



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of)
)
) ISCR Case No. 24-01075
)
 Applicant for Security Clearance)

Appearances

For Government: Lauren A. Shure, Esq., Department Counsel
For Applicant: William C. Smith, Jr., Esq.

09/11/2025

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines G (Alcohol Consumption), J (Criminal Conduct), and E (Personal Conduct). Clearance is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on October 19, 2019. On October 11, 2024, the Defense Counterintelligence and Security Agency (DCSA) sent her a Statement of Reasons (SOR) alleging security concerns under Guidelines G and J. 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 requested an extension of time to respond to the SOR, which was granted. She answered the SOR on December 20, 2024, with the assistance of an attorney, and requested a decision on the written record in lieu of a hearing. Her answer includes SOR Exhibits (SORX) 1 through 8. SORX 1 is the text of her written response to the SOR. SORX 1 through 8 are admitted in evidence.

Department Counsel submitted the Government's written case on April 4, 2025, and amended the SOR to cross-allege the conduct alleged under Guidelines G and J as personal conduct under Guideline E. The record does not reflect whether Applicant expressly admitted or denied the allegations in the SOR as amended. However, her response to the original SOR states that she "does not dispute, and fully acknowledges, the events referenced in the SOR."

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. The FORM consists of Government Exhibits (GX) 1 through 9. She received the FORM on April 14, 2025, and responded on May 14, 2025. She did not object to the amendment of the SOR or any of the government exhibits. GX 1 through 9 are admitted in evidence. The FORM response incorporated Applicant's previous response to the SOR, and it added Applicant's Exhibits (AX) A through D, which are admitted in evidence.

On September 2, 2025, I notified the parties that I intended to take administrative notice of the provisions of the Diagnostic and Statistical Manual, Fifth Edition (DSM-5) regarding alcohol use disorder, and I opened the record until September 5, 2025, to enable the parties to submit comments. Applicant timely submitted AX E, which was admitted in evidence without objection. The record closed on September 5, 2025.

Findings of Fact

In Applicant's answer to the SOR and her response to the FORM, she admitted the allegations in the SOR. Her admissions are incorporated in my findings of fact.

Applicant is a 41-year-old employee of a defense contractor, for whom she has worked since September 2014. She previously worked for defense contractors from July 2006 to January 2010, January 2010 to March 2011, and July 2011 to September 2014. She has held a security clearance since January 2008.

Applicant married in May 2009 and divorced in December 2018. She has no children. She lived with a cohabitant from June 2019 to March 2022. She has lived with her current cohabitant and his two daughters since May 2024, and they intend to marry in May 2026 (AX E). She received a bachelor's degree in May 2006, and a master's degree in April 2013.

Applicant was convicted of driving while intoxicated (DWI) in December 2018. She had rear-ended another vehicle and was arrested after she refused to get out of her car as requested by the police officer. She stumbled out of the car, began screaming, and

yelled obscenities at the police. At the police station, she was uncooperative, walked away from the magistrate, and initially refused to take a breathalyzer test. She eventually was administered a breathalyzer test, which registered a blood-alcohol content (BAC) of 0.22. She was charged with DWI with a BAC of more than 0.20, but the charge was amended to allege a BAC of more than 0.15 but less than 0.20. She was convicted and sentenced to 90 days in jail, with 85 days suspended. Her driver's license was suspended, she was required to attend an Alcohol and Substance Abuse Program, and she was required to install an interlock device on her vehicle. She had an interlock violation on May 8, 2019, when a breathalyzer test reflected a BAC of 0.044. (GX 4; GX 8)

After Applicant was convicted of DWI, she was referred by the court to a licensed clinical social worker (LCSW), who had begun working with her in December 2017, before her trial. Applicant has remained as an active client of the LCSW, who submitted a letter in support of Applicant. The LCSW stated that Applicant has demonstrated a high level of self-awareness, accountability, and self-reflection. She stated that Applicant has presented as stable, clear-minded, accountable, engaged, and has demonstrated the skills to make decisions with thought and consideration. She states, "Even during challenging times in her personal life, [Applicant] has remained focused and goal oriented, demonstrating the ability to balance her life, utilize her support system, and reinforce her healthy coping mechanisms." (SORX 8).

In February 2020, Applicant was charged with public intoxication. The record does not reflect the facts regarding this incident. During a subsequent psychological evaluation, discussed below, she told the psychologist that her cohabitant locked her out of their apartment after an argument and she "woke up in jail." In June 2020, the prosecutor filed a *nolle prosequi*. (GX 5)

In August 2021, Applicant was charged with assault and battery after an altercation with her then cohabitant. They both had been drinking and began arguing, and he accused her of scratching his face. During a security interview in August 2022, Applicant told the investigator that during the argument she threw a ceramic figurine at him, which shattered and frightened their dog, and the dog scratched his face. (GX 9 at 4-5) The charges were *nolle prosequi* because the cohabitant declined to testify. (GX 6) Applicant ended the relationship with her cohabitant in March 2022, after he hit her in the face, and she obtained a two-year protective order preventing him from being near her. (GX 9 at 4)

On March 3, 2022, Applicant met with the LCSW that she had been seeing since December 2017, and the LCSW asked her about the abrasions on her face. When Applicant told her that her cohabitant had hit her, the LCSW recommended that she contact the police. On March 8, 2022, Applicant told her cohabitant that she wanted to end the relationship. During a telephone conversation that she recorded on her cellphone, she told her cohabitant that she could not live with someone who was physically abusive, and he responded, "Well, I wouldn't do it if you didn't deserve it." She contacted the police and played the recording for them. The police obtained a warrant and arrested him, and Applicant obtained a 72-hour emergency protective order. She later received a two-year protective order. (GX 9 at 13)

During a security interview in August 2022, Applicant told an investigator that she drank socially on weekends, consuming five or six mixed drinks and two or three glasses of wine. She admitted that she had “an unhealthy relationship with alcohol.” (GX 9 at 7-8) She volunteered that she had been seeing a counselor for depression and anxiety and a medical doctor for adult deficit hyperactivity disorder (ADHD) since 2017 or 2018. (GX 9 at 10) Applicant began seeing a psychiatric nurse practitioner in the summer of 2022 to adjust her use of antidepressants, which she thought were too high. She is no longer taking antidepressants. (GX 9 at 19)

In March 2024, Applicant was referred for a psychological evaluation at the request of DCSA. The psychologist diagnosed her with a major depressive disorder, recurrent, in remission, and ADHD, unspecified type. The psychologist concluded that Applicant’s past psychiatric and substance-use issues could not be a basis for vulnerability to blackmail, pressure, or coercion “as her history is well understood by others in her life.” She noted that “it appears that in many areas of her life, this subject has mostly demonstrated good, judgment, trustworthiness, and reliability.” She did not diagnose Applicant with an alcohol abuse disorder, but she commented that “it should be noted [Applicant] has demonstrated a lack of sound judgment and insight regarding her use of alcohol.”

The psychologist noted that Applicant “has been compliant with psychiatric medication management since 2020, and is currently engaged in therapy, with a favorable prognosis, according to her provider.” The psychologist finished her evaluation by stating that she “estimates a guarded prognosis, given Applicant’s ongoing use of alcohol.” (GX 8) There is no evidence in the record that Applicant has been diagnosed with an alcohol abuse disorder. The absence of such a diagnosis is significant. I have taken administrative notice of the criteria for such a diagnosis in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), and I have noted that, even if she had been diagnosed with an alcohol abuse disorder, it would be considered to be in sustained remission if she maintained sobriety for one more month.

In response to DOHA interrogatories on September 19, 2024. Applicant stated that she consumed 2-3 beers or 1-2 glasses of wine weekly. She admitted drinking to the point of intoxication at a Labor Day party on September 9, 2024. (GX 9 at 15) However, she and several witnesses have stated that she has abstained from alcohol since October 2024.

Applicant’s father is a retired Army officer who served over 20 years on active duty and then worked for a defense contractor from 1989 to 2023, when he retired. He is aware that Applicant went through an emotional divorce and then became involved with a man who emotionally and physically abused her, resulting in a two-year protective order being issued against him. He states that Applicant “has demonstrated that she is trustworthy and possesses the high moral character required to safeguard classified information.” (SORX 2) He submitted a second letter in response to the FORM, stating that Applicant has completely abstained from alcohol since October 2024, no longer suffers from panic attacks, and “is once again a confident, self-assured, strong woman.” She is now in a healthy, loving, and committed relationship with another man. She has remained active in church, attending weekly Bible study sessions and volunteering in the church’s ministry

program. (AX E) She has made significant lifestyle changes in her health, including workouts at a gym and a nutritious diet. (AX A)

Applicant's first-line supervisor has observed her performance as a program lead for the past three years. He is aware of the incidents alleged in the SOR because Applicant promptly notified him when they occurred. He states that she has consistently demonstrated a high level of professionalism, integrity, and trustworthiness. He has often used aspects of her performance as an example and role model for other department leads to follow. He states that he has "utmost confidence" in her, and he provided his letter of support "without hesitation." (SORX 3) He submitted a second letter in response to the FORM, corroborating the fact that Applicant is now abstaining from alcohol and continuing to demonstrate sound judgment. (AX B)

A co-worker who has known Applicant for about eight years describes her as patient, charismatic, and an outstanding leader. She witnessed the changes in Applicant's overall wellbeing before and after her unfortunate relationship with her former cohabitant. She trusts Applicant wholeheartedly and considers her "extremely worthy" of holding a security clearance. (SORX 4)

A member of Applicant's church has known her for many years, and their friendship deepened in 2021 when they attended a summer study at their church. She states that Applicant is "as good as it gets" with regard to her character, attitude, and "commitment to all that is right and good." (SORX 5)

A long-time friend of Applicant since high school, who has held a clearance for 13 years, observed the changes in Applicant's well-being when she became involved with her former cohabitant and suffered manipulation, verbal abuse, and physical abuse at his hands. She has observed the positive changes since Applicant terminated the abusive relationship. She has noticed that Applicant's alcohol consumption declined to the point where she now abstains completely from drinking. (SORX 6)

A 25-year friend of Applicant, who is a licensed clinical psychologist, observed Applicant's decline after her divorce in 2018 and her involvement with her former cohabitant in 2019. He observed that as her involvement progressed, "it quickly went from a place of happiness and acceptance to a place of control, fear, and ultimately abuse, emotional at first and then physical." He stated that Applicant was honest with him about her mistakes and lapses in judgment and expressed her commitment to be better. He believes that Applicant "strives to uphold honesty, integrity, and morality in every aspect of her life." (SORX 7)

Applicant's current cohabitant submitted a letter corroborating her abstinence from alcohol. Applicant, he, and his two daughters have lived together since May 2024. He knows Applicant's values and is proud to have her as a role model for his two daughters. (AX C)

In Applicant's response to the FORM, she stated that she has removed herself from a highly toxic domestic situation and disassociated herself from the people, activities,

and “even geographic location of that situation.” She has abstained from alcohol since October 2024, and she continues to work with the same LCSW who began working with her before her DWI conviction in 2018. (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 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 potentially relevant:

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;

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; and

AG ¶ 22(d): diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder.

AG ¶¶ 22(a) and 22(c) are established by Applicant's admissions and the evidence in the record. AG ¶ 22(d) is not established, because there is no record of a diagnosis of 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; and

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.

The first prong of AG ¶ 23(a) ("so much time has passed") focuses on whether the conduct was recent. There are no bright line rules for determining when conduct is recent. The determination must be based on a careful evaluation of the totality of the evidence. If the evidence shows a significant period of time has passed without any evidence of misconduct, then an administrative judge must determine whether that period of time demonstrates changed circumstances or conduct sufficient to warrant a finding of reform or rehabilitation. ISCR Case No. 02-24452 at 6 (App. Bd. Aug. 4, 2004). Applicant has abstained from alcohol for almost 12 months. I conclude that AG ¶ 23(a) is established.

AG ¶¶ 23(b) and 23(c) are established. Applicant has acknowledged her problem with alcohol consumption, has been receiving counseling from an LCSW on a regular basis since December 2017, and has abstained from alcohol since October 2024.

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 established by Applicant's admissions and the evidence in the record:

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.

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.

Both mitigating conditions are established. Applicant's last criminal conduct was the assault and battery charge in August 2021. She has terminated her toxic relationship with her former cohabitant and is now in a healthy environment. She has abstained from alcohol for almost a year, and she continues to receive counseling and support from an LCSW.

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 following disqualifying conditions under this guideline are potentially applicable:

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(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. Such conduct includes . . . engaging in activities which, if known, could affect the person's personal, professional, or community standing.

Both disqualifying conditions are established. Applicant's excessive alcohol consumption and resulting criminal conduct demonstrated questionable judgment and unwillingness to comply with rules and regulations. Her alcohol-related criminal conduct affected her personal, professional, and community standing.

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; and

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.

Both mitigating conditions are established. Applicant's criminal conduct and conduct reflecting lack of good judgment are mitigated by the passage of time without recurrence. She has acknowledged the behavior and continues to receive counseling to help her avoid recurrence. She is now living a responsible, calm, peaceful, and productive life.

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.

Applicant has worked for defense contractors for 19 years and for her current employer for 11 years. She has held a security clearance for 17 years. Her problems with alcohol and criminal conduct began when she began living with a cohabitant shortly after her divorce in 2018. She has since terminated that relationship and is involved in a healthy, loving, and committed relationship. Her current supervisors, who are aware of the conduct alleged in the SOR, have praised her job performance and cite her performance as a role model for other employees to follow.

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 her credibility and sincerity based on demeanor. See ISCR Case No. 01-12350

at 3-4 (App. Bd. Jul. 23, 2003). However, the written record contains ample evidence showing that she has mitigated the security concerns alleged in the SOR. 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 her alcohol consumption, criminal conduct, and personal conduct.

Formal Findings

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

Paragraph 1, Guideline G (Alcohol Consumption): FOR APPLICANT

Subparagraphs 1.a-1.d: For Applicant

Paragraph 2, Guideline J (Criminal Conduct): FOR APPLICANT

Subparagraph 2.a: For Applicant

Paragraph 3, Guideline E (Personal Conduct): FOR APPLICANT

Subparagraph 3.a: For Applicant

Conclusion

I conclude that it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

LeRoy F. Foreman
Administrative Judge