



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



In the matter of:)	
)	
)	ISCR Case No. 20-01000
)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Aubrey de Angelis, Department Counsel
For Applicant: *Pro se*

August 31, 2021

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of the Case

On December 25, 2018, Applicant submitted an Electronic Questionnaire for Investigation Processing (e-QIP). On June 22, 2020, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations and Guideline B, Foreign Influence. The action was taken under Executive Order 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) dated June 8, 2017.

Applicant answered the SOR on November 25, 2020, and requested a hearing before an administrative judge. The case was assigned to me on March 16, 2021. The Defense Office of Hearings and Appeals issued a notice of hearing on June 15, 2021, and the hearing was convened as scheduled on July 16, 2021. The Government offered six exhibits, referred to as Government Exhibits 1 through 6, which were

admitted without objection. The Applicant called one witness and offered no exhibits at the hearing. Applicant also testified on his own behalf. Department Counsel moved to withdraw Guideline B in the SOR, and Guideline B was withdrawn. The record was left open until close of business on July 30, 2021, to allow Applicant to submit additional supporting documentation. Applicant requested an extension and the record was left open until August 17, 2021. Applicant submitted several documents, marked collectively as Applicant's Post-Hearing Exhibit A, which were admitted into evidence without objection. DOHA received the transcript of the hearing (Tr.) on July 28, 2021.

Findings of Fact

Applicant is 29 years old and unmarried. He has a Bachelor's degree in Mechanical and Aerospace Engineering. He is employed as an Engineer II with a defense contractor. He is seeking to retain a security clearance in connection with his employment.

Guideline F – Financial Considerations

Applicant is indebted to the U.S. Department of Education, a private university, and several creditors in the approximate amount of \$58,317. Applicant admits each of the allegations set forth in the SOR under this guideline. Credit reports of the Applicant dated January 17, 2019; November 1, 2019; and February 5, 2021, confirm this indebtedness. (Government Exhibits 4, 5 and 6.) Applicant began working for his current employer in 2018.

Applicant attended a prestigious university and graduated with his Bachelor's degree in 2016. Applicant did not have money to attend the university. To afford college, from the summer of 2010 to 2016, Applicant borrowed at least \$60,000 in student loans to pay for his tuition, living expenses, books, and related expenses. Applicant stated that he did not know much about the student loan program. He did not know that his father co-signed for him. He did not know that the loan would also be in his name, since the bills are sent to his father's address. (Tr. p. 26.) Applicant thought that because his father co-signed for the loans, his father would be responsible to pay them. Applicant acknowledged, however, that he knows that his father does not have the money to pay the student loans.

Applicant states that since graduating from college, he has been unable to afford to pay his student loans, until recently. He explains that he had a long episode of sickness. In 2013, while at school, Applicant became very ill. He experienced dizziness and high temperatures. After seeing many different medical specialists, it was determined that he had a vestibular disorder. Applicant explained this to be a serious infection of the inner ear that has compromised his immune system. Sometimes he has had to stay in bed and forego other responsibilities. This has been very debilitating and kept him restricted through 2016. It has continued to impact his health in other respects. Applicant also incurred many very costly expenses related to his illness, such as co-pays and prescriptions.

Applicant further explained that since graduation from college, he has moved from state to state a number of times. He has kept his parent's home as his permanent address, but has maintained other temporary addresses. With such, he has not received his bills or notifications from his creditors about his delinquent debts. He states that he only picks up his mail when he goes to visit his parents out of state, and that is about twice a year. (Tr. p. 76.) Applicant stated that it was not until he received correspondence from the DoD about his security clearance that he started looking for ways to pay off his debts. (Tr. p. 78.)

Sometime in 2019, Applicant's wages were garnished for his delinquent student loans. This garnishment was stopped when the pandemic started and are due to continue when the pandemic is over. Applicant stated that just last month was the first time he has contacted the student loan office regarding his student loans. He states that they offered to place him in a program to assist him in resolving his excessive student loan debt. (Tr. p. 32.) Applicant explained that this ten-month program would require him to make consistent payments every month to be eligible for regular monthly payments based upon his income.

The following delinquent student loan accounts and three medical bills are delinquent and owing and are of security significance:

1.a. A delinquent student loan account was placed for collection in the amount of \$6,205. 1.b. A delinquent student loan account was placed for collection in the amount of \$5,650. 1.c. A delinquent student loan account was placed for collection in the amount of \$5,104. 1.d. A delinquent student loan account was placed for collection in the amount of \$4,997. 1.e. A delinquent student loan account was placed for collection in the amount of \$4,042. 1.f. A delinquent student loan account was placed for collection in the amount of \$3,680. 1.g. A delinquent student loan account was placed for collection the amount of \$3,226. 1.h. A delinquent student loan account was placed for collection in the amount of \$2,572. 1.i. A delinquent student loan account was placed for collection in the amount of \$2,228. 1.j. A delinquent student loan account was placed for collection the amount of \$1,539. 1.k. A delinquent student loan account was placed for collection in the amount of \$1,108. 1.l. A delinquent medical debt was placed for collection in the amount of \$855. 1.m. A delinquent debt was placed for collection in the amount of \$372. 1.n. A delinquent medical debt was placed for collection in the amount of \$251. 1.o. A delinquent medical debt was placed for collection in the amount of \$157. 1.p. A delinquent medical debt was placed for collection the amount of \$516. 1.q. A delinquent student loan account was placed for collection the approximate amount of \$3,218. 1.r. A delinquent student loan account was placed for collection in the approximate amount of \$4,208. 1.s. A delinquent student loan account was placed for collection in the approximate amount of \$2,904. 1.t. A delinquent student loan account was placed for collection in the approximate amount of \$2,413. 1.u. A delinquent student loan account was placed for collection in the approximate amount of \$6,034. 1.v. A delinquent student loan account was placed for collection in the approximate amount of \$3,070.

Applicant's Post-Hearing Exhibit A indicates that Applicant has now paid the debt set forth in 1.i. in the amount of \$1,539. He has also paid the debt set forth in 1.k. in the amount of \$1,108. He states that he now has a payment arrangement in place to pay his Federal student loan debts, the private university student loan debt, and the Sallie Mae student loan debt. The debts still remain outstanding. He states that he has not yet paid and/or settled his medical debts set forth in 1.l., 1.n., 1.o., and 1.p. Applicant states that he plans to pay all of his delinquent debts as soon as he is capable of doing so. (Applicant's Post-Hearing Exhibit A.)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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 national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person who applies for access to classified information seeks to enter 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 protect or safeguard classified information. Such decisions entail a certain degree of legally

permissible extrapolation as to 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, as follows:

Failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

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

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

Applicant took out student loans to attend college that until recently he has not been concerned about paying. All of his student loan debt remains owing. He claims that he has recently settled several other delinquent debts because he needs a security clearance. There is insufficient evidence in the record to conclude that he is financially stable, or that he can afford his lifestyle, or that he has financial resources available to pay his past-due financial obligations. The evidence is sufficient to raise the above disqualifying conditions.

Four Financial Considerations Mitigating Conditions under AG ¶ 20 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, or a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Circumstances beyond the Applicant's control, namely his extended illness and its aftermath, caused him to miss some work, which contributed to his financial problems. But the main reason Applicant has not paid his delinquent debts is because they have not been a priority for him. Since becoming employed, Applicant has sent money to his parents out of state. He has even sent money to his brother out of the country. Applicant has known about his delinquent student loan debt and has simply ignored the debt for many years. It was not until his security clearance became an issue that he became concerned about his delinquent debt. Applicant has recently settled a few of his debts, and has set up a payment plan to pay his student loans. Even so, Applicant has done too little, too late. He has not demonstrated a pattern of responsible financial behavior showing that he can pay his bills in a timely fashion or that he can meet his financial obligations without difficulty. Under the circumstances, Applicant has failed to meet his burden. None of the mitigating conditions set forth above under Guideline F provide full mitigation.

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 considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment. Applicant is an intelligent, educated man, but who shows many areas of immaturity. These areas of immaturity cannot be solved by ignoring his excessive indebtedness. Applicant's conduct shows poor judgment and unreliability. He has no pattern or practice of paying his debts in a responsible manner. He has not achieved financial stability at the level required to access classified information.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has failed to mitigate the Financial Considerations security concerns.

Formal Findings

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a., through 1.h.	Against Applicant
Subparagraph 1.i.	For Applicant
Subparagraph 1.j.	Against Applicant
Subparagraph 1.k.	For Applicant
Subparagraphs 1.l., through 1.v.	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson
Administrative Judge