



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



In the matter of:	)	
	)	
	)	ISCR Case No. 21-01844
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: David F. Hayes, Esquire, Department Counsel  
For Applicant: *Pro se*

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**Decision**

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MARSHALL, Jr., Arthur E., Administrative Judge:

**Statement of the Case**

On October 5, 2021, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations). 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) effective within the DOD on or after June 8, 2017.

In a response dated October 18, 2021, Applicant denied four of the five allegations under Guideline F (SOR allegations 1.b-1.e) and requested a decision based on the written record by a Defense Office of Hearings and Appeals (DOHA) administrative judge. On November 29, 2021, the Government composed a written brief with four supporting documents (Items 1-4), known as the File of Relevant Material (FORM).

On January 12, 2022, Applicant received a complete copy of the FORM. She was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns noted. Applicant timely responded with a one-page narrative, two receipts, and one offer of settlement. She made no objections to the Government's proposed evidence. (Response to FORM, Items A-D) The case was assigned to me on April 27, 2022. Government Items 1-4 and Applicant Items A-D are admitted without objection. Based on the record, I find Applicant did not provide sufficient evidence to mitigate financial considerations security concerns.

### **Findings of Fact**

Applicant is a 41-year-old part-time instructor who has worked in the same position since 2014. After many years in academia, she has earned a bachelor's and a master's degree. She is presently pursuing a doctoral degree. According to her April 2021 credit report, she has about \$266,000 in deferred student loans. Currently residing with her parents, Applicant is single. She is sponsoring an alien from Syria to whom she is engaged. She has no children.

One her security clearance application (SCA), Applicant noted that she had one delinquent account. Upon examination of her credit reports, it was found that she had five delinquent accounts. These delinquent debts total about \$31,375. They are all individual accounts, although Applicant noted that she took out the credit cards for her parents, who have poor credit. There is no documentation showing she has received or receiving financial counseling. Little more is known about her financial situation or her methodology for addressing her obligations. The accounts at issue are:

1.a – Approximately \$10,433 - Applicant admitted responsibility for this debt, but noted that she recently entered into a payment plan with the lender. While the plan was not introduced, she provided a 'post-dated receipt' indicating the lender was to process a \$20 payment on December 1, 2021. No documentary evidence of such a transaction was provided with her February 9, 2022, FORM Response. Moreover, Applicant stressed that her credit report lists this account as "charged off," and it no longer appears as an outstanding debt. A charged-off account, however, means a lender wrote the account off as a loss and closed it to future charges. (FORM Response at 1)

1.b – Approximately \$10,146 - Applicant wrote that her parents have been paying \$125 a month toward this balance since May 2021, but no documentation reflecting these payments was provided, nor did she provide documentation of the current status of the debt.

1.c – Approximately \$5,715 - Applicant asserts that this account is no longer delinquent and that she is in an "extended payment plan" through December 2022. (FORM Response at 2) Her documentary evidence, however, only consists of a December 30, 2021, offer to settle the debt through a collection agency.

1.d – Approximately \$4,645 - Applicant initially disputed this account, alleging it belonged to her parents. She provided documentation showing a motion for non-suit without prejudice in an action against the lender was granted in September 2021. (SOR Response) No additional insight into the case was offered and there is no indication whether the matter has been appealed or reinstated.

1.e – Approximately \$436 - In her response to the FORM, Applicant wrote that this debt was paid and that proof of satisfaction was attached to the FORM Response. While evidence was not included there, she did provide documentation reflecting the balance was settled in September 2021. (SOR Response)

### **Policies**

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 used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. 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 commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that any doubt concerning personnel being considered for access to classified information 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.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and 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, and transcends duty hours. The Government reposes a high degree of trust and confidence in those granted such access. Decisions necessarily include consideration of the possible risk an applicant may deliberately or inadvertently fail to safeguard such information. Decisions shall be in terms of the national interest and do not question the loyalty of an applicant.

## Analysis

Under Guideline F, AG ¶ 18 states that the security concern under this guideline is that 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 or sensitive information.

Here, the Government offered documentary evidence reflecting that Applicant had acquired multiple delinquent debts, amounting to about \$31,375. This is sufficient to invoke financial considerations disqualifying conditions:

AG ¶ 19(a): inability to satisfy debts, and  
AG ¶ 19(c): a history of not meeting financial obligations.

Under these facts, four conditions could mitigate related security concerns: AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(c): the individual has received or is receiving financial counseling for the problems 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 under control; and

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

Applicant provided no information showing that her acquisition of this delinquent debt was the result of conditions beyond her control, or that she acted responsibly under such extraordinary conditions. This obviates application of AG ¶ 20(b). There is no indication that she has received or is receiving financial counseling, or that she has formally disputed any of the debts at issue. Therefore, AG ¶ 20(c) does not apply. While she provided documentary evidence showing the smallest debt for \$436 was addressed, there is scant documentation reflecting that the remaining delinquent debt of over \$30,000 is being addressed, is now under control, or is subject to a plan to resolve all her delinquent accounts. Consequently, AG ¶ 20(d) does not apply.

## **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of his conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d). Here, I have considered those factors. I am also mindful that, under AG ¶ 2(a), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based on careful consideration of the guidelines and the whole-person concept.

Applicant is a 41-year-old part-time instructor who has worked in the same position since 2014. She has spent many years furthering her education. She has earned both B.A. and M.A. degrees. She is currently pursuing a doctoral degree. As a result, she has about \$266,000 in deferred student loans. Applicant resides with her parents. She is single and has no children. Currently, Applicant is sponsoring an alien from Syria to whom she is engaged. At issue are five delinquent debts amounting to approximately \$31,375, only one of which was noted on her SCA.

Based on her credit reports, the Government showed that Applicant had the five delinquent debts. She only admitted responsibility for one of those delinquent accounts. While she provided documentation clearly showing the smallest debt at issue (\$436) has been satisfied, she offered scant documentation to show she is actively working and making progress on the remaining debts, or has adopted a reasonable and comprehensive strategy for addressing her delinquent accounts. Due to this lack of documentation, the financial considerations security concern remains unmitigated.

## **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.d	Against Applicant
Subparagraph 1.e	For 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 a security clearance. Eligibility for access to classified information is denied.

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Arthur E. Marshall, Jr.  
Administrative Judge