

Date: November 2, 2023

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In the matter of:	)	
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-----	)	ISCR Case No. 22-00797
	)	
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 May 17, 2022, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline F (Financial Considerations) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On September 22, 2023, Defense Office of Hearings and Appeals Administrative Judge Braden M. Murphy denied Applicant’s security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged two delinquent federal student loans totaling approximately \$29,000, which Applicant used to finance an associate degree, earned in 2001. The Judge found that Applicant experienced employment instability for several years after earning the degree and began working for his current employer in 2016 at a low salary, both of which circumstances “impacted his ability and willingness to repay his student loans.” Decision at 5. Applicant’s student loans have existed for more than 20 years, however, yet he has never been on a repayment plan for them

and did not initiate efforts to repay them until shortly before the hearing. The Judge concluded that Applicant failed to address his student loans responsibly because, although his plan to resolve the loans by refinancing his mortgage was not unreasonable, it “comes too late to show responsible action.” *Id.* at 5-6.

On appeal, Applicant first contends that, despite having answered the SOR in May 2022, he did not know what the case was about or else he would have acted on his loans. The SOR: 1) informed Applicant that DoD was unable to find that it was clearly consistent with the national interest to grant him access to classified information based on concerns under Guideline F of the Directive; 2) provided the overarching concern raised under Guideline F;<sup>1</sup> and 3) specifically alleged that Applicant was indebted to the Department of Education for two student loans, each identified by account number and approximate outstanding balance, that were placed for collection and remained delinquent as of the date of the SOR. Applicant admitted both allegations in his May 23, 2022, response to the SOR. An applicant is entitled to receive reasonable notice of the allegations being made against him so that he can have a meaningful opportunity to respond thereto. *See* ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004). The concern set forth in the SOR and the specificity of the two allegations sufficiently placed Applicant on notice that his delinquent student loans formed the basis for the Government’s concerns in this matter. We find no error based on Applicant’s first argument.

Applicant also challenges the Judge’s findings that Applicant was unable to satisfy his debts and has a history of not meeting financial obligations, arguing that his student loans are the only obligation that have been delinquent. Applicant testified that his student loan delinquencies were initially the result of inconsistent employment, and he has never been on a repayment plan for the loans. Tr. at 28-29, 37-38. He further testified that he procrastinated and took no action to address the debts until several weeks prior to his security clearance hearing. Tr. at 38-42. Contrary to Applicant’s contention, the Judge’s application of disqualifying conditions AG ¶¶ 19(a) and 19(c) was reasonable and based on record evidence.

Finally, Applicant submits new evidence in the form of a documentary update on the status of his student loans. The Appeal Board does not review cases *de novo* and is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

Applicant has not established that the Judge committed harmful error. Our review of the record reflects that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, which 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). “Any doubt concerning personnel

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<sup>1</sup> “Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.” AG ¶ 18.

being considered for national security eligibility will be resolved in favor of the national security.”  
AG ¶ 2(b).

**Order**

The decision is **AFFIRMED**.

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

Signed: Gregg A. Cervi  
Gregg A. Cervi  
Administrative Judge  
Member, Appeal Board

Signed: Allison Marie  
Allison Marie  
Administrative Judge  
Member, Appeal Board