



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



In the matter of:)
)
) ISCR Case No. 25-00817
)
Applicant for Security Clearance)

Appearances

For Government: Cynthia Ruckno, Esq., Department Counsel
For Applicant: Lisa M. McCauley, Personal Representative

07/23/2026

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines J (Criminal Conduct), E (Personal Conduct), and G (Alcohol Consumption). Applicant has mitigated the security concerns under Guideline G, but he has not mitigated the security concerns under Guidelines J and E. Clearance is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on October 30, 2024. On January 29, 2026, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines J, E, and G. 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.

Applicant answered the SOR on February 18, 2026, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on March 31, 2026, and the case was assigned to me on April 21, 2026. On April 29, 2026, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on May 27, 2026. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 10 were admitted in evidence without objection.

Applicant testified and presented the testimony of one witness. I held the record open until June 12, 2026, to enable him to submit documentary evidence. He timely submitted Applicant's Exhibits (AX) A through D, which were admitted in evidence without objection. DOHA received the hearing transcript on June 8, 2026. The record closed on June 12, 2026.

Findings of Fact

In Applicant's answer to the SOR, he admitted all the allegations in the SOR. His admissions are incorporated in my findings of fact.

Applicant is a 38-year-old tradesperson employed by a defense contractor since October 2024. He attended high school but did not graduate. (Tr. 14) He has attended technical training and is certified as a fiber optic technician. (Tr. 16) He worked for non-government employers from at least June 2014 until he was hired by his current employer. He married in February 2016 and divorced in March 2018. He has lived with a cohabitant since October 2023. He has three children, ages 15, 12, and 8. He has never held a security clearance.

The SOR alleges 13 instances of criminal conduct under Guideline J. The documentary evidence establishing these allegations is summarized below. The same conduct is cross-alleged in SOR ¶ 2.a as personal conduct under Guideline E. The conduct alleged in SOR ¶¶ 1.a, 1.h, and 1.k is cross-alleged as alcohol-related conduct under Guideline G. The evidence related to the allegations in the SOR is summarized below.

SOR ¶ 1.a: In October 2007, Applicant was arrested for driving under the influence of alcohol (DUI), was convicted and sentenced to incarceration for 30 days, with 30 days suspended, and was ordered to attend an Alcohol Safety Action Program (ASAP). This allegation is established by the documentary evidence in the record and Applicant's admission in his answer to the SOR. (GX 8 at 2; GX 10 at 9)

SOR ¶ 1.b: In March 2008, Applicant was charged with driving on revoked license. This charge was related to Applicant's conviction of DUI, alleged in SOR ¶ 1.a. He was convicted and sentenced to incarceration for six months, with five months and ten days suspended. (GX 8 at 2; GX 10 at 10) He testified that he worked on a "city farm"

in lieu of jail time. (Tr. 21) This allegation is established by the documentary evidence in the record and Applicant's admission in his answer to the SOR.

SOR ¶ 1.c: In April 2008, Applicant was charged with failure to appear. Applicant was convicted of this offense. The record does not reflect the sentence that was imposed. This allegation is established by the documentary evidence in the record and Applicant's admission in his answer to the SOR. (GX 8 at 2)

SOR ¶ 1.d: April 2009, Applicant was convicted of driving under revocation or suspension of driver's license. This allegation is established by the documentary evidence in the record and Applicant's admission in his answer to the SOR. (GX 9 at 3)

SOR ¶ 1.e: May 2010, Applicant was charged with use or display of firearm in commission of a felony, credit-card fraud, robbery, and conspiracy to commit a felony. Applicant testified that he obtained a credit card that another person obtained during a robbery. Applicant did not participate in the robbery, but he used the stolen credit card one time. (Tr. 22-23) The charges were *nolle prosequi*. (GX 8 at 2; GX 10 at 11) The record does not reflect the reason for the *nolle prosequi*. However, Applicant's admission in his answer to the SOR is sufficient to establish this allegation.

SOR ¶ 1.f: September 2017, Applicant was charged with driving on a suspended license, third offense. There is no documentary evidence in the record supporting this allegation. However, Applicant's admission in his answer to the SOR is sufficient to establish it.

SOR ¶ 1.g: January 2018, Applicant was charged with driving under a suspended or revoked license. The documentary evidence in the record reflects that Applicant was convicted, but the evidence does not reflect the punishment that was imposed. (GX 9 at 3) This allegation is established by the documentary evidence in the record and Applicant's admission in his answer to the SOR.

SOR ¶ 1.h: August 2018, Applicant was arrested for driving while intoxicated, was convicted, was sentenced to incarceration for six months (suspended) and was ordered to attend ASAP. This allegation is established by the evidence in the record and Applicant's admission in his answer to the SOR. As of the date of the SOR, Applicant had not completed ASAP alleged in SOR ¶ 1.a and this allegation. (GX 10 at 13) He testified that he finally completed the ASAP in April 2026, but he had not yet received a certificate of completion. (Tr. 45) After the hearing, he submitted the certificate of completion. (AX B)

SOR ¶ 1.i: August 2018, Applicant was charged with failure appear in court. This allegation is established by the documentary evidence in the record and Applicant's admission in his answer to the SOR. He was convicted and sentenced to incarceration for 80 days, with 60 days suspended. (GX 10 at 13)

SOR ¶ 1.j: December 2018, Applicant was charged with failure to report to jail. This allegation is established by the documentary evidence in the record and Applicant's admission in his answer to the SOR. He was convicted and sentenced to incarceration for two days. (GX 10 at 15)

SOR ¶ 1.k: August 2019, Applicant was arrested for being drunk in public and convicted. There is no documentary evidence of this arrest and conviction in the record. However, it is established by Applicant's admission in his answer to the SOR.

SOR ¶ 1.l: August 2019, Applicant was charged with destruction of private property and obstruction of justice. This allegation is partially established by the documentary evidence in the record and Applicant's admission. The charge of destruction of private property was *nolle prosequi*. The incident occurred when Applicant was involved in an argument with his ex-wife and he threw a rock at a nearby automobile. (Tr. 29-30) He was found not guilty of obstruction of justice, but guilty of destruction of private property. (GX 10 at 14)

SOR ¶ 1.m: September 2019, Applicant was charged with failure to appear in court. The charge was *nolle prosequi*. (GX 10 at 15) The record does not reflect the basis for the *nolle prosequi*, but Applicant's admission is sufficient to establish that he was charged with failure to appear.

SOR ¶ 2.a: Cross-alleges SOR ¶ 1.a through 1.m under Guideline E.

SOR ¶ 2.b: From October 2018 until about October 2024, Applicant was either terminated or quit employment following notice of unsatisfactory performance by five employers named in the SOR. Applicant's responses to questions in his SCA and his responses during security interviews reflect the following:

Incident #1. In August 2024, Applicant quit a job after being told he would be fired. In his SCA, he stated that his reason for quitting was "complications due to recent surgery." (GX 1 at 13) When he was interviewed by a security investigator in December 2024, he admitted that he was unable to work 10-hour days after hip surgery and was warned that he would be fired if he did not "get his time back up." He also told the investigator that he gave his employer two weeks' notice of his intent to quit and worked for his last two weeks of employment. (GX 2 at 4) Quitting a job because of physical inability to perform it does not raise a security concern. Applicant's blanket admission of all the allegations in the SOR is insufficient to establish this incident.

Incident #2. In Applicant's SCA, he disclosed that in January 2023, he was fired "after disagreement with maintenance supervisor." (GX 1 at 14) During the security interview in December 2024, he admitted that he was fired. (GX 2 at 4) This incident is sufficient to raise a security concern, and Applicant's disclosure in his SCA and his admission in his answer to the SOR is sufficient to establish it.

Incident #3. In Applicant's SCA, he disclosed that in January 2021, he quit his job after being told he would be fired because of "very serious family matters couldn't get back and [sic] to work." (GX 1 at 15) During the security interview in December 2024, he admitted that he was fired. He did not explain what "serious family matters" caused him to miss work. (GX 2 at 5) This incident is sufficient to raise a security concern, and Applicant's disclosure in his SCA and his admission in his answer to the SOR are sufficient to establish it.

Incident #4. In Applicant's SCA, he disclosed that in April 2019, he was fired for "no call no show." (GX 1 at 17) During the security interview in December 2024, he stated he did not know his reason for not calling his supervisor about not coming to work, but that during this time he did not care if he went to work or not. (GX 3 at 5) This incident is sufficient to raise a security concern and Applicant's disclosure in his SCA and his admission in his answer to the SOR are sufficient to establish it.

Incident #5. In October 2018, Applicant was fired. He explained that he was fired because "I became really sick could not attend to work. Due to the inability to perform my work duties." (GX 2 at 5-6) There is no documentary evidence in the record contradicting his explanation. Quitting a job because of physical inability to perform it does not raise a security concern. Applicant's blanket admission of SOR ¶ 2.b in his answer to the SOR is insufficient to establish this incident.

SOR ¶ 3.a: cross-alleges SOR ¶¶ 1.a, 1.h, and 1.k under Guideline G. Applicant testified that he stopped drinking in November 2019. Before that date, he was consuming about a 12-pack of beer a day. (Tr. 32) He no longer associates with his drinking partners. Instead, he has focused on his family, begun attending church regularly, and spends his free time reading. (Tr. 32-35) He testified that his current job is the first that he has taken seriously. He testified that his current supervisors are "great," and they have guided him and given him opportunities for greater responsibility. (Tr. 42)

On cross-examination by Department Counsel about Applicant's general background, he admitted that he had not filed his federal and state tax returns for three years. I cautioned Department Counsel that I would limit this line of questioning because failure to file tax returns was not alleged. I have considered Applicant's admission for the limited purposes of assessing whether Applicant has demonstrated successful rehabilitation and as an element in my whole person analysis. See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006).

Applicant's facility security officer testified on his behalf and acted as his personal representative during the hearing. She previously was a background investigator at a federal agency and has over ten years of experience with the security clearance process. She testified that she told Applicant that if he wanted to work for this employer, he needed to demonstrate his willingness to change his behavior. She has been working with Applicant for about six months, and she recognized that Applicant had a lot of work to do. She noticed that Applicant had not completed the ASAP, and she told him he needed to

complete it immediately, with “no ands, ifs, or buts.” She noticed that he had not obtained his high school GED and had not filed his income tax returns, and she has urged him to resolve them. She has informed him about the employee assistance programs that are available. She testified that his current employer “likes what we see in him,” and is willing to mentor and assist him. (Tr. 50-56)

Applicant’s mother submitted a letter stating that about four years ago, he contacted her and apologized to her for his irresponsible behavior. She stated that he has taken positive steps toward mature and responsible behavior. (AX A)

Applicant’s project manager submitted a letter attesting to Applicant’s strong commitment to learning technical skills, completing required training, and becoming a productive and accountable member of his team. Based on daily supervision and interaction, his project manager believes that he is working diligently to overcome earlier obstacles and build a stable and productive future for himself. (AX C)

Applicant’s father submitted a letter taking responsibility for Applicant’s inattentiveness and irresponsible lifestyle. His father stated that he has observed “a complete evolution in actions, interactions and his approach to manhood and everyday conduct and performance,” and has become “an entirely different and productive young man.” (AX D)

Policies

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy” to have access to such information. *Id.* at 527. The President has authorized the Secretary of 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 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible

extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense 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* at 531. Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019). It is “less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “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. ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan* at 531.

Analysis

Guideline J, Criminal Conduct

The concern under this guideline is set out in AG ¶ 30: “Criminal activity creates doubt about a person’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.”

The following disqualifying conditions are relevant:

AG ¶ 31(a): a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness;

AG ¶ 31(b): evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted; and

AG ¶ 31(c): individual is currently on parole or probation.

AG ¶¶ 31(a) and 31(b) are established by the documentary evidence in the record and Applicant's admissions in response to the SOR. AG ¶ 31(c) is not established, because Applicant has belatedly completed the ASAP, which was a condition upon which his sentence to incarceration for six months was suspended.

The following mitigating conditions are potentially relevant:

AG ¶ 32(a): so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

AG ¶ 32(d): there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Neither mitigating condition is established. Applicant's last criminal conduct was in September 2019. He has stopped his alcohol consumption, no longer associates with his former drinking partners, has focused on his family, and has found a job that he finds interesting and rewarding. He has responded in several respects to the mentoring by his coworkers, supervisors, and facility security manager. However, he did not complete the ASAP until he was directed to do so by his security manager. As of the date of the hearing, he had not filed his federal income tax returns, which is a criminal offense in violation of 26 U.S.C. § 7203. He has not yet demonstrated that his record of irresponsible behavior is unlikely to recur.

Guideline E, Personal Conduct

The security concern under this guideline 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. . . .” The relevant disqualifying condition is AG 16(d):

[C]redible 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 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

This disqualifying condition is established by Incident #2 (disagreement with maintenance supervisor), Incident #3 (missing work because of “serious family matters”) and Incident #4 (“no call no show”).

The following mitigating conditions are potentially applicable:

AG ¶ 17(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;

AG ¶ 17(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;

Neither mitigating condition is established. Incident #2 was more than three years ago and was a minor dereliction, but it was part of a chain of incidents of irresponsible conduct. Applicant submitted his SCA in October 2024, but he took no action to resolve the security concerns until he contacted his facility security officer six months before the hearing. His facility security officer testified on his behalf at the hearing, but she admitted that Applicant had significant work to do in order to put his life in order. Applicant’s testimony and the testimony of his security manager and supervisors establish that Applicant appears to be motivated to overcome his past irresponsible conduct, but he has not yet established that his long pattern of irresponsible conduct is ended.

Guideline G, Alcohol Consumption

The concern under this guideline is set out in AG ¶ 21: “Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.” The following disqualifying conditions are established by the evidence:

AG ¶ 22(a): alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual’s alcohol use or whether the individual has been diagnosed with alcohol use disorder; and

AG ¶ 22(c): habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder.

The following mitigating condition is potentially applicable:

AG ¶ 23(a): so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or judgment.

This mitigating condition is established. Applicant voluntarily stopped drinking in November 2019. He no longer associates with his former drinking partners, and he has focused on his family. He attends church regularly. He is enthusiastic about his current job. I am satisfied that his former alcohol abuse is unlikely to recur and does not cast doubt on his current reliability, trustworthiness, and good judgment.

Whole-Person Analysis

Under AG ¶ 2(c), the 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. An administrative judge must evaluate an applicant’s security eligibility by considering the totality of the applicant’s conduct and all the relevant circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual’s age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct;

(8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

I have incorporated my comments under Guidelines J, E, and G in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under those guidelines and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by his alcohol consumption, but he has not mitigated the security concerns raised by his criminal conduct and personal conduct.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline J (Criminal Conduct):	AGAINST APPLICANT
Subparagraphs 1.a-1.m:	Against Applicant
Paragraph 2, Guideline E (Personal Conduct):	AGAINST APPLICANT
Subparagraph 2.a: Incidents #1 and #5:	For Applicant
Subparagraph 2.a: Incidents #2, #3, and #4:	Against Applicant
Paragraph 3, Guideline G (Alcohol Consumption):	FOR APPLICANT
Subparagraph 3.a:	For Applicant

Conclusion

I conclude that it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

LeRoy F. Foreman
Administrative Judge