



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



In the matter of: )  
)  
) ISCR Case No. 20-00435  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Aubrey M. De Angelis, Esq., Department Counsel  
For Applicant: *Pro se*

08/30/2021

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**Decision**

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LOUGHRAN, Edward W., Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

**Statement of the Case**

On July 20, 2020, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. Applicant responded to the SOR and requested a hearing before an administrative judge. The case was assigned to me on June 16, 2021. The hearing was convened as scheduled on July 7, 2021. Government Exhibits (GE) 1 through 8 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AE) A and B, which were admitted without objection.

**Findings of Fact**

Applicant is a 40-year-old employee of a defense contractor. He has worked for his current employer since May 2019. He has a bachelor's degree awarded in 2011 and

a master's degree awarded in 2017. He has never married, and he has no children. (Transcript (Tr.) at 20-21, 27; GE 1)

Applicant funded his education through student loans. He went through periods of unemployment and underemployment after graduate school. The SOR alleges 12 defaulted student loans totaling about \$89,000 and an unidentified \$1,180 medical debt. (Tr. at 19-22; GE 2-6, 8)

Applicant owes the U.S. Department of Education for five of the student loans. The total balance of the loans was \$38,609. Payments on the loans are suspended due to COVID relief. Applicant started repaying the loans in November 2020, with a \$1,400 payment, followed by monthly \$500 payments. He paid a total of \$4,900 and reduced the total balance on the loans to \$33,312. (Tr. at 17, 22-23, 28-29; GE 2-6, 8; AE A)

The seven remaining student loans are handled by a different loan servicer. In March 2021, Applicant was approved for a loan rehabilitation program. He is required to pay \$5 per month for at least nine months, at which time the loans will be in good standing. Applicant made the first three payments. He plans to continue the payments and then attempt to have the loans transferred to the Department of Education, so that he can make one monthly payment. (Tr. at 18-19, 23-24; GE 2-8; AE A, B)

Applicant admitted owing \$157 to a medical account, but he denied owing \$1,018. The July 2019 combined credit report lists a medical debt of \$1,180 in collection. The debt is reported by all three credit reporting agencies. The name of the creditor is not identified in the credit report. The debt was assigned in July 2015 with a date of last activity of June 2019. A medical debt of \$1,180 is not listed on any of the subsequent credit reports. Applicant established that he paid a \$157 medical debt in October 2020. (Tr. at 15-17; GE 2-6; AE A)

Applicant's finances are otherwise stable. He has a good job. He does not have a lavish lifestyle. He credibly testified that he intends to continue paying his student loans. (Tr. at 20-21, 25-26; GE 2-6; AE A)

## **Policies**

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

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 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."

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 security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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**

### **Guideline F, Financial Considerations**

The security concern for financial considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and 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. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental

health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant's financial history, which includes defaulted student loans and an unpaid medical bill, is sufficient to raise the above disqualifying conditions.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

This is primarily a defaulted student loan case. Applicant went through periods of unemployment and underemployment after graduate school. He started repaying five of his loans in November 2020, with a \$1,400 payment, followed by monthly \$500 payments. He paid a total of \$4,900 and reduced the total balance on the loans from \$38,609 to \$33,312. He is current on a loan rehabilitation program for the seven remaining student loans.

I am satisfied that the medical debt is resolved. Applicant's finances are otherwise stable. He has a good job, and he does not have a lavish lifestyle. He credibly testified that he intends to continue paying his student loans. Applicant has a plan to resolve his financial problems, and he took significant action to implement that plan. He acted responsibly under the circumstances and made a good-faith effort to pay his debts. The above mitigating conditions are sufficiently applicable to mitigate financial considerations security concerns.

## **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations security concerns.

### **Formal Findings**

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

Paragraph 1, Guideline F:	For Applicant
Subparagraphs 1.a-1.m:	For Applicant

### **Conclusion**

It is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Edward W. Loughran  
Administrative Judge