



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 21-00529  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Tara R. Karoian Esq., Department Counsel  
For Applicant: *Pro se*  
05/03/2022

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**Decision**

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NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance. Applicant’s financial problems were not caused by irresponsible or reckless financial behavior, but by underemployment in the two years after he graduated from college. He has demonstrated a good-faith effort to repay his creditors. Clearance is granted.

**Statement of the Case**

On June 11, 2021, 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 and requested a decision without a hearing. (Government Exhibit (GE) 2.) The Government submitted its written case on September 9, 2021. The Government provided Applicant a complete copy of the file of relevant material (FORM) and the Directive. He acknowledged receipt of the documents on September 22, 2021, and provided a response. The attachments to the FORM are admitted to the record as Government's Exhibits (GE) 1 through 7. The documents appended to Applicant's response are admitted as Applicant's Exhibits (AE) A through C. All documents were admitted without objection. The case was assigned to me on November 10, 2021.

### **Findings of Fact**

Applicant, 33, has worked for his current employer, a federal contracting company, since June 2020. He completed a security clearance application in May 2020, disclosing three delinquent accounts. The ensuing background investigation revealed additional delinquent accounts. The SOR alleges that Applicant is indebted to four creditors for approximately \$28,405. (GE 3, AE A)

Applicant's financial problems began after he graduated from college in May 2017. Initially, Applicant financed his education with student loans. He stopped attending college in 2012. When he returned to college between 2014 and 2017, he attended classes each spring semester, working construction jobs each summer and fall semester to save money for tuition. After graduation, Applicant continued to work construction jobs until January 2018. He was then unemployed for five months. He returned to construction work in June 2018, working laborer or construction foreman positions until he secured his first engineering job in February 2019. He secured his current position, a better paying one, in June 2020. (GE 3, AE A)

The accounts alleged in SOR ¶¶ 1.a (\$13,632) and 1.c (\$3,446) are for private student loans originated by the university he attended. He mistakenly thought these two loans were consolidated into his federal loans. Upon learning that they were not, he attempted to set up a payment plan in October 2019 for \$100 per month. He could not maintain the plan because he was unemployed. He contacted the university again in August 2020 to set up a payment plan, and learned that his loans were transferred to a law firm for collection. He setup a payment plan with the law firm in June 2021, agreeing to make a down payment of \$1,500 followed by \$300 each month. He paid the down payment in June 2021 and provided evidence with his September 2021 FORM response that he made the July and August payments. (GE 2, AE B)

The account alleged in SOR ¶ 1.b (\$10,837) is for a credit card that he used for emergencies and living expenses. Applicant has made 72 of 96 payments on his established payment plan, totaling \$3,600. The two remaining debts, SOR ¶¶ 1.d (\$300) and 1.e (\$160) were resolved by Applicant in June 2021 and July 2020, respectively. In addition to the debts alleged in the SOR, Applicant also paid the charged-off \$2,822 credit card debt he disclosed on his security clearance application. (GE 2,4,7)

Applicant believes that with his current job, he is financially secure. The most recent credit report in the record, dated September 2021, shows no new delinquent accounts and that he is living within his financial means. (GE 4, AE A)

### **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 that Applicant owes over \$28,000 on five delinquent accounts. Applicant's admissions and the credit reports in the record establish the Government's *prima facie* case. The following disqualifying conditions apply:

AG ¶ 19(a) inability to satisfy debts; and

AG ¶ 19(c) a history of not meeting financial obligations.

Applicant has provided sufficient information to mitigate the concerns raised by his delinquent debt. Applicant's financial problems were not caused by irresponsible financial behaviors, but two years of underemployment after he graduated from college in May 2017. Applicant has taken steps to repay his delinquent accounts. He established a payment plan for the debts alleged in SOR ¶¶ 1.a through 1.c, and has resolved the debts alleged in SOR ¶¶ 1.d and 1.e. He has also resolved a charged-off credit card not alleged in the SOR. To date, Applicant has paid more than \$8,000 toward his delinquent debt. The most recent credit report in the record does not reveal any new delinquent accounts or concerns about Applicant's current finances. The following mitigating conditions apply:

AG ¶ 20(b) the conditions that resulted in the financial problems were largely beyond the person's control and the individual acted responsibly under the circumstances; and

AG ¶ 20(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Based on the record, I have no doubts 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 has established a track record of debt repayment. He has also shown that since being fully employed in his field, he is able to live within his means and not incur any additional delinquent debt. The AGs do not require an applicant to immediately resolve or pay each and every debt alleged in the SOR, to be debt free, or to resolve first the debts alleged in the SOR. An applicant needs only to establish a plan to resolve financial problems and take significant actions to implement the plan. Applicant has implemented a plan to resolve his financial problems and he has made substantial progress implementing his plan. After weighing the disqualifying and mitigating conditions under Guideline F, and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by his delinquent debts.

### **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:	FOR APPLICANT
Subparagraph 1.a – 1.e:	For Applicant

## **Conclusion**

Based on the record, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. National security eligibility for access to classified information is granted.

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Nichole L. Noel  
Administrative Judge