



**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: May 8, 2024

In the matter of:	)	
	)	
-----	)	ADP Case No. 22-01837
	)	
Applicant for a Public Trust Position	)	

**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 February 22, 2023, 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) (SEAD 4) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On March 21, 2024, Defense Office of Hearings and Appeals Administrative Judge Carol G. Ricciardello denied Applicant’s request for a trustworthiness designation. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged 14 delinquent debts totaling approximately \$110,000. The Judge found in favor of Applicant on seven alleged debts and against her on the remaining allegations.

In her appeal brief, Applicant does not allege the Judge erred. Instead, she argues for reconsideration of the Judge’s decision and requests an opportunity to demonstrate her intent to resolve debts in the future. Consistent with the following, we affirm.

## **Judge's Findings of Fact and Analysis**

Applicant is in her early 50s and has worked for her current employer for about one year. She completed an associate degree in 2007, using student loans to fund her degree. She enrolled in a bachelor's degree program the day before her hearing. She has never made a payment towards her student loans, and they were in a default status until sometime in 2022. She has applied to rehabilitate her student loans, and if accepted, hopes to start a repayment plan.

Applicant began contacting creditors shortly before her hearing. She resolved medical debts and two other accounts. She has made payment arrangements, settled a debt, and agreed to future payments on other SOR debts. However, the Judge held that Applicant's attempts to resolve accounts occurred almost a year after receiving the SOR and did not demonstrate responsible actions or that her future financial issues are unlikely to recur. Her participation in financial counseling does not overcome her history of financial irresponsibility.

## **Discussion**

Applicant's appeal brief does not assert that the Judge committed any harmful error, nor does she dispute the Judge's findings or conclusions. Rather, she acknowledges her financial status and asserts her intent and determination to rectify it in the future.

Applicant's arguments amount to a disagreement with the Judge's weighing of the evidence, which is not sufficient to demonstrate that she weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007). The favorable evidence cited by Applicant is not sufficient to demonstrate the Judge's decision is arbitrary, capricious, or contrary to law. *Id.*

The Appeal Board does not review cases *de novo*. The Board's authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. Directive ¶ E3.1.32. Because Applicant has not alleged such a harmful error, the decision of the Judge denying Applicant security clearance eligibility is sustainable.

The standard applicable to trustworthiness cases is that set forth in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), regarding security clearances: such a determination "may be granted only when 'clearly consistent with the interests of the national security.'" ADP Case No. 19-01882 at 2 (App. Bd. Oct. 26, 2020). None of Applicant's arguments are sufficient to rebut the presumption that the Judge considered all of the evidence in the record, nor are they enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. ISCR Case No. 19-01400 at 2 (App. Bd. Jun. 3, 2020).

**ORDER**

The decision is **AFFIRMED**.

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

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

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