



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)	
)	
)	ISCR Case No. 19-03101
)	
Applicant for Security Clearance)	

Appearances

For Government: Eric C. Price, Esq., Department Counsel

For Applicant: *Pro se*

07/29/2020

Decision

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance. Applicant failed to mitigate security concerns related to his delinquent student loan account. Clearance is denied.

Statement of the Case

On November 22, 2019, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline. This action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive), and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, implemented on June 8, 2017. DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant’s security clearance.

Applicant answered the SOR, admitted the allegation, and requested a decision without a hearing. (Government Exhibit (GE) 2.) The Government submitted its written

case on February 28, 2020. The Government provided Applicant a complete copy of the file of relevant material (FORM) and the Directive. He acknowledged receipt of the documents on May 14, 2020. He did not respond, waiving any potential objections to the documents offered by the Government. The attachments to the FORM are admitted to the record as Government's Exhibits (GE) 1 through 5. The case was assigned to me on July 21, 2020, and Department Counsel confirmed that DOHA retained jurisdiction in this matter on July 23, 2020.

Findings of Fact

Applicant, 44, was hired by a federal contracting company in May 2018. It is unclear from the record if Applicant started the assembler position for which he was hired. He completed the security clearance application, his first, in May 2018. In response to questions about financial delinquencies, Applicant disclosed a student loan account. This delinquent account for \$21,708 is the only allegation in the SOR. (GE 1-3)

Applicant attended community college between June 2004 and July 2005, earning an associate's degree in an unspecified area of study. He financed his tuition with at least two student loans. Applicant claims that one of the student loans became delinquent during a period of unemployment from September 2008 to January 2009. Applicant blames his ongoing inability to rehabilitate or repay the delinquent loan on three periods of unemployment between September 2008 and May 2018, totaling 22 months. He also cites chronic underemployment at a series of day labor and temporary jobs. (GE 3-4)

Applicant did not provide any updated financial information in response to the FORM. The only available financial information in the record, a July 2018 credit report, shows that Applicant has an overwhelmingly favorable credit history. Of the 12 accounts reported, 11 (including the other student loan account) have a history of being paid as agreed and are in good standing. The credit report also shows that the creditor holding the student loan account at issue has written off the debt. Applicant has not provided any updated information about the status of the account or his attempts, if any, to rehabilitate it. (GE 5)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Financial Considerations

Unresolved delinquent debt is a serious security concern because failure to “satisfy debts [or] 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.” (AG ¶ 18).

The SOR alleges and Applicant admits that he owes over \$21,000 on a delinquent student loan account. Applicant’s admission and the credit report in the record support the Government’s *prima facie* case that Applicant has a history of not meeting his financial obligations and an inability to repay his creditor. Financial considerations disqualifying conditions 19(a) and (c) apply. Applicant failed to mitigate the financial concerns raised by his delinquent accounts. While Applicant’s inability to repay his delinquent student loan account may have been caused by events beyond his control, he did not submit any information to demonstrate that he acted responsibly to resolve the delinquent account. He has not established a good-faith effort to repay his creditor, nor has he established that his finances are otherwise under control. Accordingly, none of the financial considerations mitigating conditions apply.

Based on the record, doubts remain about Applicant’s suitability for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(d). Applicant failed to meet his burdens of production and persuasion to refute or mitigate the financial considerations concerns raised in the SOR.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Financial Considerations:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant

Conclusion

Based on the record, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. National security eligibility for access to classified information is denied.

Nichole L. Noel
Administrative Judge