



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



In the matter of: )  
)  
) ISCR Case No. 21-01147  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Andrew Henderson, Esq., Department Counsel  
For Applicant: *Pro se*

February 22, 2022

**Decision**

CEFOLA, Richard A., Administrative Judge:

**Statement of the Case**

On June 21, 2021, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guidelines F and E. The SOR further informed Applicant that, based on information available to the government, DoD adjudicators could not make the preliminary affirmative finding it is clearly consistent with the national interest to grant or continue Applicant’s security clearance.

Applicant answered the SOR on July 19, 2021, and requested a hearing before an administrative judge. (Answer.) The case was assigned to me on September 21, 2021. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on September 23, 2021, scheduling the hearing for December 1, 2021. The hearing was convened as scheduled. The Government offered Exhibits (GXs) 1 through 5, which were admitted into evidence. Applicant testified on his own behalf. Applicant presented ten packets of documents, which I marked Applicant’s Exhibits (AppXs) A through J and admitted into evidence. The record was left open until January 7, 2022, for receipt of

additional documentation. On December 17, 2021, Applicant offered AppXs K and L, which were admitted into evidence. DOHA received the transcript of the hearing (TR) on December 9, 2021.

### **Findings of Fact**

Applicant initially admitted to SOR allegation ¶ 1.a. but later disputed and denied it. He also denied all the remaining allegations in the SOR. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 41-years-old, and is seeking employment with a defense contractor. (TR at page 13 line 23 to page 17 line 14.) He is unmarried, and has no children. (TR at page 34 lines 17~21.) Applicant attributes the alleged, past-financial difficulties to brief periods of unemployment. (TR at page 13 line 23 to page 17 line 14.) In October Of 2021, he completed a credit counseling course. (TR at page 22 line 1 to page 23 line 22, and AppX F.)

### **Guideline F - Financial Considerations**

1.a. Applicant now denies an alleged past-due debt to Creditor A in the amount of about \$14,670, as the result of a vehicle accident. His car “was totaled, . . . [and] the insurance . . . had paid off the car” loan. (TR at page 17 line 25 to page 19 line 5.) This testimony is supported by documentation from Creditor A showing the “Amount Reaming” as “\$0.” (AppX K at page 2.) This allegation is found for Applicant.

1.b. and 1.c. Applicant denies that he has past-due student loans totaling about \$10,986. (TR at page 19 line 6 to page 21 line 3.) This testimony is supported by credit reports submitted by both the Government and Applicant, which show he is current with his student loans. (GX 5, and AppX E at pages 10~11.) These allegations are found for Applicant.

1.d. Applicant denies an alleged past-due debt to Creditor D in the amount of about \$326. (TR at page 23 line 23 to page 26 line 7.) This testimony is supported by documentation from Creditor D showing that this loan “has been paid in full.” (AppX B.) This allegation is found for Applicant.

1.e. Applicant denies an alleged past-due debt to Creditor E in the amount of about \$1,477. (TR at page 26 line 8 to page 27 line 6.) This testimony is supported by documentation from Creditor E showing “no record” in Creditor E’s “system” related to Applicant. (AppX C.) This allegation is found for Applicant.

1.f. Applicant denies an alleged past-due debt to Creditor F in the amount of about \$260. (TR at page 27 lines 10~16.) This testimony is supported by documentation from Creditor F confirming “final payment,” and that the account “is paid in full.” (AppX D.) This allegation is found for Applicant.

## **Guideline E - Personal Conduct**

2.a. Applicant denies any falsification of his December 2018 Electronic Questionnaires for Investigations Processing (e-QIP) as it relates to Section 26 and enquires as to financial delinquencies in the last seven years. (TR at page 29 line 22 to page 32 line 18, and GX 1 at page 35.) As noted above, in the findings for allegations 1.a.-1.f., Applicant was unaware of any past-due indebtedness when he executed his e-QIP, and, in fact, he has no past-due indebtedness. This allegation is found for Applicant.

### **Policies**

When evaluating an applicant's 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 to be used in evaluating an applicant's national security eligibility.

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 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.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states 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 Executive Order (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 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.

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

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

Applicant, arguably, had some past-due indebtedness. The evidence is sufficient to raise these disqualifying conditions.

AG ¶ 20 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 20 including:

- (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;

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

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Whatever financial problems Applicant had, they are a thing of the past. He current with all his creditors, and has completed financial counseling. He has demonstrated that future financial problems are unlikely. Mitigation under AG ¶ 20 has been established. Financial Considerations is found for Applicant.

### **Guideline E - Personal Conduct**

The security concern relating to the guideline for Personal Conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

(a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, cooperation with medical or psychological evaluation, or polygraph examination, if authorized and required; and

(b) refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. One is potentially applicable in this case:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

I find no willful falsification by Applicant, as he was unaware of any past-due debts when he executed his December 2018 e-QIP. Personal Conduct is found for Applicant.

### **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. Applicant is well respected in his community and in the work place. (AppX I.) For all these reasons, 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 ¶ E3.1.25 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a~1.f:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant national security eligibility for a security clearance. Eligibility for access to classified information is granted.

---

Richard A. Cefola  
Administrative Judge