



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



In the matter of:)
)
) ISCR Case No. 25-01046
)
Applicant for Security Clearance)

Appearances

For Government:
Carroll Connelley, Esquire, Department Counsel

For Applicant:
Daniel P. Meyer, Esquire, Applicant's Counsel

07/16/2026

Decision

CEFOLA, Richard A., Administrative Judge:

Statement of the Case

On January 9, 2026, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guideline E. The SOR further informed Applicant that, based on information available to the government, DoD adjudicators could not make the preliminary affirmative finding it is clearly consistent with the national interest to grant or continue Applicant's security clearance.

Applicant answered the SOR on February 3, 2026, and requested a hearing before an administrative judge. (Answer.) The case was assigned to me on May 4, 2026. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on May 5, 2026, scheduling the hearing for June 11, 2026. The hearing was convened as scheduled. The Government offered Exhibits (GXs) 1 through 7, which were admitted without objection. Applicant testified on his own behalf. Applicant offered Applicant's

Exhibits (AppXs) A through F, which were admitted without objection. DOHA received the transcript of the hearing (TR) on June 22, 2026.

Findings of Fact

Applicant admitted allegation ¶ 1.a. of the SOR but denied allegations in SOR ¶¶ 1.b. and 1.c. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact:

Applicant is a 59-year-old employee of a defense contractor. He is only recently employed by a defense contractor, but is well versed in security clearance matters. He initially served as a member of the U.S. Air Force, and later “as an Industrial Security Specialist” with the Defense Security Service (DSS). Applicant is married and has two adult children. (TR at page 6 line 7 to page 7 line 17, and at page 15 line 22 to page 19 line 20.)

Guideline E - Personal Conduct

1.a. Applicant admits that in 2012, about 14 years ago, he violated a DoD Directive and DoD Regulations by failing to protect employee privacy as he saved on a shared drive personal information about employees, including medical information, performance evaluations, social security numbers, memoranda written by Applicant about an employee’s divorces, and psychological assessments about the children of employees. (TR at page 20 line 18 to page 22 line 21, at page 37 line 11 to page 39 line 19, and GX 4.)

1.b. In September of 2023, Applicant’s access to classified information was suspended as the result of an Office of Inspector General (IG) investigation which substantiated the following: 11 allegations of misconduct involving his failure to recuse himself; his attempted misuse of his public office for private gain; his improperly discussing nonpublic information with industry representatives; his lack of candor during his IG interview; and his unauthorized use of a government-furnished phone. Applicant denies the foundations of these allegations, attributing them to a misinterpretation of his comments and actions. However, he does admit unauthorized use of a government furnished phone. I find the 159-page IG investigation to be thorough. The summarization does not misrepresent of Applicant’s comments and actions. (TR at page 22 line 22 to page 33 line 18, at page 54 line 15 to page 69 line 9, and GXs 3, 4 and 5.)

1.c. Applicant denies that he falsified material facts during his May 27, 2025, subject interview, when he repeatedly told the investigator that he did not know the results of his above-mentioned May 2023, IG investigation. Applicant obtained a copy the IG investigation, pursuant to a Freedom of Information Act/Privacy Act (FOIA/PA) request, on or about September 26, 2024. At his hearing, Applicant avers that he only read the first couple of pages then “just closed” the document; and as such, he did not know the results. However, in his March 23, 2025, Declaration, he affirms that he “reviewed the first

3-4 pages of the document,” which includes the results of the IG investigation. Applicant’s testimony is not consistent with his prior Declaration. I find Applicant knew the results of the IG investigation; and as such, there was a material falsification. (TR at page 22 line 22 to page 33 line 18, at page 41 line 61 to page 54 line 14, AppX C at page 5, and GXs 2, 6 and 7.)

Policies

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an applicant’s eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the whole-person concept. The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect, or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *a/so* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline E - Personal Conduct

The security concern relating to the guideline for Personal Conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

(a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, cooperation with medical or psychological evaluation, or polygraph examination, if authorized and required; and

(b) refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. Two are potentially applicable in this case:

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

(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

Applicant has a pattern of dishonesty and rules violations, as evidenced by his 2012 and 2023 IG investigations. In 2025, Applicant was also not candid during his subject interview. The evidence is sufficient to raise these disqualifying conditions.

AG ¶ 17 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 17 including:

- (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.

None of these apply. Applicant either denies or minimizes his obvious Personal Conduct culpability. His denials are not supported by the evidence of record. Personal Conduct is found against Applicant.

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 relevant 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), the ultimate determination of whether to grant national security eligibility must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. I have incorporated my comments under Guideline E in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment. Applicant was clearly respected in the workplace. (AppX D.)

Overall, however, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the Personal Conduct security concerns.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of the Directive, are:

Paragraph 1, Guideline E:

AGAINST APPLICANT

Subparagraphs 1.a~1.c:

Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. National security eligibility for access to classified information is denied.

Richard A. Cefola
Administrative Judge