

Date: May 5, 2022

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In the matter of: )	
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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 January 13, 2020, 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 February 23, 2022, after close of the record, Administrative Judge Mark Harvey 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 has a delinquent student loan of approximately \$81,400, which Applicant denied, with explanations. On appeal, Applicant asserts that the Judge failed to consider all the evidence and failed in his application of the mitigating conditions. Specifically, she highlights three issues. First, her student loan debt arose over ten years ago, and she has no

other delinquent debt, establishing mitigation under Adjudicative Guideline (AG) ¶ 20(a).<sup>1</sup> Second, her student loan debt is no longer collectible due to the statute of limitations, giving her a reasonable basis to dispute the legitimacy of the debt under AG ¶ 20(e).<sup>2</sup> Third, despite the fact that her debt is no longer collectible, Applicant attempted—albeit unsuccessfully—to settle the account, constituting a good-faith effort to resolve the debt under AG ¶ 20(d).<sup>3</sup>

Contrary to Applicant’s argument, our review of the record and the Judge’s decision confirms that the Judge considered all the evidence presented, including that evidence cited by Applicant in her appeal. Moreover, in his decision, the Judge thoroughly explored all mitigating conditions under Guideline F before concluding that none apply. His findings of fact are amply supported by the record. His analysis and conclusions are firmly grounded in the appeal board precedent to which he cites. As the Judge noted in his decision, even if a debt has been rendered uncollectible due to a statute of limitation, a judge may still consider the underlying circumstances of an applicant’s financial difficulties in evaluating whether he or she demonstrated good judgment, trustworthiness, and reliability. Decision at 12, citing ISCR Case No. 01-09691 at 3 (App. Bd. Mar. 27, 2003). The Appeal Board does not review cases *de novo*. Applicant’s brief discloses no reason to disturb the Judge’s conclusion that the evidence raises security concerns under Guideline F.

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.”

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<sup>1</sup> AG ¶ 20(a): the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment. Directive, Encl. 2, App. A.

<sup>2</sup> AG ¶ 20(e): the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue. Directive, Encl. 2, App. A.

<sup>3</sup> AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts. Directive, Encl. 2, App. A.

**Order**

The decision is **AFFIRMED**.

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

Signed: Jennifer I. Goldstein  
Jennifer I. Goldstein  
Administrative Judge  
Member, Appeal Board

Signed: Moira Modzelewski  
Moira Modzelewski  
Administrative Judge  
Member, Appeal Board