



**DEPARTMENT OF DEFENSE**  
**DEFENSE LEGAL SERVICES AGENCY**  
**DEFENSE OFFICE OF HEARINGS AND APPEALS**  
**APPEAL BOARD**  
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**ARLINGTON, VIRGINIA 22203**  
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Date: February 13, 2024

<p>In the matter of: )  ) )  ) )  ----- )  ) )  Applicant for Security Clearance )  ) )</p>	<p>ISCR Case No. 22-02281</p>
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**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

Julie R. Mendez, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro se*

The Department of Defense (DoD) declined to grant Applicant a security clearance. On December 9, 2022, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision – security concerns raised under Guideline F (Financial Considerations) of the National Security Adjudicative Guidelines (AG) of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record in lieu of a hearing. On December 6, 2023, after considering the record, Defense Office of Hearings and Appeals Administrative Judge Marc E. Curry concluded that it is not clearly consistent with the national interest to grant Applicant security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged 15 collection accounts totaling \$37,049. Twelve of the accounts are for Federal student loans, two are for state education loans, and one is a credit card account. Applicant admitted all of the SOR allegations with explanations. She acknowledged receipt of the Government’s FORM on February 1, 2023, but she did not provide a substantive response. The

Judge resolved six of the debts in Applicant's favor, and he found against her on nine debts, including collection accounts for the Federal and state student loans, and the credit card debt.

The Judge's findings of fact note that Applicant is in her mid-thirties and unmarried. She is a high-school graduate and attended college from 2015 to 2017. She is employed by a defense contractor since June 2021. Applicant was unemployed from December 2019 to May 2020. The Judge found that Applicant did not make payments toward her delinquent debts before December 2019 or between May 2021 and January 2023, nor did she discuss payments made or other efforts she undertook to resolve her debts before May 2021. During her October 2021 personal subject interview, she indicated that she had retained a credit repair agency to assist her with her student loan debts, but she failed to provide details of the agency agreement, status of the debts, or progress made toward their resolution.

The Judge found that Applicant made payments on six accounts after the SOR was issued to bring them into a current status, but that the remaining debts were unresolved despite her claim in the Answer to the SOR that she was paying down debts and working with creditors to reduce her balances. The Judge held that, although she made payments since the SOR was issued on debts in which he found in her favor, there is no record evidence of how much she paid to get those loans out of a delinquent status, despite having \$2,780 of monthly discretionary income since May 2021. He held that her remaining debts have not been mitigated.

On appeal, Applicant challenges the date listed in the decision for when she graduated from high school. This amounts to harmless error. She also stressed that she acknowledged receipt of the FORM, which she believes is contrary to the Judge's finding that, "Applicant did not file a response [to the FORM]." Applicant appears to confuse submitting a receipt with providing a substantive response to the FORM, including any evidence in mitigation.

Applicant now provides additional background information and argues that the Judge did not adequately consider the circumstances surrounding the accrual of her delinquencies or her efforts to address her debts through a debt resolution firm and payments. She also argues that she provided evidence to the Government investigator during her interview, but she was not asked to provide her credit repair company retainer agreement. She attached it and other new evidence to her appeal. The Appeal Board does not review cases *de novo* and is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

Applicant's contention that the Judge did not adequately consider the circumstances surrounding the accrual of her delinquencies or her efforts to address her debts through a debt resolution firm are not supported by the record. She contends that she did not make payments between May 2021 and January 2023 because Federal student loan payments were suspended during that time. Although not discussed by the Judge, payments on Federal student loans were deferred from March 13, 2020, until September 2023 as a result of the COVID-19 pandemic. See <https://studentaid.gov/announcements-events/covid-19> (2024).

The length of time a debt is delinquent is a factor to consider in assessing the security concerns arising from that debt. *See, e.g.*, ISCR Case No. 20-02219 at 3 (App. Bd. Oct. 28, 2021), affirming unfavorable clearance decisions involving student loans deferred during the COVID-19 pandemic because those loans were delinquent for significant periods before that deferment became effective. In this case, the record supports the finding that Applicant’s student loans were delinquent prior to the Government-wide COVID-19 deferral. GE 3-6. No evidence was submitted to show that state-sponsored student loans were similarly deferred. Applicant’s credit reports show that the last activity on her student loans generally date from 2007 to 2018, coinciding with the two periods in which she attended college. Her credit-card delinquency dated to 2019. GE 3-7.

Applicant admitted in her 2021 interview regarding her student loans, that she “does not recall when she stopped making the payments, but she stopped because she wasn’t making enough money from her employment.” GE 7. She now argues that the Judge did not consider her personal and professional difficulties in his decision and seeks a reevaluation of her case. In a DOHA proceeding, it is an applicant’s job to present evidence sufficient to mitigate the concerns raised in his or her case, and the applicant bears the ultimate burden of persuasion that he or she should be granted a clearance. Directive ¶ E3.1.15; *See, e.g.*, ISCR Case No. 16-02243 at 2 (App. Bd. Nov. 30, 2018).

A security clearance adjudication is not a proceeding aimed at collecting an applicant’s debts. Rather, it is a proceeding aimed at evaluating an applicant’s judgment, reliability, and trustworthiness. *See, e.g.*, ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). The scope of Guideline F encompasses not only an Applicant’s current financial situation, but also extends to his or her financial history. Although Applicant engaged the services of a debt relief firm, the results of that engagement, if any, were not submitted to the Judge for consideration. Additionally, other efforts to resolve her delinquent loans before the deferment period were also not submitted to be included in evidence.

We find that the Judge addressed Applicant’s circumstances and modest debt-resolution efforts in his decision and reasonably concluded she had not established a record of payments or debt rehabilitation such that he could find that her financial problems are under control and unlikely to recur. Decision at 4. Applicant’s advocacy for an alternative weighing of the evidence is not sustainable. An applicant’s disagreement with the judge’s weighing of the evidence or an ability to argue for a different interpretation of the evidence is not sufficient to demonstrate the judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007). Moreover, Applicant’s arguments fail to rebut the presumption that the Judge considered all of the record evidence. The mere presence of some favorable or mitigating evidence does not require the Judge to make an overall favorable determination in the face of disqualifying conduct such as Applicant’s. *See* ISCR Case No. 04-08975 at 2 (App. Bd. Aug. 4, 2006). The Judge’s conclusion that Applicant failed to mitigate the financial security concerns is sustainable.

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

**ORDER**

The decision is **AFFIRMED**.

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

Signed: James B. Norman  
James B. Norman  
Administrative Judge  
Member, Appeal Board

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