

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 30, 2025

		Date: Julie 30, 2023
In the matter of:)	
))	ISCR Case No. 23-02663
Applicant for Security Clearance))	

APPEAL BOARD DECISION

<u>APPEARANCES</u>

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 July 30, 2024, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline F (Financial Considerations), Guideline E (Personal Conduct), and Guideline B (Foreign Influence) 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 May 7, 2025, Defense Office of Hearings and Appeals Administrative Judge Bryan J. Olmos denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶ E3.1.28 and E3.1.30.

In his Answer to the SOR, Applicant requested a decision based on the written record in lieu of a hearing. On February 19, 2025, Department Counsel submitted the Government's File of Relevant Material (FORM), in which the Government withdrew the Guideline B allegations. On March 25, 2025, Applicant submitted his response to the FORM, in which he included updated responses to interrogatories, additional information, and documents. The Judge found favorably for Applicant on both Guideline E allegations. Under Guideline F, the SOR alleged seven delinquent debts totaling approximately \$103,400, the most significant of which was a child

support arrearage in the approximate amount of \$69,300. The Judge found favorably for Applicant on that allegation but adversely on the remaining six. The Judge acknowledged that Applicant had experienced unforeseen events that impacted his financial circumstances. He noted, however, that Applicant had not resolved any of the remaining alleged debts and had accrued a new medical debt of approximately \$10,900. In light of these circumstances, the Judge concluded that Applicant's financial issues were not under control but instead "remain recent and ongoing." Decision at 8.

There is no presumption of error below and the appealing party has the burden of raising claims of error with specificity. Directive ¶ E3.1.30. On appeal, Applicant alleges that the decision is in error because he did not have "time to provide the right evidence." With his appeal, Applicant provides evidence of a post-decision payment. The record contains no indicia that Applicant asked for additional time. Instead, the record confirms that Applicant submitted a timely and substantive response to the FORM and that the Judge considered his evidence. Applicant has not established that he was denied the due process afforded by the Directive. To the extent that the documents submitted constitute new evidence, the Appeal Board is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

Applicant has failed to establish any harmful error below. The record supports a conclusion that 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 in ISCR Case No. 23-02663 is **AFFIRMED**.

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

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

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