



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



In the matter of: )  
)  
) ISCR Case No. 20-00003  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Andrew Henderson, Department Counsel  
For Applicant: Pro se

June 27, 2022

**Decision**

LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of the Case**

On December 24, 2021, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant 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 Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective for cases after June 8, 2017.

Applicant answered the SOR on January 14, 2022, and requested a hearing before an administrative judge. The case was assigned to me on April 12, 2022. The Defense Office of Hearings and Appeals issued a notice of hearing on April 20, 2022, and the hearing was convened as scheduled on May 17, 2022. The Government offered five exhibits, referred to as Government Exhibits 1 through 5, which were admitted without objection. The Applicant offered twelve exhibits, referred to as Applicant's Exhibits A1 through A12, which were admitted without objection. Applicant

testified on his own behalf. The record remained open following the hearing, until close of business on May 18, 2022, to allow the Applicant to submit additional supporting documentation. Applicant submitted the same twelve exhibits he submitted earlier, but now placed them in order to coordinate with the allegations in the SOR. Department Counsel had no objection, and the documents were admitted into evidence as Applicant's Exhibits A1 through A12. DOHA received the transcript of the hearing (Tr.) on May 27, 2022.

### **Findings of Fact**

Applicant is 36 years old. He is not married and has no children. He has a Master's degree. He holds the position of Engineer Technician for a defense contractor. He seeks to obtain a security clearance in connection with his employment in the defense industry.

The SOR alleges that Applicant has five delinquent student loan debts totaling approximately \$29,000. In his Answer, Applicant denies each of the allegations and provides explanations. Credit reports of the Applicant dated April 19, 2019; February 14, 2022; and May 13, 2022, reflect that each of these debts were at one time owing. (Government Exhibits 3, 4 and 5.)

Applicant applied for and received student loans to attend a university to obtain his Bachelor's degree and Master's degree. He obtained his Bachelor's degree in 2007, and his Master's degree in 2013. He tried to work full time while going to school, took some courses on line, had various jobs, some of which were contracting jobs that did not provide stable employment. There were periods of unemployment, and there were times he only earned minimum wage. He could not afford to pay all of his bills, which included his student loan payments. (Tr. p. 22.) By later 2013, Applicant's student loans were in default. Applicant set up an income driven payment plan but was unable to make the payments toward the debt until 2016/2017, when he was earning more money.

In March 2019, Applicant began working for his current employer. Applicant completed a security clearance application dated April 4, 2019. (Government Exhibit 1.) This was his first time applying for a security clearance. As part of his security clearance background investigation, Applicant was interviewed by an authorized investigator for the DoD on April 26, 2019. (Government Exhibit 2.) During the interview, Applicant's delinquent student loans were brought to his attention. At that point, Applicant realized the importance of addressing these debts. Applicant hired an Asset Recovery agency to assist him in resolving his delinquent student loan debt.

In April 2022, Applicant consolidated all of his student loan accounts he took out for his Bachelor's degree and Master's degree, and set up a payment plan that he intended to follow. Applicant was scheduled to pay \$600 monthly to begin in January/February 2022. When he contacted the creditor about the payment, Applicant learned that the Attorney General had filed a lawsuit against the student loan entity, and

that Applicant was a party to the class action. As a result of the settlement agreement, Applicant's liability set forth in allegations 1.a through 1.e, was forgiven, effective June 30, 2021. (Tr. pp. 31-32.) Applicant no longer owed the creditor the \$29,000 for the debts set forth below. Applicant also learned that monies totaling \$5,200, that he had paid from June 2021 to January 2022 toward resolving the debts would be refunded to him. (Tr. p. 55.)

Each of the delinquent debts set forth in the SOR are no longer owing and are no longer of security concern:

Allegation 1.a., is a delinquent debt for a student loan account that was charged off in the approximate amount of \$7,714. The debt was forgiven, effective June 30, 2021. (Applicant's Exhibits A1 through A12.)

Allegation 1.b., is a delinquent debt for a student loan account that was charged off in the approximate amount of \$7,547. The debt was forgiven, effective June 30, 2021. (Applicant's Exhibits A1 through A12.)

Allegation 1.c., is a delinquent debt for a student loan account that was charged off in the approximate amount of \$6,212. The debt was forgiven, effective June 30, 2021. (Applicant's Exhibits A1 through A12.)

Allegation 1.d., is a delinquent debt for a student loan account that was charged off in the approximate amount of \$5,451. The debt was forgiven, effective June 30, 2021. (Applicant's Exhibits A1 through A12.)

Allegation 1.e., is a delinquent debt for a student loan account that was charged off in the approximate amount of \$2,268. The debt was forgiven, effective June 30, 2021. (Applicant's Exhibits A 1 through A12.)

Applicant testified that he still owes approximately \$189,000 in student loans to several student loan entities. These loans remain owing, but are in good-standing because he is making regular monthly payments toward resolving the debts. (Tr. p. 47.) He plans to follow the payment plan consistent with the requirements of the creditor until he resolves the debt.

Applicant stated that he currently brings home approximately \$4,200 monthly. After paying his regular monthly expenses, including his student loan payments of \$600 monthly, he has about \$1,000 left in discretionary funds. (Tr. p. 52.) He lives responsibly and does not spend money he does not have. He currently has no delinquent debts. His priority is to resolve his student loan debt.

Applicant also states that he was granted a Q clearance from the Department of Energy in June 2021. He now hopes to be eligible to receive a Top Secret clearance from the DoD. (Tr. p. 62.)

## Policies

When evaluating an applicant's suitability for a security clearance, 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 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 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. 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 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 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, as follows:

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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

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

(a) inability or unwillingness to satisfy debts; and

(c) a history of not meeting financial obligations.

Applicant incurred student loan debt while attending college that he could not afford to pay. The evidence is sufficient to raise the above disqualifying conditions.

Four Financial Considerations 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, or 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 no longer owes the delinquent debt alleged in the SOR. His student loans debt in the amount of \$29,000 as alleged has been dismissed. Applicant's remaining student loan debt is being paid through regular monthly payments in satisfaction with the creditor. Ideally, Applicant should have been able to make payments toward this debt earlier and well before his security clearance became an issue. However, under the circumstances, confronted with low paying jobs and periods of unemployment, Applicant has acted in a reasonable and responsible manner. He has shown good judgment, trustworthiness, and reliability. There are clear indications that his financial indebtedness has been resolved and is under control. Applicant has demonstrated a good-faith effort to resolve his debts, and has demonstrated that future financial problems are unlikely. AG ¶ 20 provides full mitigation. The Financial Considerations concern has been 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. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment. Applicant has shown maturity and responsibility. He understands the responsibilities involved in possessing a security clearance. He has shown the requisite good judgment, reliability, and trustworthiness required of this privilege.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has 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 section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a through 1.e	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.

Darlene Lokey Anderson  
Administrative Judge