



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



In the matter of: )  
)  
) ISCR Case No. 21-00939  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Rhett Petcher, Esq., Department Counsel  
For Applicant: *Pro se*

03/01/2022

**Decision**

PRICE, Eric C., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline F, financial considerations. Eligibility for access to classified information is denied.

**Statement of the Case**

On June 25, 2021, the Defense Counterintelligence and Security Agency issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on June 8, 2017.

On August 16, 2021, Applicant answered the SOR, and elected to have her case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's file of relevant material (FORM), and Applicant received it on October 27, 2021. She was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. The Government's

evidence is identified as Items 2 through 5. Applicant submitted no response. There were no objections by Applicant, and all Items are admitted into evidence. The case was assigned to me on February 9, 2022.

### **Findings of Fact**

Applicant denied the allegations in SOR ¶¶ 1.m through 1.s. She failed to provide a response to ¶¶ 1.a through 1.l. The lack of response will be treated as denials. After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 31 years old. She earned a bachelor's degree in 2014 and a real estate license in approximately 2016. Applicant attended two universities and a community college from 2009 through 2014, and another college in 2016, which she financed at least partially through student loans. She worked part-time jobs from September 2007 to August 2017. From August 2017 to March 2020 Applicant worked full-time as a leasing consultant. Applicant's income increased significantly in April 2020, when she started working in an administrative position for a defense contractor. Applicant has never been married and has no children. (Items 2, 3)

The SOR alleges 19 delinquent accounts totaling \$53,623 including nine student loan accounts (\$43,974), six consumer accounts (\$7,580) and four medical accounts (\$2,069). (Item 1)

Applicant completed a security clearance application (SCA) in April 2020. She disclosed delinquent debts estimated at \$10,000 and acknowledged defaulting on her student loans. Applicant attributed her financial issues to hardship during college that began in May 2012 and underemployment. She reported changing employment to increase her income, working to settle the debts in collection, and to getting her student loans out of default. (Item 2)

During an August 2020 background interview, Applicant acknowledged nine student loan accounts totaling \$43,974 were placed for collection in the specific amounts alleged at SOR ¶¶ 1.a, 1.b, 1.c, 1.e, 1.f, 1.g, 1.h, 1.i, and 1.j. She also acknowledged the debt alleged at SOR ¶ 1.d (\$4,967) was incurred to pay for cosmetic surgery in 2013, but did not recall if she made a few payments on the account, and did not recall further details. Applicant said she did not recall the debts subsequently alleged at SOR ¶¶ 1.k, 1.q, and 1.s, but agreed the debt alleged at SOR ¶ 1.k was probably hers. She believed the delinquent accounts alleged at SOR ¶¶ 1.l, 1.n, 1.o, and 1.r were for hospitalizations and medical appointments from December 2018 to April 2019, stated a credit collection company recently contacted her, and that she was awaiting written correspondence regarding settlement options. Applicant reported the debts alleged at SOR ¶¶ 1.m and 1.p were incurred buying clothes and that she did not recall if she had made payments on the accounts. Applicant attributed the delinquent accounts to underemployment, exacerbated by the requirement to pay a derelict college roommate's expenses for nine months, and legal expenses to contest charges she operated a vehicle under the

influence of drugs or alcohol in 2019. Applicant reported a significant increase in income when she started work for a defense contractor in April 2020 and that she was more mature. She said the pay increase would enable her to begin paying the delinquent debt and stated her intent to pay all delinquent debts. (Item 3)

In her August 2021 answer to the SOR, Applicant denied the debts alleged at SOR ¶¶ 1.m to 1.s remained delinquent. She acknowledged several past closed accounts, and reported aggressive efforts to improve her financial condition since August 2020. She claimed to have paid all collections, medical debts and other accounts, and said her answer included documentary evidence reflecting a zero balance for the accounts. The only documentary evidence attached to Applicant's answer to the SOR is an undated two-page document which reflects account details for a student loan account not alleged as delinquent in the SOR. It appears this student loan was obtained in December 2017, had a reported balance of \$3,699 as of May 31, 2021, and has been reported as current since March 2020. The student loans alleged as delinquent in the SOR were obtained from 2009 to 2013. Applicant provided no documents reflecting payment on any debt alleged in the SOR. (Item 1)

Credit records submitted by the Government dated July 28, 2020, reflect the 19 delinquent accounts alleged in SOR ¶¶ 1.a to 1.s totaling \$53,623. Credit records submitted by the Government dated October 4, 2021, reflect 13 delinquent accounts alleged in SOR ¶¶ 1.a to 1.k, and 1.p totaling \$50,503 including nine student loan accounts (\$43,974), and three consumer accounts (\$6,529). The October 2021 credit report reflects Applicant resolved two delinquent medical accounts totaling \$300 in June 2020 and June 2021. (Items 4, 5)

### **Policies**

When evaluating an applicant's suitability for national security eligibility, 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 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, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and common sense 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 contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states an “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 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 that an applicant may deliberately or inadvertently fail to 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 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 relating to the guideline 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

AG ¶ 19 provides conditions that could raise security concerns. The following are potentially applicable:

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

Applicant has a history of financial problems dating back to 2012 when she was a college student. Credit records reflect Applicant as delinquent on the 19 accounts alleged in the SOR totaling \$53,623. In her 2020 SCA, Applicant disclosed defaulting on her student loans and reported other delinquent debts estimated at \$10,000. During a background interview, Applicant acknowledged delinquent student loans, consumer and medical accounts in the amounts alleged in SOR ¶¶ 1.a to 1.j, 1.l to 1.p, 1.r, and also acknowledged the debt alleged at SOR ¶ 1.k was probably hers. In her answer to the SOR, Applicant denied the debts alleged at SOR ¶¶ 1.m to 1.s remained delinquent, stating she paid those debts in full after her background investigation commenced in August 2020, but provided no documentary evidence of any payment on any debt alleged in the SOR or that any debt alleged in the SOR has been resolved. There is sufficient evidence to support the application of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following 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, 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.

Applicant's conduct does not warrant full application of AG ¶¶ 20(a) and 20(b) because she did not act more aggressively and responsibly to resolve her delinquent debts. Applicant's financial problems are long-standing and ongoing. She has provided no documentary evidence of payment on any of the delinquent accounts alleged in the SOR, while recent credit records reflect payment of only two delinquent medical debts and that at least \$50,503 of the \$53,623 in delinquent debt alleged in the SOR remains unresolved. She receives partial mitigating credit under AG ¶ 20(b) because many of her debts resulted from underemployment and medical treatment and as such constitute conditions largely beyond her control. However, there is no evidence Applicant acted responsibly under the circumstances. During the background interview, she acknowledged most of the delinquent accounts were hers, but had limited recollection of the accounts and her actions including whether she made any payments on any of the delinquent accounts, and has not submitted any evidence she acted responsibly.

AG ¶ 20(c) does not apply, because there is no evidence Applicant has received financial counseling or that the problem is under control or being resolved.

AG ¶ 20(d) does not fully apply. Applicant reported efforts to resolve the delinquent accounts alleged in the SOR by seeking and accepting a higher paying job in April 2020 and claimed to pay a number of the delinquent accounts between August 2020 and August 2021. Yet, she submitted no documentary evidence of payments on any delinquent accounts, and a recent credit report reflects Applicant resolved only two delinquent medical accounts totaling \$300. There is insufficient information to establish that Applicant showed good faith in the resolution of her debts. The timing of Applicant's actions including repayment of delinquent debts only after submitting her SCA, impacts upon the degree to which the mitigating factors apply. See ISCR Case No. 08-06058 at 5 (App. Bd. Sep. 21, 2009). It is well settled that waiting to pay legitimate debts until forced to do so by the security clearance process does not constitute good-faith debt resolution. See ISCR Case No. 10-05909 at 3 (App. Bd. Sep. 27, 2012).

Applicant claimed she resolved four medical accounts that are no longer on her credit report. The October 2021 credit report reflects she resolved two delinquent medical accounts. Although, Applicant failed to provide other documentary evidence, and these debts may have fallen off her credit report for other reasons, I have given her credit for them and find in her favor on SOR ¶¶ 1.i, 1.n, 1.o, and 1.r.

Applicant's overall financial conduct casts doubt on her current reliability, trustworthiness, and good judgment. Applicant has not carried her burden of proving her financial responsibility. Based on my evaluation of the record evidence as a whole, I conclude no mitigating conditions fully apply.

**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 the 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 has been aware for many years that she defaulted on her student loans and had multiple delinquent accounts. Applicant accumulated a large amount of delinquent debt in the past that she has failed to pay. Although Applicant has apparently made progress towards resolving some of her financial delinquencies, her credit records reflect more than \$50,000 in delinquent debt. Applicant had an opportunity to provide more recent information about the current status of her remaining debts, but did not. She does not have a reliable financial track record and failed to meet her burden of persuasion. 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 failed to mitigate the security concerns raised under Guideline F, financial considerations.

**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:                   AGAINST APPLICANT
- Subparagraphs 1.a-1.k:                   Against Applicant

Subparagraphs 1.l:	For Applicant
Subparagraph 1.m:	Against Applicant
Subparagraphs 1.n-1.o:	For Applicant
Subparagraphs 1.p-1.q:	Against Applicant
Subparagraph 1.r:	For Applicant
Subparagraph 1.s:	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 security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Eric C. Price  
Administrative Judge