



**DEPARTMENT OF DEFENSE
 DEFENSE LEGAL SERVICES AGENCY
 DEFENSE OFFICE OF HEARINGS AND APPEALS
 APPEAL BOARD
 POST OFFICE BOX 3656
 ARLINGTON, VIRGINIA 22203
 (703) 696-4759**

Date: June 3, 2022

In the matter of:)	
)	
)	
-----)	ISCR Case No. 21-01176
)	
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 June 30, 2021, 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 decision on the written record. On March 18, 2022, after considering the record, Administrative Judge LeRoy F. Foreman denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge’s adverse decision is arbitrary, capricious, or contrary to law because he overlooked evidence. Consistent with the following, we affirm.

The SOR alleged that Applicant had 18 delinquent debts totaling over \$45,000. In responding to the SOR, he admitted 13 of the alleged debts and denied the others. The Judge found in favor of Applicant on one allegation and against him on the others.

Student loans constitute the bulk of Applicant's alleged indebtedness. The school Applicant attended has closed, and students are suing the school to recoup their tuition. Applicant submitted the first of five pages of a student loan discharge application but acknowledged in that document that he was not eligible for a discharge because he completed his educational program before the school closed. He indicated a loan advisor told him to submit the application so that he might be eligible for recoupment if the lawsuit is successful, and he further indicated he would pay the loans if the lawsuit was unsuccessful. The Judge considered this promise to pay in future as falling short of meaningful evidence of mitigation. In the decision, the Judge also noted that Applicant claimed various debts were resolved, but he failed to present documentation showing the debts were paid or otherwise were in the process of being resolved. None of the Applicant's arguments in his appeal brief are enough to rebut the presumption the Judge considered all of the record evidence or to demonstrate the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 19-01939 at 4 (App. Bd. May 11, 2022).

Applicant failed to establish the Judge committed any harmful error. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on the record. "The general standard is that a clearance may be granted only when 'clearly consistent with 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 national security."

Order

The decision is **AFFIRMED**.

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

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

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