a balance of $7,500 in unpaid back taxes for each year, and that he had set up a payment plan and was paying every month. (GE 3 at 30-31) He also disclosed two delinquent consumer debts, admitting that he has been facing financial difficulties for roughly the last ten years. He attributed his delinquencies to car accidents, rising living costs, job loss, and the pandemic. (GE 3 at 32-34)

In response to Government interrogatories, Applicant disclosed that he had filed an extension for tax year 2024 for both his federal and state income tax returns and that he had not yet filed his federal and state income tax returns for tax year 2020. He added that he had filed the tax year 2020 tax returns with a tax filing service but "it seems the IRS never received [the] return." (SOR ¶¶ 1.d and 1.e; GE 5 at 41-42) He approximates his federal tax liability for tax years 2016, 2017, 2019, and 2022 as $10,170 (SOR ¶ 1.d). (GE 5 at 9-10) He has a payment plan set up with the IRS and is making monthly payments of $252 towards his tax debt for tax years 2022 and 2017. (GE 5 at 37-38, 44-45) His tax year 2017 installment agreement dates to 2021, however, his payment history is inconsistent. (GE 5 at 37-38)

Applicant admits to the two delinquent consumer accounts totaling approximately $4,094. (SOR ¶¶ 1.a-1.b) He states he is "planning on paying this back but [his] wife is out of work again [and they are] just trying to survive." (GE 2) Per his submitted budget, he approximates a net monthly remainder of $1,600. (GE 5 at 14) He provided no documentation in support of his answer to the SOR.

Applicant disclosed in his SCA that he used marijuana as a sleep aid from March 2020 to January 2022 and that he had no intent for future use because he was, "Trying to get healthier." (GE 3 at 28) During his interview with an investigator on October 10, 2024, he disclosed he consumes marijuana gummies while alone at home to help him sleep and indicated his last marijuana use was in April 2024. He described his purchase of marijuana gummies as "rare" and that "he stopped using marijuana because he is aware that he cannot use drugs while having a security clearance." (GE 5 at 3) In response to Government interrogatories, he provided a different date for his last use, stating that it was on or about December 2022. (GE 5 at 15)

Applicant failed the pre-employment drug testing he underwent in November 2022 before starting his position with his current employer. He was still hired despite his positive drug test, stating that "it was not an issue" for his position and "the type of work he was doing did not require him to have a negative drug test." (GE 5 at 4 and 16) He stated during his interview that he is unaware of any specific drug policy for his current employer. However, in response to Government interrogatories, he stated he believes there is one, but that he does not have access to it. (GE 5 at 4 and 20)

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 War 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 War 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 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.

Applicant's admissions and the evidence in the FORM establish the following disqualifying conditions under this guideline:

> AG ¶ 19(a): inability to satisfy debts;
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> AG ¶ 19(c): a history of not meeting financial obligations; and
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> 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 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;
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> AG ¶ 20(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;

> 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.

Mitigation under AG ¶ 20 is not fully established. AG ¶ 20(a) is established in part. While some of Applicant's financial difficulties may be attributed to circumstances beyond his control, there is little evidence to show that his financial condition has improved and no longer casts doubt on his current reliability, trustworthiness, or good judgment. AG ¶¶ 20(b) and 20(c) are not established, because there is no evidence he took responsible action at the time the debts were accrued. In addition, there is no proof of financial counseling and no clear indications that the problem is being resolved or is under control. He provided little to no evidence of good faith efforts at debt resolution, sufficient for AG ¶ 20 (d) to apply. The payment plans he has entered into with the IRS do not cover all of the years and debts of concern, and there is limited information or a history of established payments towards the plan he does have for AG ¶ 20(g) to apply and fully mitigate the concerns raised by his delinquent tax filing and his failure to pay his relevant taxes.

Guideline H, Drug Involvement and Substance Misuse

The concern under this guideline is set out in AG ¶ 24:

> The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. *Controlled substance* means any "controlled substance" as defined in 21 U.S.C. 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed above.

Applicant's admissions and the evidence in the FORM establish the following disqualifying conditions under this guideline:

> AG ¶ 25(a): any substance misuse (see above definition);
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> AG ¶ 25(b): testing positive for an illegal drug;
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> AG ¶ 25(c): illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and

AG ¶ 25(g) […] failure to clearly and convincingly commit to discontinue such misuse.

The following mitigating conditions are potentially applicable:

AG ¶ 26(a): the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

AG ¶ 26(b): the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:

(1) disassociation from drug-using associates and contacts;

(2) changing or avoiding the environment where drugs were used; and

(3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

Mitigation under AG ¶ 26 is not fully established. Applicant provided three separate dates for his last use of marijuana. Given the inconsistencies, it is difficult if not imprudent to assign a date of last use with much certainty, which leaves doubts as to his commitment to discontinue his marijuana use. Appreciating that Applicant used marijuana gummies alone at night as a sleep aid, and therefore a change in environment or disassociation from drug-using associates may not be needed in this case, he did not provide a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility. Although he stated that he stopped using marijuana so he can be eligible for a security clearance, he continued to use marijuana after testing positive on a pre-employment drug screen. While he was allowed to begin employment after a positive test, Applicant's continued use and his uncertainty regarding his employer's drug-free workplace policy, demonstrates that he may not yet fully grasp the questionable judgment he exercised. Because he has not clearly and convincingly committed to discontinue his marijuana use, concerns about his security worthiness and commitment to abide by rules and regulations remain.

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 F and H 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 F and H, and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised under Guideline F (Financial Considerations) and Guideline H (Drug Involvement and Substance Misuse).

Formal Findings

I make the following formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a-1.e:	Against Applicant
Paragraph 2, Guideline H:	AGAINST APPLICANT
Subparagraphs 2.a-2.c:	Against 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.

Wilford H. Ross
Administrative Judge