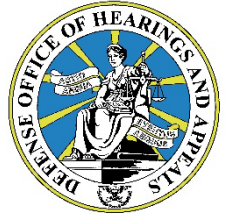




**DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
)
)
)
Applicant for Security Clearance)
_____)

ISCR Case No. 26-00051

Appearances

For Government: William H. Miller, Esq., Department Counsel
For Applicant: *Pro se*

09/01/2026

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns under Guidelines G (Alcohol Consumption), J (Criminal Conduct), and E (Personal Conduct). The security concerns under Guideline E (Personal Conduct) were not established. However, Applicant did not mitigate the security concerns under Guidelines G and J. Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on June 27, 2025. On March 23, 2026, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines G, J, and E. Applicant answered the SOR on April 7, 2026, and requested a decision on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on June 17, 2026. A complete copy of the file of relevant material (FORM) was sent to Applicant, who was given an opportunity to file objections and submit material to refute,

extenuate, or mitigate the Government's evidence. He received the FORM on July 1, 2026, and did not respond. The case was assigned to me on August 26, 2026.

The Government's FORM consists of the SOR (Government Exhibit (GE) 1), Applicant's answer to the SOR (GE 2), and the documents submitted in support of the allegations in the SOR (GE 3-7). GE 3 through 7 are admitted into evidence, without objection.¹

Findings of Fact

Applicant is 35 years old, has never married, and has full custody of his minor child. He has no prior military history and obtained welding certifications in 2013. He has been employed by a federal sponsor since July 2018. (GE 2; GE 3)

Under Guideline J, the SOR alleges Applicant's lengthy history of arrests and criminal charges dating back to 2009, which include alcohol-related incidents as recent as January 2025 (SOR ¶¶ 2.a–2.d). The alcohol-related incidents were also cross-alleged under Guideline H (SOR ¶¶ 1.a–1.f). All the allegations under Guidelines H and J were cross alleged under Guideline E (SOR ¶ 3.a). He admitted all the allegations. (GE 2)

In January 2025, Applicant was arrested for disorderly conduct involving alcohol and resisting arrest. On the evening of his arrest, he was drinking alone at a downtown bar. He consumed "about seven or eight regular sized beers and shots of tequila within a four-hour timespan." (GE 7 at 3) He blacked out and woke up in a jail cell. His last memory was of drinking at the bar. He spent the night in jail and was released in the morning. (GE 2; GE 4; GE 7)

In June 2019, Applicant was celebrating a promotion and went out drinking at a downtown bar with coworkers. He does not recall how long he was there or how much he had to drink. He walked back to his vehicle and was attempting to unlock his car. He kept missing the keyhole because he was intoxicated. He avers that he intended to sleep in his car until he was sober enough to drive. Police officers witnessed Applicant trying to get into his car and detained him. He was uncooperative and was subsequently arrested for drunk in public. (GE 4; GE 7 at 4)

Applicant was arrested and charged with driving under the influence of alcohol on at least three separate occasions. In October 2012, he was arrested and charged with driving under the influence of alcohol, driving on a suspended license, and fighting in a public place. In January 2012, he was arrested and charged with driving under the influence of alcohol. (GE 4) In July 2011, he was drinking beer and shots of hard alcohol at a house party. He left the party to get more beer, drove his vehicle too fast, and crashed it into a tree. He was subsequently arrested and charged with driving under the influence of alcohol. (GE 4; GE 7 at 3)

¹ The FORM also amended a scrivener's error in the SOR, replacing "3. Guideline J" with "2. Guideline J."

Applicant was charged with driving without a license on at least three separate occasions in 2011, 2013, and 2016. During the 2013 incident, he had an argument with his then-girlfriend and drove off in his uncle's car without his uncle's knowledge. He was driving too fast and crashed into a utility pole. He left the scene of the accident, ran into a wooded area, and called his cousin to pick him up. A warrant was issued for his arrest, and he turned himself in. He was convicted, fined, and required to pay \$30,000 in restitution for the damage he caused to the utility pole. (GE 7 at 5)

In June 2009, Applicant was in a vehicle with his cousins when an argument arose. The driver stopped the vehicle and Applicant and one of his cousins exited and began physically fighting. Police officers arrived, one suspect was tasered by an officer, while Applicant fled. Officers announced that they were going to release their dog to find Applicant, which coaxed him into coming out of hiding. He was arrested and charged with obstruction and fighting in a public place. He was highly intoxicated at the time of the incident and spent the night in jail. (GE 4; GE 7 at 6)

Applicant continues to consume alcohol. His date of last disclosed intoxication was during Thanksgiving in November 2025, and his last blackout was during his arrest in January 2025. (GE 7 at 13) The record is devoid of a diagnosis with an alcohol-related disorder or evidence of alcohol-related treatment.

In his answer, Applicant averred that the alcohol-related incidents and criminal conduct occurred during a period in his life where he lacked maturity, responsibility, and direction. He claims that he has since taken accountability for his actions, matured, and made significant life changes, and that his priority now is to provide stability, support, and a positive future for his child, while continuing to grow professionally and personally. (GE 2)

Policies

This case is adjudicated under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy" to have access to such information. *Id.* at 527. The President has authorized the Secretary of 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*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

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

An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531.

Analysis

Guideline 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 under this guideline are established by Applicant's admissions and the evidence in the FORM:

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 conditions are 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;

AG ¶ 23(b): the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;

AG ¶ 23(c): the individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and

AG ¶ 23(d): the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Mitigation under AG ¶ 23 is not established. Applicant's maladaptive alcohol use is neither dated nor infrequent. He has been involved in at least six incidents in the past twenty years where excessive alcohol consumption resulted in poor and unsound judgment. Although he insists that he has changed and is leading a more mature and responsible life, the record is devoid of corroborating evidence. His last alcohol-related incident was a little over a year ago. He continues to consume alcohol, which means the issue is ongoing. Absent acknowledging the potential impact it may have on his career advancements, Applicant has not meaningfully acknowledged his pattern of maladaptive alcohol use or demonstrated a clear and established pattern of modified consumption or abstinence.

Guideline J (Criminal Conduct)

The security concern for criminal conduct 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 potentially applicable under this guideline:

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; and

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.

Applicant’s admissions and the record evidence of his various arrests and charges establish disqualification under AG ¶¶ 31(a) and 31(b).

The following mitigating conditions are potentially applicable:

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.

Mitigation under AG ¶ 32 is not established. Applicant’s last known criminal conduct was in January 2025. Prior to that incident, he had at least eight police contacts which resulted in either detentions or arrests with eventual convictions. Most of Applicant’s criminal conduct occurred while he was under the influence of alcohol. His continued consumption of alcohol makes it such that criminal conduct is likely to recur and therefore continues to cast doubt on his reliability. Aside from the fact that Applicant has been employed with the same employer since 2018, the record is devoid of any additional evidence to support successful rehabilitation.

Guideline E, Personal Conduct

The 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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

The following disqualifying conditions are potentially applicable under this guideline:

AG ¶ 16(c): credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, 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; and

AG ¶ 16(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.

Applicant's maladaptive alcohol consumption and the related behavior is explicitly covered and is sufficient for an adverse determination under Guideline G. His criminal conduct is explicitly covered and is sufficient for an adverse determination under Guideline J. Therefore, neither AG ¶¶ 16(c) nor (d) apply for the cross-allegations.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. In applying the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

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

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

I have incorporated my comments under Guidelines G, J, and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003). After weighing the disqualifying and mitigating conditions under Guidelines G, J, and E and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns related to alcohol consumption and criminal conduct.

Formal Findings

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

Paragraph 1, Guideline G:	AGAINST APPLICANT
Subparagraphs 1.a-1.f:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraphs 2.a-2.d:	Against Applicant
Paragraph 3, Guideline E:	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