



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



Appearances

For Government: Andrew Henderson Esq., Department Counsel
For Applicant: *Pro se*

08/14/2025

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On March 17, 2023, Applicant submitted a security clearance application (e-QIP). (Government Exhibit 1.) On December 31, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline E, Personal Conduct. The action was taken under Executive Order 10865 (EO), *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, effective within the DoD after June 8, 2017.

Applicant answered the SOR on January 31, 2025, and requested a hearing before an administrative judge. The case was assigned to me on June 2, 2025. The

Defense Office of Hearings and Appeals issued a notice of hearing on June 2, 2025, and the hearing was convened as scheduled on July 9, 2025. At the hearing, the Government offered three exhibits, referred to as Government Exhibits 1 through 3, which were admitted without objection. The Applicant offered one exhibit, referred to as Applicant's Exhibit A, which was admitted into evidence without objection. She called two witnesses and testified on her own behalf. The record was left open until close of business on July 23, 2025, to allow the Applicant to submit additional supporting documentation. Applicant submitted four Post-Hearing Exhibits, referred to as Post-Hearing Exhibits A through D, which were admitted into evidence without objection. DOHA received the transcript of the hearing (Tr.) on July 18, 2025.

Findings of Fact

Applicant is 37 years old. She is single with no children. She has a high school diploma, some college, and a certificate in bookkeeping. She holds the position of Accounting Specialist for a defense contractor. She is seeking to obtain a security clearance in connection with her employment. Applicant started a new job about a month ago. (Tr. pp. 5-6, and 89-92.)

Guideline E – Personal Conduct

The Government alleged that Applicant is ineligible for a clearance because she engaged in conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations, all of which raise questions about her reliability, trustworthiness, and ability to protect classified information.

The SOR alleges that between 2016 and 2023, Applicant was terminated from three previous positions of employment for multiple instances of workplace misconduct, and that she voluntarily left a fourth employer when she received notice of unsatisfactory work performance. Applicant admits each of the allegations set forth in the SOR. The allegations will be discussed in chronological order.

1.d. In about November 2016, Applicant was terminated from her position of employment for unprofessional behavior following numerous verbal reprimands and a written disciplinary action. Applicant admitted that she was counseled verbally at least five times for talking down to coworkers. (Tr. p. 57.) Applicant stated that because of her speaking tone and bold personality, she does not realize when she is belittling people. She believes that her employer simply did not like her personality. She asked her employer for an example of her behavior, and was told that she was calling people, "Honey." She thought that she was being friendly, but people took offense to it. (Tr. p. 59, and Government Exhibit 2.)

1.c. In about June 2020, Applicant was terminated from her position of employment for unprofessional behavior. Applicant has a loud and outspoken

personality, and when she is under stress, her tone can get sharp and come off wrong. On this occasion, Applicant was not given a warning or counseling prior to her termination. During a telephone conversation, Applicant made statements that were perceived as unprofessional. Applicant cannot recall what she said during the telephone conversation. (Government Exhibit 2.)

1.b. In about October 2022, Applicant left her position of employment following notice of unsatisfactory performance. She explained that this was a side job that overlapped with her other full-time job. She left by mutual agreement. She explained that the job allowed her to work remotely at her own pace, with no set schedule, and so she thought that she could handle the job. She acknowledges that her time management was poor. About a month or two before she left the position, she was verbally reprimanded for unsatisfactory job performance, namely falling behind on her job duties. Applicant stated that she tried to figure out how to manage both jobs at the same time, but she had health problems which affected her ability to stay on task. (Government Exhibit 2.)

1.a. In about February 2023, Applicant was terminated from her position of employment for a gross violation of the ethic rules and regulations and company standards by using or threatening to use confidential information as a threat or bargaining tool to negotiate a pay raise. Applicant stated that she did not knowingly violate any company rules or regulations. Applicant explained that within the parameters of her job duties, she has access to employee's private information, including their salaries. During a meeting with her supervisor, that she recorded without his knowledge, while in negotiations for a pay raise and promotion, she asked him if he was making what a controller in New Mexico should be making. He said that he was not. She then stated that she can look at what he gets paid, and "Yes," he does make what a controller in New Mexico makes. (Applicant's Exhibit A.) Applicant was subsequently terminated without warning by her supervisor and the HR department. Applicant was cited for using or threatening to use confidential information as a threat or a bargaining tool that is a gross violation of the ethics and standard of their organization, and therefore her employment was terminated. Applicant stated that she does not like being lied to and the comment motivated her behavior. She is not eligible for rehire. (Government Exhibits 2 and 3.)

Applicant testified that she is learning how to properly react to certain situations without being offensive. With her strong personality, it has been and continues to be hard at times to control what she says to people. She stated that she is working on improving herself in this regard. (Tr p. 80.)

Three character reference letters from the President, Chief Operating Officer, and Assistant Controller, at a company Applicant worked for between March 20, 2023, and May 30, 2025, are favorable. Applicant no longer works there. (Applicant's Post-Hearing Exhibits A, B, and C.)

Applicant requested a letter from the Vice President of her current employer, who is Applicant's direct superior. Applicant was told that because she has only been employed there for a little over a month, her superior did not feel comfortable providing one. (Applicant's Exhibit D.)

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 to be used 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. 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, the 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.” The applicant has the ultimate burden of persuasion to obtain 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 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 EO 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 *also* 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.

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

(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;

(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) a pattern of dishonesty or rule violations; and
 - (3) evidence of significant misuse of Government or other employer's time or resources; and
- (f) violation of a written or recorded commitment made by the individual to the employer as a condition of employment.

Due to Applicant's strong personality or not, she has a history of violating various companies workplace rules, regulations, policies, and procedures. Her misconduct demonstrates a pattern of immaturity, dishonesty, and rule violations. 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.

Applicant was terminated for workplace misconduct on at least three occasions, and she voluntarily left a fourth job when she received notice of unsatisfactory performance. Applicant's history of workplace misconduct outlined above from four separate stints of employment is troubling and raises serious questions about her

suitability to hold a security clearance. None of the mitigating conditions, individually or collectively are sufficiently applicable to overcome Applicant's conduct.

A security clearance is a privilege and not a right. To be found eligible, an applicant must consistently demonstrate good judgment, responsibility, and trustworthiness. Thus, it must be clearly consistent with the national interests to grant or continue a security clearance. The decision must be made in accordance with the DoD Directive and its guidelines. Based upon the information presented, from 2016 through 2023, Applicant has not demonstrated workplace professionalism or abided by the rules, regulations, policies and procedures set in place by at least four separate employers. At times her conduct has been extremely inappropriate, nervy, bold, loud, obnoxious, and unprofessional. So much so that she was terminated from employment on numerous occasions. Even when her work product and her productivity were exceptional, she was terminated for violations of company policy. Applicant has not demonstrated good judgment, reliability, or trustworthiness needed to hold a security clearance. Her personality, character, and attitude have, at times, been her worst enemy. Even though she is working on improving it, she is not quite there yet. Her character, judgment, and integrity remain in question. Her pattern of misconduct prevents her from being eligible for access to classified information at this time. The Personal Conduct guideline 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 eligibility for a security clearance 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 relevant facts and circumstances surrounding this case. I conclude Applicant has not mitigated 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 Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F: **AGAINST APPLICANT**

Subparagraphs 1.a. through 1.d. **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 or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson
Administrative Judge