



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



In the matter of: )  
)  
) ISCR Case No. 20-01878  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: *Pro se*

05/04/2022

**Decision**

Dorsey, Benjamin R., Administrative Judge:

Applicant did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On October 29, 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 decision based on the written record in lieu of a hearing.

Department Counsel submitted her written case on January 26, 2022. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was advised that he had 30 days from his date of receipt to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on February 14, 2022. As of March 31, 2022, he had not responded. The case was assigned to me on April 12, 2022. The Government exhibits included in the FORM are admitted into evidence without objection. Applicant did not provide any documents with his response to the SOR.

## Findings of Fact

Applicant is a 31-year-old employee of a defense contractor for whom he has worked since August 2017. He earned a bachelor's degree in May 2017. He has never been married and has no children. (Items 5, 9)

The SOR alleges Applicant owes 15 delinquent debts totaling about \$56,000 (SOR ¶¶ 1.a-1.o). Applicant's delinquent debt is largely comprised of student loans, but also includes a credit-card debt, a medical debt, and a car note. Applicant admitted the 12 student loans in the SOR, but denied the three remaining debts, asserting that those debts are not delinquent. He asserted that, through his current employment, he now has sufficient funds to pay off his delinquent debts. I find that the SOR allegations are established through credit reports and Applicant's admissions. (Items 1-9)

The car note debt that was past due in the amount of \$1,174 with an outstanding balance of \$12,327 alleged in SOR ¶ 1.a has been resolved. This debt became delinquent when the checks that Applicant wrote to pay the debt were not delivered to the creditor because they were sent to the wrong mailbox. Applicant committed to bringing this debt current. The January 2022 credit bureau report (CBR) reported this debt as a paid charge-off. The debt was listed in the September 2019 CBR but not in the August 2020 CBR. (Items 1, 4, 6, 8, 9)

The \$237 medical debt alleged in SOR ¶ 1.b has not been resolved. Applicant averred this debt is not delinquent. He did not recognize this account. He asserted that he would research the account to see if it is his. He averred that he would pay the debt if it is his. This debt is listed as delinquent on the September 2019 and August 2020 CBRs. The debt is not listed on the January 2022 CBR. Applicant did not provide any documentation establishing the debt was paid, disputed, or otherwise resolved. (Items 1, 4, 7, 8, 9)

The \$2,619 credit-card debt alleged in SOR ¶ 1.c has been partially resolved. Applicant averred that this debt is not delinquent and that he has been making payments on the debt. The debt is listed as delinquent on the September 2019, the August 2020, and the January 2022 CBRs. On the January 2022 CBR, the balance on this debt reflects recent payments and has been reduced to \$461. Applicant opened the credit-card account to purchase a computer for school, but then placed other expenses on the credit card for which he did not have the money to pay as he was a student. (Items 1, 4, 5-9)

The student loans alleged in SOR ¶¶ 1.d through 1.o totaling \$52,281 have not been resolved. Applicant claimed that he did not know these debts were delinquent and that his grandmother was supposed to be paying them. He averred that he would contact the creditors and make payment arrangements to bring the accounts current. However, he did not provide any documentation establishing the debts were paid or otherwise resolved. The student loans are listed in the August 2020 and January 2022 CBRs, which reflect a date of first delinquency of December 2018 and do not reflect any payments after December 2019. While neither party has provided evidence to this

effect, I have taken administrative notice that all federal student loans have been in a deferment status as of late March 2020 at the earliest. (Items 1, 4, 6-9)

Applicant did not respond to the FORM, so more recent information about his finances is not available.

### **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 within DOD 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 has a history of financial delinquencies that included a car note debt, credit-card debt, a medical debt, and a substantial amount of defaulted student loans. The evidence is sufficient to raise the above disqualifying conditions and shifts the burden to Applicant to provide evidence in mitigation.

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;

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

(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.

Applicant attributed his financial problems to having insufficient funds to pay his debts because he was in school. He asserted that there was a mix-up with his payments on his car note being sent to the wrong mailbox. He alleged that his student loans were delinquent because he thought his grandmother was paying them, but she was not. Applicant has not provided sufficient evidence to show that the cause of his delinquencies on any of his SOR debts was beyond his control.

There is documentary corroboration that the car note alleged in SOR ¶ 1.a has been paid. There is also documentary evidence that Applicant has significantly paid down the credit-card debt alleged in SOR ¶ 1.c. SOR ¶¶ 1.a and 1.c are concluded for Applicant.

Applicant alleged that he did not recognize the medical debt listed in SOR ¶ 1.b, but he would research the debt and pay it if he is responsible for it. However, he provided no evidence to indicate a meaningful resolution of this debt through a dispute or otherwise.

Applicant provided no documentary evidence of payments or favorable resolution of the remaining SOR debts. Applicant stated that he intends to pay the remaining SOR debts. However, intentions to pay debts in the future are not a substitute for a track record of debt repayment or other responsible approaches. See ISCR Case No. 11-14570 at 3 (App. Bd. Oct. 23, 2013). Applicant provided no documents in his response to the SOR or in response to the FORM. It is reasonable to expect Applicant to present documentation about the resolution of specific debts. See, e.g., ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 16, 2016). While Applicant's federal student loans have continuously been in deferment as of late March 2020, he was delinquent on those accounts at least a year prior to this deferment.

Applicant has paid one of his debts and has made payments on another. However, as he has a substantial amount of unresolved outstanding debt remaining, there is insufficient evidence for a determination that Applicant's financial problems will be resolved within a reasonable period. While he claimed to have been unable to pay his debts because he was a student, he has been employed for over four years. I am unable to find that the conditions that resulted in the financial problem were largely beyond Applicant's control, that he acted responsibly under the circumstances or that

he made a good-faith effort to pay his debts. To the extent that he disputed the legitimacy of one of his past-due debts, he has neither provided documented proof to substantiate the basis of the dispute nor has he provided evidence of his efforts to resolve the issue. His financial issues are ongoing. They continue to cast doubt on his current reliability, trustworthiness, and good judgment. Financial considerations security concerns are not mitigated.

### **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.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not 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 section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d-1.o:	Against Applicant

## **Conclusion**

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.

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Benjamin R. Dorsey  
Administrative Judge