

KEYWORD: Guideline F

DIGEST: As best we can discern, Applicant is contending that he was not given adequate notice that his financial problems raised security concerns. We note, however, that Applicant received the SOR more than five months before the hearing. The SOR advised Applicant that the DoD was unable to find it was clearly consistent with the national interest to grant him access to classified information because of the financial concerns listed in that document. In November 2018, Applicant responded to the SOR by specifically addressing the listed financial concerns. At the hearing, Applicant expressed no surprise about why the proceeding was being conducted. He acknowledged in his opening statement that he “had issues financially,” indicated that he always intended to pay off his debts, and stated that he encountered situations that made it hard for him to pay back his loans. Adverse decision affirmed.

CASENO: 18-02383.a1

DATE: 07/26/2019

DATE: July 26, 2019

In Re:	)	
	)	
-----	)	ISCR Case No. 18-02383
	)	
Applicant for Security Clearance	)	
	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro se*

The Department of Defense (DoD) declined to grant Applicant a security clearance. On October 19, 2018, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On May 6, 2019, after the hearing, Administrative Judge Elizabeth M. Matchinski denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged that Applicant had five delinquent student loans totaling approximately \$57,000 and that he had an unpaid credit card judgment. The Judge found in favor of Applicant on two student loans totaling about \$3,700 and found against him on the remaining debts. The Judge summarized the case as follows:

Applicant has had difficulty repaying his student loans. He had an agreement to settle \$127,795 in private student loans for only \$10,966, but then could not make the installment payments. A \$1,304 credit-card judgment from January 2012 has yet to be addressed. More progress is needed toward resolving his debts. Clearance is denied. [Decision at 1.]

As best we can discern, Applicant is contending that he was not given adequate notice that his financial problems raised security concerns. For example, he states:

While at the defense contracting firm, I was given my interim clearance initially. I was never informed at any point in time that my financial issues were in question. Even when I had [my] hearing on April 5<sup>th</sup>, 2018, though he [presumably Department Counsel] mentioned that it is a reason that people lose their clearance, he never expressed it to be why we were having the meeting, nor that my situation in particular should bring about worry. If so I would have prepared. [Appeal Brief at 3.]

We note, however, that Applicant received the SOR more than five months before the hearing. The SOR advised Applicant that the DoD was unable to find it was clearly consistent with the national interest to grant him access to classified information because of the financial concerns listed in that document. In November 2018, Applicant responded to the SOR by specifically addressing the listed financial concerns. At the hearing, Applicant expressed no surprise about why the proceeding was being conducted. On the contrary, he acknowledged in his opening statement that he “had issues financially,” indicated that he always intended to pay off his debts, and stated that he encountered situations that made it hard for him to pay back his loans. Tr. at 17. As a related matter, we note that the Judge discussed in her decision an unalleged private student loan. She indicated that loan would not be considered in applying the disqualifying conditions. Decision at 8, Footnote 7. Citing ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), she properly noted that the unalleged student loan could be considered for certain limited purposes; such as, in assessing Applicant’s case in mitigation. There is no reason to conclude the Judge erred in considering the unalleged student loan. From our review of the record, Applicant was provided adequate notice of the reasons for the hearing. He has failed to establish that he was denied the due process afforded him under the Directive.

Applicant takes exception to the Judge’s use of the term “only” to describe the amount of his \$5 monthly payments under a student loan rehabilitation program. He contends that the Judge’s use of that term was “not impartial.” Appeal Brief at 6. To the extent that he is claiming the Judge was biased, he has not rebutted the presumption that a Judge is impartial and unbiased. More specifically, his claim regarding the Judge’s use of the term “only” is not sufficient to meet the heavy burden of persuasion on him to overcome the impartiality presumption. *See, e.g.*, ISCR Case No. 12-09545 at 3 (App. Bd. Dec. 21, 2015).

Applicant raises other challenges to the Judge’s decision. For example, he disputes the Judge’s statement that he “was walked off the job,” contends the Judge did not address certain evidence, and argues the Judge did not properly weigh the evidence. His arguments, however, are neither enough to rebut the presumption that the Judge considered all of the evidence in the record nor sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 15-04856 at 2-3 (App. Bd. March 9, 2017). Applicant has not established that the Judge committed any error that is likely to affect the outcome of this case.

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. “The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security.’” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also* Directive, Encl. 2, App. A ¶ 2(b): “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

**Order**

The Decision is **AFFIRMED**.

Signed: Michael Ra'anan  
Michael Ra'anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: James E. Moody  
James E. Moody  
Administrative Judge  
Member, Appeal Board

Signed: James F. Duffy  
James F. Duffy  
Administrative Judge  
Member, Appeal Board