



DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

Applicant for Security Clearance

ISCR Case No. 25-01091

Appearances

For Government: George A. Hawkins, Esq., Department Counsel
For Applicant: *Pro se*

06/15/2026

Decision

HARVEY, Mark, Administrative Judge:

Security concerns arising under Guideline E (personal conduct) are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

Applicant completed four Electronic Questionnaires for Investigations Processing (e-QIP) and one Questionnaire for National Security Positions on June 19, 2015, November 8, 2019, April 16, 2021, March 15, 2022, and August 20, 2022. (Government Exhibit (GE) 1-GE 5) [hereinafter security clearance applications (SCAs)] On September 10, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) alleging security concerns under Guideline E. (Hearing Exhibit (HE) 1) The DCSA acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), which became effective on June 8, 2017.

On December 17, 2025, Applicant answered the SOR, and on December 11, 2025, he requested a hearing before an administrative judge. (HE 2) On March 9, 2026,

Department Counsel was ready to proceed, and on March 19, 2026, the case was assigned to me.

On April 6, 2026, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that his hearing was scheduled to be conducted by video teleconference on May 27, 2026. (HE 3) The hearing was convened as scheduled.

Department Counsel offered eight exhibits; Applicant did not provide any exhibits; and all proffered exhibits were admitted into evidence without objection. (Tr. 14-15, 23-26; GE 1-GE 8) On June 8, 2026, DOHA received the transcript of the hearing.

Legal Issue

Department Counsel moved to withdraw SOR ¶ 1.e. (Tr. 17) Applicant did not object, and I granted the motion. (Tr. 17-18)

Statement of Facts

In Applicant's answer to the SOR, he denied the culpability components in all of the SOR allegations in ¶¶ 1.a through 1.j. (HE 2) For example, he admitted he provided the information in his SCA but denied that he intentionally provided false information or that the information was false. His admissions are accepted as findings of fact. He also provided extenuating and mitigating information. (HE 2)

Applicant is a 37-year-old linguist who has worked for the U.S. Army at an overseas location since February of 2022. (Tr. 7, 12, 28) In 2006, he graduated from high school, and in 2010, he received a bachelor's degree in business administration. (Tr. 7-8) When he was 23 years old, he became a U.S. citizen. (Tr. 29) His first marriage was in 2009, and he was divorced in 2012. (Tr. 11) His second marriage was in 2013, and he was divorced in 2014. (Tr. 12) He does not have any children. (Tr. 12) He has a top secret security clearance with access to sensitive compartmented information (SCI). (Tr. 29) He successfully completed a polygraph examination. (Tr. 29) There is no evidence the polygraph tested for the specific issues alleged in the SOR.

Applicant served in the U.S. Army on active duty from 2012 to 2018, and in the Army Reserve until 2019. (Tr. 8) When he was honorably discharged from the Army, he was a sergeant (E-5). (Tr. 8-9) His military occupational specialty (MOS) was infantryman (11B). (Tr. 9) He was deployed to Afghanistan for two tours, and he served with the special forces. (Tr. 9) He received the following Army awards, medals, and badge: Army Commendation Medal (2); Army Achievement Medal (4); Meritorious Unit Commendation Army; Army Good Conduct Medal (2); National Defense Service Medal (1); Afghanistan Campaign Medal with two campaign stars; Army Reservist Ribbon; NATO Medal; and Air Assault Badge. (Tr. 11)

Personal Conduct

In sum, the SOR alleges that Applicant was fired or terminated from two employments, and that he subsequently failed to accurately disclose those two terminations on SCAs and during personal subject interviews (PSIs) by background investigators. He also failed to disclose one nonjudicial punishment (NJP) on an SCA in 2019. As for his failure to disclose the terminations, Applicant said the hiring contracts were at will and employers “let go people left and right for any reason, just to protect their budget, and when it comes to their money wise, money like budgets.” (Tr. 21) He continued, “So with my personality, a lot of these companies that I work for, I never did anything negative or anything. . . . that will misrepresent my loyalty/honor job to this country, to the United States of America.” (Tr. 21)

First, I will discuss the NJP and the related SCA, and then the two terminations and related SCAs and PSIs.

NJP and 2019 SCA

SOR ¶ 1.g alleges Applicant falsified material facts on an SCA signed on November 8, 2019. In response to “Section 15 – Military History . . . Discipline In the last 7 years,” the SCA asked “have you been subject to court martial or other disciplinary procedure under the Uniform Code of Military Justice (UCMJ), such as Article 15. . . ?” He responded “No,” and SOR ¶ 1.g alleges he deliberately failed to disclose he received an NJP in October 2014, where he was reduced in rank from an E-4 to an E-2.

In October of 2014, Applicant said a sergeant first class (E-7) “falsified the document. He signed the document for me that he wasn’t supposed to sign it, and he got punished for that.” (Tr. 33) His battalion command sergeant major (CSM) asked him questions, and “he literally wanted me to tell about the E7, so I could get him in trouble.” (Tr. 33) Applicant said:

So my CSM, he wanted me to tell things about the E7. Pretty much, he tried to force me. And my E8, my first sergeant was right behind me, and I told him, “No, I’m not going to do it.” Also, I told him, “I don’t fear you.” So he said this, literally, he said, “I’m going to run the nine yards on you, and you will face trouble by not telling the truth about the E7.” (Tr. 34)

Applicant received NJP under Article 15, UCMJ, and he was reduced from specialist (E-4) to private (E-2). (Tr. 33; GE 1 at 19) He said the commanding general directed his retention in the Army. (Tr. 35-36) He said he inadvertently failed to disclose the NJP on his SCA by clicking the wrong box by mistake. (Tr. 36-38; GE 2 at 29) However, in his SOR response, he said, “I deny that I lied, and I answered to the best of my knowledge at that time, I do remember mentioning the UCMJ that I received and I have also explained it to the interviewers every time I had interview.” (HE 2) A copy of the

follow-up background interview after his completion of his 2019 SCA is not part of the record.

Applicant's Summary of Employment Issues and Completion of SCAs

Applicant summarized the problem with two of his employments as follows:

[The facility security officers (FSOs)] write like false reports. . . . they don't care, to be honest with you. . . . If you do something wrong, they call wrong, like for example, when I was working for the [contractor in SOR ¶ 1.a] they did not like me speaking loudly when I briefed the Air Force guys [about] the dos and don'ts in [a foreign] country. And my job was to prevent those airmen and the service members [from] doing the wrong thing outside the wire.

And when I was loud, they took that as an, like an insult, that I insult them. So a lot of these, you know, young men and women, they don't know what really the combat is. You know, they don't know what I've been through, what my other, you know, comrades been through back in the day when we were in Afghanistan or Iraq. And they mis-translate, like they interpret that or translate that into insults, instead of being -- protecting them and giving them a warning of what to do and what to not do in the Middle East. So that's one example of how much unfair this company could be. And they could waste and really destroy someone like me or other than me, other men and women who served this country to the fulfillment of this, like, like of this responsibility. (Tr. 22-23)

One issue for him was the circumstances, in which he completed his SCAs. He may have been in a High Mobility Multipurpose Wheeled Vehicle (HMMWV) or truck in the field in a combat zone after a stressful day when he completed the SCAs. He said:

Maybe that I clicked, you know, boxes by mistake, cleared it, because sometimes it gives you the option to delete the whole former answer, and I may have clicked once of these or a couple by mistake. Because one of the things . . . is every time I filled these forms, I was in the field, I wasn't in the city, and a lot of these times -- so from 2020 till later, like late '22, I was working in [a Middle Eastern country (MEC)] with the Special Forces. And also, even when I moved to [another MEC], I had to go to the field a lot. (Tr. 32)

Termination from W employment in 2019

SOR ¶ 1.b alleges in about September 2019, Applicant was terminated from his employment with W for concerns that included: unauthorized travel off-post, using a personal communication device to contact an MEC Liaison Officer, contacting an MEC

Liaison Officer after being instructed not to do so, and proposing a kick-back arrangement to an MEC Liaison officer.

W employed Applicant from June of 2019 to October of 2019 as a linguist. (Tr. 39) In his September 29, 2019 rebuttal to W's firing decision, he said he went outside his base and met with MEC officers, and he said the MEC officers complained about funding. (GE 8 at .pdf 284-285) His defense was that he was authorized to make the contacts. An allied officer accused Applicant of soliciting a kick back from a MEC officer. In his September 29, 2019 rebuttal, he said:

[A MEC official] is accusing me of asking him for money and that I can convince [our] commander to increase the money. I have never said that. It's a clear lie and I would never step down to do that. I have no Impact whatsoever on the team with the money and I can't ask them that, I have been working with the team since August 13, 2019, and we have done so many meeting[s] where they give money to officers. I have never been asked how much should the [allied force] give to the [MEC] officers! His statement is a lie, and he is trying to get back [at] me because I was not fully helpful to him when he asked about the money, he said he was entitled [to]. (GE 8 at .pdf 284-285)

On October 1, 2019, Applicant sent an email to the program manager for the contract where he was employed stating:

You guys have fired me and kicked me out of base within hours notice and you guys said that just [because an allied force] thinks bad of me that's enough for you to fire me and (sic) Also wants to report a false accusation! I will hire an attorney who will be suing you guys within 3 days and I'll make sure that your company will be mentioned to the government and what you guys do to translators and how much low and bad you guys treat us, trust me your names will be mentioned and I'll make sure it goes viral, you guys [have] so many Violations with DOD KAF, first you allow translators to use [MEC] citizens to enter [a MEC] when they should never use it due to the agreement they signed with you! You guys [have] mistreated me and badly and wants to ruin my career over false and non evidenced info! Let's play this game guys. I will be contacting the state senator as well. (GE 8 at .pdf 282)

At his hearing, Applicant disputed claims that he was fired for proven bad conduct. He said an employer can say:

"You did this and this and this," where's the proof for the actions that they've said that I did? Like I said in the responding letter I sent to you back in the day or to the other people, they can say anything they want, but did that -- did any, in general, whatever the company say, whatever such a

supervisor or someone else says about me, it's your job, I think, if you want to make a judgment, it's your job, not just to read, with all respect to you, it's also to give it -- to be given evidence. . . . Like they stated, they said, "You were off base." If I was off base, where are the videos that show I'm leaving the base and going outside the wire? And where are the statements from the security guards? Where's the 100-percent clear evidence that [Applicant] did this based on this [evidence]? Not instead of saying, "Oh, we think he left the wire. Oh, we think he went to talk to this [MEC] officer behind our back, and he tried to make a deal." Where's the evidence of all of this? Do you know how many -- with all my respect to you -- how many liars of officers we worked with in the [MEC], how many people we worked with that they want to get people in trouble [for] being a linguist? (Tr. 42-43)

In his SOR response for ¶ 1.b, Applicant denied that he was fired. (HE 2) He said he was "released" in accordance with the terms of his at-will employment contract. (HE 2)

SOR ¶ 1.d alleges Applicant falsified material facts on three SCAs he signed on November 8, 2019, March 15, 2022, and August 20, 2022. In response to "Section 13A - Employment Activities," he listed employment with W from "06/2019" to "10/2019." He provided his reason for leaving as "Job ended/Release," and then he marked "No" to the employment questions: "For this employment have any of the following happened to you in the last seven (7) years? ▪ Fired ▪ Quit after being told you would be fired ▪ Left by mutual agreement following charges or allegations of misconduct ▪ Left by mutual agreement notice of unsatisfactory performance" and "For this employment, in the last seven (7) years have you received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as a violation of security policy?" He provided his reason for leaving as "Contract ended due to request from the [an allied force]." SOR ¶ 1.d alleges that his answers deliberately failed to disclose the facts set forth in SOR ¶ 1.b., above.

In his November 8, 2019 SCA, Applicant said he left his employment with W because, "Contract ended due to request from [an allied force]." (Tr. 40; GE 2 at .pdf 67; GE 8 at .pdf 278-280) At his hearing he said, "that's what they told me." (Tr. 40) He said when he left, he was told at the gate, "You're released." (Tr. 51)

In his March 14, 2022, and August 20, 2022 SCAs, Applicant wrote "Contract ended due to requests from [an allied force]." He did not disclose in the two SCAs that he was fired from his employment at W in 2019. (Tr. 47; GE 5 at 23; GE 4 at 21) At his hearing, he said:

This is an unfair action they did to me based on no evidence, based on [what] he and she said. It doesn't matter who they are, whether a captain, like I said, or a major or a colonel. . . . It doesn't matter what they say about

me. "We fired him. We kicked him out. We did this and that to him." It doesn't matter to me. What matters to me is myself. I know myself. I did not get fired. I did not do anything wrong to get fired. . . . But nobody is going to come and judge me and tell me, "You did this and this" without evidence and without putting me in custody if I did something really hard to believe like that. (Tr. 47-48)

Applicant concluded, "but to me, I'm not fired unless you prove that I did something that I should be punished for, and not just to be put out on paper." (Tr. 50) He denied that he was provided the statement from the [officer from the allied force], which provided the details about why he was fired. (Tr. 49-51)

In his SOR response for SOR ¶ 1.d, Applicant said:

I have answered to the best of my knowledge at that time and yes, the [job ended] and I was released, the company hired me at will and released me for whatever reason they had! So my answers were true and I never tried to hide/lie about anything, I answered based on how I felt was true and if the company has claimed firing/other reasons for leaving the job with them, [then] please have the company provide you with hard evidence, because if I did something bad [then] I should have been punished by the UCMJ. (HE 2)

SOR ¶ 1.f alleges Applicant falsified material facts on his April 16, 2021 SCA, in response to "Section 13A - Employment Activities," in which he listed employment with W from "06/2019" to "10/2019." He provided his reason for leaving as "Contract ended due to request from the [an allied force]" and then marked "No" to the question: "For this employment, in the last seven (7) years have you received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as a violation of security policy?" SOR ¶ 1.f alleges his answer was deliberately false in that he failed to disclose the facts set forth in SOR ¶ 1.b, above.

In his SOR response to SOR ¶ 1.f, he said:

I have answered to the best of my knowledge at that time and yes, the [job] did end and I was released, the company hired me at will and released me for whatever reason they had! So my answers were true and I never tried to hide/lie about anything, I answered based on how I felt was true and if the company has claimed firing/other reasons for leaving the job with them, [then] please have the company provide you with hard evidence, because if I did something bad [then] I should have been punished by the UCMJ. (HE 2)

SOR ¶ 1.i alleges Applicant falsified material facts during a PSI on July 31, 2021, with an authorized investigator, when he stated that he left his employment with W

because he was the last to join the unit, which meant that he was first to leave as his contract had ended and that he had no violations on his work record. Those statements deliberately failed to disclose the facts outlined in SOR ¶ 1.b., above.

In his SOR response for SOR ¶ 1.i, Applicant said, “I deny I did not falsify any information; I was released by the company and that’s what they told me and if they have any misconduct record of me and they can prove it to you, then please have them present the evidence.” (HE 2)

Termination from L/E Employment in 2021

SOR ¶ 1.a alleges in about July 2021, Applicant was terminated from his employment with L/E for failing to perform his duties related to work professionalism and the chain of command.

An email in 2021 from L/E to Applicant states, “See the attached letter informing you of your release from the assignment at our company.” (Tr. 52; GE 7) The attachment is a letter dated July 6, 2021, and that letter states, “we regret to inform you that your employment with our company is immediately terminated.” (Tr. 52; GE 7 at .pdf 274) He received the termination letter when he was fired. (Tr. 52) The letter said the reason for termination was “work professionalism and chain of command” as of July 6, 2021. (Tr. 52, 54; GE 7 at .pdf 274) For work professionalism, his employer advised him to “Learn to manage your emotions and gain awareness of your emotional triggers so you can manage your reactions positively and productivity.” *Id.* For chain of command, his employer said that as an advisor he was “not authorized to make decisions.” *Id.* The letter includes specific reasons for the termination. (GE 7 at .pdf 274) He disagreed with the reasons for termination “100 percent.” (Tr. 53)

In his SOR response, Applicant denied that he was fired. (HE 2) He said he was “released” in accordance with the terms of his at-will employment contract. (HE 2) At his hearing he said he did not disclose the termination “because they call it termination. I don’t call it termination to myself.” (Tr. 55) He reported on his SCA that the reason for leaving was “job ended/release.” (GE 4 at 18) He said being terminated and job ending is the “same thing to me.” (Tr. 55-56)

SOR ¶ 1.c alleges Applicant falsified material facts on two SCAs signed on March 15, 2022, and August 20, 2022. In response to “Section 13A - Employment Activities,” he listed his employment with L/E from February of 2021 to December of 2021. He provided his reason for leaving as “Job ended/Release,” and then he marked “No” to the employment questions previously listed in SOR ¶ 1.d. In addition, it asked, “For this employment, in the last seven (7) years have you received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as a violation of security policy?” SOR ¶ 1.c alleges his answers deliberately failed to disclose the facts set forth in SOR ¶ 1.a., above.

In his SOR response to SOR ¶ 1.c, Applicant said he was “released” from his employment in accordance with the terms of his at-will employment contract. (HE 2)

SOR ¶ 1.h alleges Applicant falsified material facts during an Office of Personnel Management (OPM) PSI on June 28, 2022. In this PSI, he stated that he left his employment with L/E because the client did not need additional linguists, and he had performance issues over the last two months, but that he had no reprimands. SOR ¶ 1.h alleges those statements deliberately failed to disclose the facts set forth in SOR ¶ 1.a, above.

On June 28, 2022, an OPM investigator interviewed Applicant about his employment with L/E. The summary of interview states:

When queried why he left [L/E], Subject advised that it was because the client did not need additional linguists and he had performance issues his last 2 months there. When queried if there were any work conflicts, Subject advised that he did not recall any reprimands, but he had [a] conflict at the [location where he worked].

Subject’s job was to give terminal briefs to military personnel entering [a MEC]. Subject [previously] served in the Army, and he is loud and direct. Other[s] may feel he is being intimidating. One day, [a MEC] officer told Subject that a military member did not exit the country properly and when he returned to [MEC], it resulted in \$40,000 fines and caused the officer a lot of work to get them waived. Subject was told to tell the other personnel that they needed to enter and exit [MEC] the proper way to avoid this. Subject did what he was told.

That day, there was a new TSgt working instead of Subject’s regular supervisor. The TSgt did not like the way Subject sounded and thought he was too rough and rude. He said that Subject upset some personnel. Subject was told that he needed to check with his supervisor whenever the [MEC] Officer told him to make an announcement. Subject considered this to be the TSgt correcting Subject and not a reprimand. This is why Subject did not list it.

Sometime after the incident, Subject received an email stating that his contract ended. Subject interpreted that to mean his contracted ended. Subject was confronted that the records show Subject was terminated for his rude behavior. Subject asserted that English is a second language and he did not understand that he was terminated. Subject thought that being fired meant that he had misconduct that caused him to be fired.

Subject recalled that the email he was sent by HR stating this contract ended had several points in it, but he was never counseled or reprimanded

from 03/21 to 12/21. Subject believed that if had done something wrong, they should have corrected him immediately instead of putting it in an email months after it occurred. Subject was confronted with the termination allegations. Subject does not recall having any issues with attendance, timeliness, chain of command, or professionalism. (GE 6 at .pdf 266-267)

In his SOR response for SOR ¶ 1.h, Applicant said, “I deny, I have explained myself very well to the interviewer and I have told the interviewer with the details and even the issues with the performance the company had with me, I did answer to the best of my knowledge.”

SOR ¶ 1.j alleges Applicant falsified material facts during a PSI on July 31, 2021, with an authorized investigator when he stated that he was not fired from his position with L/E in July 2021 and released with no violations. SOR ¶ 1.j alleges those statements deliberately failed to disclose the facts set forth in SOR ¶ 1.a., above.

Applicant’s July 31, 2021 PSI summary of interview states:

[Applicant] stated that he worked [for L/E] from 02/2021 until 07/03/2021. [He] stated that he was released from his position and was told they had “expected more performance for his position.” [He] stated he was not fired but rather [he was] released from his position with no violations or disciplinary action. [He] further explained that in that type of contract position the employer can terminate a contract according to their need, a three-day notice is common. (GE 6 at .pdf 263)

In his SOR response for SOR ¶ 1.h, Applicant said, “I deny, I didn’t falsify anything, I responded to the best of my knowledge, and if I was fired instead of release! Then please have the company to provide you with hard evidence, I did not do anything that I can be punished for/fired.” (HE 2)

Applicant concluded that in the future if he is asked whether he was fired when he worked for W or L/E, he will say, “Yes, I was fired,” and he will explain that he believes the employer’s rationale for firing him was unjust. (Tr. 61)

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 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, *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 people 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, this decision should not be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. Denial of a security clearance 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. Sep. 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

Personal Conduct

AG ¶ 15 provides the security concern arising from personal conduct:

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

AG ¶ 16 provides conditions that could raise a personal conduct security concern and may be disqualifying in this case:

(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;

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator . . . involved in making a recommendation relevant to a national security eligibility determination, or other official government representative;

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;

(2) any disruptive, violent, or other inappropriate behavior;

(3) a pattern of dishonesty or rule violations; and

(4) evidence of significant misuse of Government or other employer's time or resources; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group.

AG ¶¶ 16(a), 16(b), 16(d)(2), 16(d)(3), and 16(e) are established. Discussion of the disqualifying conditions is in the mitigating section *infra*. AG ¶ 17 lists conditions that could mitigate personal conduct security concerns:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

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

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

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

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board concisely explained an 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, [App. A] ¶ 2(b).

Company L/E and W terminations

SOR ¶ 1.a alleges Applicant was terminated or fired from his employment as an advisor with L/E in about July 2021, for failing to perform his duties related to work professionalism and the chain of command. However, the terminations were for minor matters, and they were not repeated. These matters are not significant enough to establish a security concern under AG ¶¶ 16(d)(2), 16(d)(3), or 16(e). SOR ¶ 1.a is refuted.

SOR ¶ 1.b alleges in about September 2019, Applicant was terminated from his employment with W for concerns that included: unauthorized travel off-post, using a personal communication device to contact an MEC Liaison Officer, contacting an MEC Liaison Officer after being instructed not to do so, and proposing a kick-back arrangement to an MEC Liaison officer. A company investigation alleged these rule violations. He provided a rebuttal to the allegations, and W terminated his employment.

The Appeal Board has repeatedly said that employer investigations and their findings and conclusions deserve deference in our determinations. See ISCR Case No. 20-00354 at 6 (App. Bd. Feb. 9, 2022) (“We have previously stated that an employer’s decisions and characterizations of events are entitled to some deference in the context of an employer’s internal investigation.”). In ISCR Case No. 20-02990 at 4 (Jan. 19, 2022), the Appeal Board also said:

[I]t merits noting the Appeal Board gives deference to a company’s findings and conclusions in its security investigations. See, e.g., ISCR Case No. 15-08385 at 4 (App. Bd. May 23, 2018) (“[B]ecause of the unique position of employers as actual administrators of classified programs and the degree of knowledge possessed by them in any particular case, their determinations and characterizations regarding security violations are entitled to considerable deference, and should not be discounted or contradicted without a cogent explanation.”).

Applicant did not refute his employer’s findings and conclusions. He committed the misconduct alleged in SOR ¶ 1.b. He refused to accept responsibility for committing the misconduct in his SOR response, and at his hearing. None of the mitigating conditions apply to SOR ¶ 1.b.

Falsifications of SCAs and PSIs

“To establish a falsification, it is not enough merely to demonstrate that an applicant’s answers were not true. To raise security concerns under Guideline E, the

answers must be deliberately false. In analyzing an applicant's intent, a Judge must consider the applicant's answers in light of the record as a whole." ISCR Case No. 14-05005 at 5 n.3 (App. Bd. Sept. 15, 2017) "Applicant's statements about his [or her] intent and state of mind when [he or she] executed [his or her] Security Clearance Application were relevant evidence, but they [are] not binding on the Administrative Judge." ISCR Case No. 04-09488 at 2 (App. Bd. Nov. 29, 2006) (citation omitted). In ADP Case No. 17-03932 at 3 (App. Bd. Feb. 14, 2019), the Appeal Board recognized the importance of circumstantial evidence of intent in falsification cases:

When evaluating the deliberate nature of an alleged falsification, a Judge should consider the applicant's *mens rea* in light of the entirety of the record evidence. *See, e.g.*, ADP Case No. 15-07979 at 5 (App. Bd. May 30, 2017). As a practical matter, a finding regarding an applicant's intent or state of mind may not always be based on an applicant's statements, but rather may rely on circumstantial evidence. *Id.*

SOR ¶ 1.g alleges Applicant deliberately failed to disclose on his November 8, 2019 SCA that he received NJP in October 2014, in which he was reduced in rank from an E-4 to an E-2. He said he clicked the wrong item on his SCA. He said he disclosed his NJP during the follow-up background interview. His statement about inadvertently making the wrong selection on his SCA is credible. He has refuted SOR ¶ 1.g.

Applicant submitted four SCAs on November 8, 2019; April 16, 2021; March 15, 2022, and August 20, 2022. Background investigators interviewed him on July 31, 2021, and June 28, 2022. He provided false information in his SCAs when he denied that: (1) he quit a job after being told he would be fired; (2) he left a job by mutual agreement following allegations of misconduct; (3) he left a job by mutual agreement following allegations of unsatisfactory performance; and (4) he left a job for other reasons under unfavorable circumstances. He was not honest and candid in his PSI when he failed to tell the background investigators that his W and L/E employers fired him because they believed he committed misconduct or violated rules. AG ¶¶ 16(a), 16(b), and 16(e) are established because of his multiple falsifications of information during the security clearance process.

Applicant was not frank and candid in his SOR response and at his hearing. He quibbled and hedged instead of stating that W and L/E fired or terminated him. Falsification of his SOR response and hearing statement is not alleged in the SOR and will not be considered for disqualification purposes. They will be considered in the mitigation and whole-person assessments.

At the end of his hearing, Applicant concluded that in the future if he is asked whether he was fired when he worked for W or L/E, he will say, "Yes, I was fired," and he will explain that he believes the employer's rationale for firing him was unjust. (Tr. 61) This concession is a positive development.

Applicant's false statements during the security clearance process are serious and relatively recent. See ISCR Case No. 24-00468 at 6 n.7 (App. Bd. Apr. 16, 2025) (citing ISCR Case No. 01-06852 at 2-3 (App. Bd. Aug. 21, 2002) ("Falsification of a security questionnaire constitutes misconduct that casts serious doubts on an applicant's judgment, reliability, or trustworthiness [and] provides a rational basis for an adverse security clearance decision."); ISCR Case No. 02-07555 at 3 (App. Bd. Jul. 19, 2004) ("An applicant who deliberately tries to deceive or mislead the federal government does not demonstrate the high degree of judgment, reliability, and trustworthiness that must be expected of persons granted access to classified information.")).

In regard to acceptance of responsibility, the Appeal Board commented:

We have previously held that an applicant's acceptance of responsibility is an indication of whether [he or she] has reformed and rehabilitated himself, which is then used in concluding if that individual has demonstrated the high degree of reliability, trustworthiness, and good judgment required of persons granted access to classified information. When an applicant is unwilling to accept responsibility for [his or her] own actions, such a failure is evidence that detracts from a finding of reform and rehabilitation.

ISCR Case No. 25-00062 at 7 (App. Bd. May 4, 2026) (cleaned up).

Applicant did not take full responsibility for intentionally omitting negative information during the security clearance process. He did not admit in his SOR response and at his hearing that his falsifications were intentional and made with intent to deceive, which shows a lack of rehabilitation. Personal conduct security concerns are not 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 Guideline E 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 37-year-old linguist who has worked for the U.S. Army at an overseas location since February of 2022. In 2010, he received a bachelor’s degree in business administration. When he was 23 years old, he became a U.S. citizen. He has a top secret security clearance with access to SCI. He successfully completed a polygraph examination. He served in the U.S. Army on active duty from 2012 to 2018, and in the Army Reserve until 2019. When he was honorably discharged from the Army, he was a sergeant (E-5). His MOS was infantryman (11B). He was deployed to Afghanistan for two tours, and he served with the special forces. He received multiple Army awards, medals, and a badge. After leaving the Army, he served overseas in hazardous areas as a linguist. He is credited with acknowledging at the end of the hearing that the correct answer on his SCAs was that he was fired, and then he could provide an explanation about why he believed the firings were unjust.

The disqualifying and mitigating information is discussed in the analysis section, *supra*. The reasons for denying Applicant’s security clearance are more persuasive than the reasons for granting or reinstating his security clearance.

In ISCR Case No. 24-01023 at 4 (App. Bd. Sept. 12, 2025) the Appeal Board said:

The Directive is clear that an applicant’s failure to respond truthfully and candidly during a national security investigation is of special concern, specifically stating that the “refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives” in connection with an investigation and adjudication will normally result in an unfavorable eligibility determination. AG ¶ 15. In cases involving the deliberate omission, concealment, or falsification of material information, an applicant has a “heavy burden in demonstrating evidence of reform, rehabilitation, or changed circumstances sufficient to justify a conclusion that it is clearly consistent with the national interest to grant him 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*, 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 did not meet his "heavy burden" to establish mitigation. Personal conduct security concerns are not 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
Subparagraphs 1.b, 1.c, and 1.d:	Against Applicant
Subparagraph 1.e:	Withdrawn
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	For Applicant
Subparagraphs 1.h, 1.i, and 1.j:	Against Applicant

Conclusion

Considering all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge