

KEYWORD: Guideline F

DIGEST: The Judge’s material findings of fact are based on substantial record evidence.  
Adverse clearance affirmed

CASENO: 13-01187.a1

DATE: 05/16/2014

DATE: May 16, 2014

In Re:	)	
	)	
-----	)	ISCR Case No. 13-01187
	)	
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 December 9, 2013, 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 April 10, 2010, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Claude R. Heiny 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 findings of fact contained errors and whether the Judge's adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

### **The Judge's Findings of Fact**

Applicant has worked for a Defense contractor since 2010. She seeks to maintain a secret clearance. There is no evidence in the record as to the nature of her professional duties; her husband's occupation and income; or her monthly expenses.

Applicant co-signed student loans so her daughter could attend a university. These loans equaled about \$89,000, and two of them were charged off in amounts totaling nearly \$22,000. The last actions taken on these accounts was in 2009 and 2010.

In 2011, her daughter divorced, left the university, and, along with her child, moved in with Applicant. The next year, other student loans became due, of which about \$4,000 is over 150 days late. Applicant also has past-due debts for credit cards, medical expenses, and telephone services. She settled a number of credit card accounts not listed in the SOR. There is no evidence in the record of financial counseling or of any efforts by Applicant to contact her creditors.

### **The Judge's Analysis**

The Judge concluded that Applicant's financial circumstances raised concerns under Guideline F, as asserted in the SOR. Among other things, the Judge stated that Applicant's expenses increased when her daughter and grandchild moved in with her. In concluding that Applicant had failed to mitigate those concerns, he cited to a paucity of record evidence of debt resolution, of recent unemployment by Applicant, or of efforts to contact creditors. He stated that Applicant failed to submit relevant and material information regarding her circumstances, relying instead on what he termed "a scant paragraph of explanation." Decision at 6. He concluded that the record did not support a favorable decision.<sup>1</sup>

### **Discussion**

---

<sup>1</sup>In the File of Relevant Material (FORM) at 7, Department Counsel stated the following, in boldface type: "[Applicant] has not provided any documentary evidence of the steps she has taken in recent years to address her delinquent debts. With her Response to the [FORM], [Applicant] has an opportunity to provide documentation to support her claims that she has made payments towards resolving her delinquent debts . . . At this time, however, there is no documentary evidence that [Applicant] has take any steps to resolve the 11 alleged delinquent debts in the Statement of Reasons." Despite this highlighted language, Applicant did not submit a response to the FORM. Decision at 2.

Applicant challenges the Judge’s findings of fact. She states that she did not stop paying her bills when her daughter moved in with her. She also states that the daughter with the student loans is not the same daughter as the one who divorced and that she had worked at three different facilities since 2001, not, as she interpreted the Judge to mean, only one.<sup>2</sup> Examining the Decision in light of the record, we conclude that the Judge’s material findings of security concern are based upon substantial record evidence. *See, e.g.*, ISCR Case No. 12-12172 at 3 (App. Bd. Jan. 9, 2014). Any error in the Judge’s findings did not likely affect the overall outcome of the case.

Applicant cites to matters from outside the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. *See* ISCR Case No. 12-00703 at 2 (App. Bd. Feb. 27, 2014). Applicant’s citation to record evidence is not sufficient to rebut the presumption that the Judge considered all of the evidence. *See, e.g.*, ISCR Case No. 11-13948 at 3 (App. Bd. Feb. 26, 2014).

The Judge examined the relevant data 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). *See also* Directive, Enclosure 2 ¶ 2(b): “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.”

### Order

The Decision is **AFFIRMED**.

Signed: Michael Ra’anan  
Michael Ra’anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody

---

<sup>2</sup>This last asserted error appears not in the Judge’s findings but in the FORM prepared by Department Counsel. We find no error in the Judge’s statements regarding Applicant’s employment.

James E. Moody  
Administrative Judge  
Member, Appeal Board