DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 25-00995
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Rhett E. Petcher, Esq., Department Counsel
For Applicant: Samir Nakhleh, Esq.

07/07/2026

Decision

HARVEY, Mark, Administrative Judge:

Guideline F (financial considerations) security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On August 13, 2024, Applicant completed a security clearance application (SCA). (Government Exhibit (GE) 1) On August 19, 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 her case would be submitted to an Administrative Judge for a determination whether to grant, deny, or revoke her security clearance.

Specifically, the SOR set forth security concerns arising under Guideline F. (HE 1) On September 12, 2025, Applicant responded to the SOR. (HE 2) On March 5, 2026, Department Counsel was ready to proceed. On March 19, 2026, the case was assigned to me. On April 2, 2026, DOHA issued a notice scheduling the hearing for May 28, 2026. (HE 3) The hearing was held as scheduled, using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered four exhibits; Applicant offered eight exhibits; and all proffered exhibits were admitted into evidence without objection. (Tr. 14-17, GE 1-GE 4; Applicant Exhibits (AE) A-AE H) On June 8, 2026, DOHA received a copy of the transcript. Five post-hearing documents were received and admitted without objection. (AE I-AE M) The record closed on June 15, 2026. (Tr. 72)

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

Legal Issue

Department Counsel moved to amend the SOR to add the allegations in SOR ¶ 1.e that Applicant owes federal income taxes (FIT) of $7,354 for tax year (TY) 2024, and in SOR ¶ 1.f that she owes state income taxes (SIT) of $3,245 for TY 2024. (Tr. 11-12) There were no objections, and I granted the motion. (Tr. 11-12)

Findings of Fact

In Applicant's SOR response, she denied the allegations in SOR ¶¶ 1.a through 1.d. She also provided extenuating and mitigating information.

Applicant is a 44-year-old senior instructional designer, and she has worked for a government contractor since August of 2024. (Tr. 18, 20-22, 62) For 2025, she received an excellent performance evaluation. (Tr. 22-23) In 2003, she married, and her five children are ages 11, 14, 19, 20, and 31. (Tr. 18, 61) In 2004, she received a bachelor's degree in music education; in 2019, she received a master's degree in education; and in 2023, she was awarded a Ph.D. in educational psychology and technology. (Tr. 19) She has not served in the military. (Tr. 61) Her husband is a facility manager for a church. (Tr. 61) During her professional career, she has had access to sensitive information, and she has never been accused of compromising sensitive information. (Tr. 22-23)

Financial Considerations

In her August 13, 2024 SCA, Applicant disclosed she owed FIT and SIT starting in TY 2021. She said, "We filed late taxes in 2021 and 2022 due to owing higher-than expected amounts. We filed 2023 on time but also owed. We are on a payment plan now, as well as saving monthly now that we anticipate payments for future years as well." (GE 1 at 38)

Applicant's October 10, 2024 Office of Personnel Management (OPM) summary of interview states:

> Subject failed to file her 2021 and 2022 taxes on time. Subject stated that they had never owed on their taxes before. They knew they were going to have to pay, and it was going to be a lot of money to owe. Subject stated that is why [they] were late in filing their taxes. Subject stated that she was in school at the time going for her Doctorate and was under a lot of stress at the time. They did file their 2023 taxes on time even though they owed money. Subject stated that [for] tax year[s] 21 to 23 they owed around $30,000.00. They are currently on a payment plan. They just started in 10/24 they pay $400.00 per month. (GE 2 at 1)

Applicant attributed her tax debts to a failure to withhold sufficient taxes from her income. (Tr. 25) In July of 2020, she received new employment; her employer did not withhold sufficient taxes from her pay; and starting in tax year (TY) 2021, taxes were owed when she filed her tax returns. (Tr. 25) In 2020, Applicant and her spouse's adjusted gross income (AGI) was about $130,000, which was an increase of about $40,000 from the previous year. (Tr. 42)

Applicant said she increased her withholdings after 2020 "at least twice"; however, for TY 2021, the withholding was $5,323, and for TY 2022, it was $4,855. (Tr. 45; AE B; AE C) The withholdings were not adequate to ensure her taxes were paid when due without a substantial payment when her tax returns were filed. (Tr. 25, 43)

Applicant and her husband filed joint tax returns, and they were both W-2 salaried employees. (Tr. 26) They delayed filing two tax returns because they owed additional taxes. (Tr. 27) FIT returns for TYs 2021 and 2022 were mailed in August of 2024. (Tr. 29) Applicant and her husband put funds in a savings account because they "were trying to squirrel away more money and savings and set ourselves up better financially in order to address" their tax debts. (Tr. 27)

SOR ¶¶ 1.a through 1.e allege the following FIT debts: ¶ 1.a—TY 2023 ($8,993); ¶ 1.b—TY 2022 ($20,427); ¶ 1.c—TY 2021 ($16,709); and ¶ 1.e—TY 2024 ($7,354).

SOR ¶ 1.d alleges Applicant owes $12,424 SIT to her state of residence for TYs 2021, 2022, and 2023. SOR ¶ 1.f alleges that she owes SIT of $3,245 for TY 2024. She said she paid her SIT for TYs 2021, 2022, 2023, and 2024. (Tr. 24) More about her SIT debt is discussed, *infra*.

Applicant's April 27, 2026, and June 4, 2026 IRS tax transcripts contain the FIT information summarized in the below table. (AE B-AE E; AE I) AGI is rounded to the nearest $1,000, and FIT and SIT are rounded to the nearest $100. On June 25, 2025, the state tax authority advised Applicant and her spouse that they owed SIT for TYs 2021 through 2024 totaling $17,106. FIT owed are from the "account balance plus accruals" line in her IRS tax transcripts.

Tax Year	Date Tax Return Received by IRS	Adjusted Gross Income	Federal Taxes Owed	State Taxes Owed	Exhibit
2021	Aug. 15, 2024	$169,000	$16,900	$6,200	AE B, G
2022	Aug. 15, 2024	$174,000	$23,000	$5,300	AE C, G
2023	Apr. 15, 2024	$179,000	$5,900	$4,300	AE D, G
2024	June 2, 2025	$205,000	$7,400	$4,600	AE E, G, I
2025	Apr. 23, 2026	$236,000	$0	Refund $357	Tr. 35, 54-55; AE J

According to Applicant's April 27, 2026 IRS tax transcript for TY 2023, on September 6, 2024, an installment agreement was established; one $608 FIT payment was made in November of 2024; and seven $630 payments were made from January 2025 to July 2025. (Tr. 28; AE D; AE F) This IRS payment plan existed from January of 2025 through July of 2025, and on November 3, 2025, the IRS terminated the installment agreement. (Tr. 28, 48-50; AE D) The IRS was automatically debiting her payments from her bank account. (Tr. 48-49) She made payments in August 2025, September 2025, March 2026, and April 2026. (Tr. 28; AE D; AE F) She did not know why the payments were not made in October and November of 2025 and January and February of 2026. (Tr. 50-51) Applicant and her spouse received a $1,000 FIT refund for TY 2025, which was applied to their FIT debt on April 15, 2026. (Tr. 28; AE J) The IRS payment plan showed the following additional payments: September 2025 ($652); December 2025 ($400); March 2026 ($724); and April 2026 ($700). (Tr. 32-33; AE F)

On June 4, 2026, the IRS website said Applicant and her husband owed $50,900 in FIT (rounded to nearest $100). (Tr. 31; AE K) They plan to continue with their monthly $700 payment plan until their FITs are paid. (Tr. 38-40) She said that starting in June of 2026, the $700 monthly payments were made through direct debit from their bank account. (Tr. 51-52)

Applicant paid the state tax authority $290 from October 2024 to March 2025. (AE H) She made the following payments in 2026: **May 20, 2026**: (2021--$3,800); (2022--$3,100); (2023--$3,800); (2024--$800); and (2024--$3,500); **May 6, 2026** (2021--$800); **April 22, 2026** (2021--$1,000); and **April 8, 2026** (2021--$800). (AE H; AE M) Her June 4, 2026 SIT statement showed the following SIT balances: 2020 ($0); 2021 (surplus $1,200); 2022 ($0); 2023 ($0); 2024 (surplus $800); 2025 ($0); and 2026 ($0). (AE L)

Applicant's spouse borrowed $17,000 from his 401(k) account to pay their SIT and hire counsel for her security clearance hearing. (Tr. 57) The monthly payment to repay the 401(k) loan is about $200. (Tr. 57) Applicant and her husband did not indicate the amount of funds in their 401(k) accounts. They utilize a budget. (Tr. 58) She and her husband have about $30,000 in their savings accounts. (Tr. 59) Her family has had some serious medical issues, and she prefers to maintain funds for emergencies. (Tr. 60) She owns her own home. (Tr. 18) She has substantial student loan debt, and her September 10, 2024 credit bureau report (CBR), the most recent CBR of record, indicates "pays as agreed" for her student loan debt. (GE 4) This CBR shows excellent financial responsibility. (GE 4)

In conclusion, Applicant said:

> I feel like everything has been said. I fully recognize my responsibility. I would just emphasize it was never ever my intent to not pay the taxes or elude the government or anything of that. It definitely is not anything that I'm proud of, I'll admit, embarrassed by even. But I feel like we've improved our financial situation, that we're perfectly capable of maintaining these payments and getting this taken care of. And moving forward, that everything is in line, that we shouldn't have any future tax problems. If we did, we have the savings to take care of anything in the future. So I feel that this is contained and that we're on track. (Tr. 62-63)

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;
>
> (c) a history of not meeting financial obligations; and
>
> (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 record establishes the disqualifying conditions in AG ¶¶ 19(a), 19(c), and 19(f), 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;
>
> (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; and
>
> (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.

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).

SOR ¶¶ 1.a through 1.e allege the following FIT debts: ¶ 1.a—TY 2023 ($8,993); ¶ 1.b—TY 2022 ($20,427); ¶ 1.c—TY 2021 ($16,709); and ¶ 1.e—TY 2024 ($7,354). SOR ¶ 1.d alleges Applicant owes $12,424 SIT to her state of residence for TYs 2021, 2022, and 2023. SOR ¶ 1.f alleges that she owes SIT of $3,245 for TY 2024.

The record establishes that at the time of Applicant's hearing she had delinquent FIT debts for TYs 2021, 2022, 2023, and 2024. The amounts of the debts are different than the amounts alleged in the SOR because her payments reduced the amounts owed and interest charges continue to accrue. She paid her SIT debt, and SOR ¶¶ 1.d and 1.f are mitigated. In June of 2026, the delinquent amount for her FIT is about $50,900.

On September 6, 2024, Applicant established an IRS installment agreement, and seven $630 payments were made from January of 2025 to July of 2025. In September 2025, she paid $652. On November 3, 2025, the IRS terminated the installment agreement. She did not know why the payments were not made in October and November of 2025 and January and February of 2026. The IRS payment plan showed the following additional payments: December 29, 2025 ($400); March 18, 2026 ($724); and April 15, 2026 ($700). On June 4, 2026, the IRS website said Applicant and her husband owed $50,900 in FIT (rounded to nearest $100). She currently has a $700 monthly IRS payment plan.

Applicant's disclosures of her FIT and SIT issues on her SCA, during her OPM interview, in response to DOHA interrogatories, and at her hearing are positive considerations. The timing of her filing of her tax returns for TYs 2021 and 2022 and establishment of her IRS payment plan may be related to the security clearance process.

AG ¶ 20(a) does not apply to the SOR allegations. "It is also well established that an applicant's ongoing, unpaid debts [and history of not timely filing tax returns and paying taxes] 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 fully apply. Applicant changed employments; her employer failed to withhold sufficient funds from her income for tax payments; she was earning a Ph.D.; and her family had some medical issues. These circumstances do not fully mitigate her tax issues. She has an independent responsibility to ensure sufficient funds are withheld or she has funds available to pay her taxes when due. She did not assert good enough reasons or other circumstances partially or fully beyond her control, which caused her not to timely file and pay required FIT and SIT for such long periods of time.

Applicant failed to timely file her FIT returns for TYs 2021 and 2022. A willful failure to timely make (means complete and file with the IRS) a FIT return is a misdemeanor-level federal criminal offense. Title 26 U.S.C. § 7203, willful failure to file return or supply information, reads:

> Any person . . . required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to . . . make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor. . . .

A willful failure to make and file return, keep records, or supply information when required, is a misdemeanor offense without regard to the existence of any tax liability. *Spies v. United States*, 317 U.S. 492 (1943); *United States v. Walker*, 479 F.2d 407 (9th Cir. 1973); *United States v. McCabe*, 416 F.2d 957 (7th Cir. 1969); *O'Brien v. United States*, 51 F.2d 193 (7th Cir. 1931). For purposes of this decision, I am not considering Applicant's failure to timely file her FIT returns against her as a crime. Regarding the failure to timely file FIT returns, the Appeal Board has commented:

> Failure to file tax returns suggests that an applicant has a problem with complying with well-established governmental rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information. ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002). As we have noted in the past, a clearance adjudication is not directed at collecting debts. *See, e.g.*, ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). By the same token, neither is it directed toward inducing an applicant to file tax returns. Rather, it is a proceeding aimed at evaluating an applicant's judgment and reliability. *Id*. A person who fails repeatedly to fulfill his or her legal obligations does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. *See, e.g.*, ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015). *See Cafeteria & Restaurant Workers Union Local 473 v. McElroy*, 284 F.2d 173, 183 (D.C. Cir. 1960), *aff'd*, 367 U.S. 886 (1961).

ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016). *See* ISCR Case No. 15-01031 at 4 (App. Bd. June 15, 2016) (citations omitted); ISCR Case No. 14-05476 at 5 (App. Bd. Mar. 25, 2016) (citing ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002)); ISCR Case No. 14-01894 at 4-5 (App. Bd. Aug. 18, 2015).

The Appeal Board in ISCR Case No. 15-01031 (App. Bd. June 15, 2016) explained that in some situations, even if no taxes are owed when tax returns are not timely filed, grant of access to classified information is inappropriate. In ISCR Case No. 15-01031 (App. Bd. June 15, 2016), the applicant filed his 2011 FIT return in December 2013, his 2012 FIT return in September 2014, and his 2013 FIT return in October 2015. He received FIT refunds of at least $1,000 for each year. Nevertheless, the Appeal Board reversed the administrative judge's decision to grant access to classified information because the tax returns were not timely filed.

Applicant's failures to timely file FIT returns for TYs 2021 and 2022 are not alleged in the SOR. The failure to timely file these two FIT returns will not be considered for disqualification purposes; however, they will be considered in the mitigation assessment and under the whole-person concept.

In ISCR Case No. 23-02082 at 4 (App. Bd. June 23, 2026) the Appeal Board cited the timing of the applicant's efforts to resolve final issues as being mostly after the SOR was issued. The Appeal Board said:

> We have long held that the timing of debt payments is relevant in evaluating an applicant's case for mitigation, as an applicant who resolves financial problems after being placed on notice that [his or] her security clearance is in jeopardy may lack the judgment and self-discipline to follow rules and regulations over time or when there is no immediate threat to her own interests.

On August 13, 2024, Applicant completed an SCA. On August 15, 2024, she filed FIT returns for TYs 2021 and 2022. On September 6, 2024, she established an IRS installment agreement, and seven $630 payments were made from January 2025 to July 2025. On October 10, 2024, an OPM investigator interviewed her about her taxes. On August 19, 2025, the DCSA issued an SOR. After the SOR was issued, she made payments in September 2025, December 2025, March 2026, and April 2026. In other words, from September 2025 to April 2026 (eight months) she made four monthly payments. She currently has a $700 monthly IRS payment plan. As she continues to accrue interest on her $50,900 FIT debt, it is unclear when her FIT debt will be paid.

In ISCR Case No. 24-02193 at 5 (App. Bd. Feb. 19, 2026), the Appeal Board said:

> The mere filing of delinquent tax returns or the existence of a payment arrangement with an appropriate tax authority does not compel a Judge to issue a favorable decision. As with the application of any mitigating condition, the Judge must examine the record evidence and decide whether the favorable evidence outweighs the unfavorable evidence, or vice versa. The timing of corrective action is an appropriate factor for the Judge to consider in the application of mitigating condition 20(g) as well as in considering aspects of other overlapping mitigating conditions, such as, in determining whether an applicant acted responsibly under the circumstances, whether an applicant's past financial deficiencies are unlikely to recur, or whether an applicant initiated good-faith efforts to resolve financial problems.

The Appeal Board clarified that even in instances where an "[a]pplicant has purportedly corrected [his or her] federal tax problem, and the fact that [applicant] is now motivated to prevent such problems in the future, does not preclude careful consideration of [a]pplicant's security worthiness in light of [his or her] longstanding prior behavior evidencing irresponsibility" including a failure to timely file FIT returns. *See* ISCR Case No. 15-01031 at 3 & n.3 (App. Bd. June 15, 2016) (characterizing "no harm, no foul" approach to an applicant's course of conduct and employing an "all's well that ends well" analysis as inadequate to support approval of access to classified information).

AG ¶ 20(g) is applicable. Applicant filed all required FIT returns. She established a payment plan with the IRS, and she subsequently made most of her payments under her IRS payment plans. She currently has an IRS payment plan and plans to make the required payments to effectuate that plan. She paid her SIT debt. She mitigated SOR ¶¶ 1.d and 1.f (SIT debt). Her September 10, 2024 CBR shows excellent financial responsibility. However, these positive actions are not sufficient to fully mitigate SOR ¶¶ 1.a, 1.b, 1.c, and 1.e.

From TY 2021 to TY 2024, Applicant failed to withhold sufficient income or pay her FIT when due unless she made a substantial payment when she filed her tax returns, which she did not do. Her substantial FIT debt will not be resolved until she completes her IRS payment plan or chooses to pay it using other financial resources. It is noteworthy that her and her husband's income substantially increased in the last three years, and she received a FIT refund for TY 2025. She did not adequately explain why the substantial increase in income was not applied to resolve her FIT debt. Her overall handling of her FIT leaves lingering security concerns. *See* ISCR Case No. 24-02104 at 2 (App. Bd. Jan. 26, 2026) (affirming denial of security clearance, and noting despite some mitigation under AG ¶ 20(g), that the evidence was insufficient to establish full mitigation).

In ISCR Case No. 06-10320 at 2 (App. Bd. Nov. 7, 2007), the Appeal Board said:

> The application of disqualifying and mitigating conditions and whole-person factors does not turn simply on a finding that one or more of them apply to the particular facts of a case. *See, e.g.,* ISCR Case No. 01-14740 at 7 (App. Bd. Jan.15, 2003). Thus, the presence of some mitigating evidence does not alone compel the Judge to make a favorable security clearance decision. As the trier of fact, the Judge must weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence, or vice versa.

Applicant failed to prove that she took sufficient timely, prudent, responsible, and good-faith actions regarding her FIT from 2021 to 2024. Her behavior over multiple years raises unmitigated questions about her reliability, trustworthiness, and ability to protect classified information. *See* ISCR Case No. 23-02412 at 3 (App. Bd. Sept. 9, 2025). Under all the circumstances, and considering the evidence "as a whole," Applicant's failures regarding her FIT issues in SOR ¶¶ 1.a, 1.b, 1.c, and 1.e are not mitigated at this time.

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 Guideline F are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline but some warrant additional comment.

Applicant is a 44-year-old senior instructional designer, and she has worked for a government contractor since August of 2024. For 2025, she received an excellent performance evaluation. In 2004, she received a bachelor's degree in music education; in 2019, she received a master's degree in education; and in 2023, she was awarded a Ph.D. in educational psychology and technology. During her professional career, she has had access to sensitive information, and she has never been accused of compromising sensitive information. She is a credible witness.

The evidence supporting denial of Applicant's security clearance is detailed in the financial considerations section, *supra,* and this evidence is more persuasive than the evidence of mitigation at this time.

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 failed to mitigate financial considerations security concerns.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With continued effort to establish and maintain her financial responsibility with regard to her taxes, she may well be able to demonstrate persuasive evidence of her security clearance worthiness.

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:	AGAINST APPLICANT
Subparagraphs 1.a, 1.b, 1.c, and 1.e:	Against Applicant
Subparagraphs 1.d and 1.f:	For Applicant

Conclusion

I conclude that it is not 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 denied.

Mark Harvey
Administrative Judge