



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



In the matter of: )  
)  
) ISCR Case No. 19-03087  
)  
Applicant for Security Clearance )

**Appearances**

For Government: David Hayes, Esq., Department Counsel  
For Applicant: Jacalyn Crecelius, Esq.

08/08/2022

**Decision**

GARCIA, Candace Le'i, Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

**Statement of the Case**

On December 12, 2019, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). The action was taken under Executive Order (Exec. Or.) 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) implemented by DOD on June 8, 2017.

Applicant requested a hearing before an administrative judge in her April 6, 2020, response to the SOR (Answer). The case was assigned to me on May 7, 2021. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on January 14, 2022, scheduling a video teleconference (VTC) hearing for February 2, 2022. I convened the VTC hearing as scheduled. (Answer; Tr. at 4)

At the hearing, Government Exhibits (GE) 1 through 5 and Applicant's Exhibits (AE) A through E were admitted without objection. Applicant testified. At Applicant's request, I kept the record open until March 2, 2022, to allow her to submit additional documentation. Applicant did not submit any documentation by that date and the record closed. DOHA received the hearing transcript (Tr.) on February 11, 2022. (Tr. at 9-16, 85-86, 90-91; GE 1-5; AE A-E)

### **Findings of Fact**

Applicant admitted all of the SOR allegations in her Answer. She is 37 years old, single, and she does not have any children. She graduated from high school in 2003 and attended college from 2003 to 2010 but did not earn a degree. (Answer; Tr. at 17-18, 35-38, 74; GE 1, 2)

Applicant was unemployed from January 2006 to August 2008, and from September to December 2011. From approximately December 2011 to February 2015, she worked as a temporary employee, through a staffing agency, for the same company that she worked for as of the date of the hearing. As of the date of the hearing, she worked as a compliance coordinator and an assistant facility security officer for her employer, a DOD contractor, since approximately March 2015. She was first granted a security clearance in approximately May 2018. (Answer; Tr. at 5, 18-23, 36-38, 73-74; GE 1, 2; AE D)

The SOR alleged that Applicant had two delinquent consumer accounts totaling approximately \$4,749 (SOR ¶¶ 1.a - 1.b), a \$335 delinquent medical account (SOR ¶ 1.c), and nine delinquent student loans totaling \$56,269 (SOR ¶¶ 1.d - 1.l). The SOR allegations are established by Applicant's admissions in her Answer, her 2019 security clearance application (SCA), a 2019 background interview, and by credit bureau reports from 2017, 2019, and 2020. SOR debt ¶ 1.c is reported as delinquent on the 2017 credit bureau report. All of the SOR debts are reported as delinquent on the 2019 credit bureau report. SOR debts ¶¶ 1.a and 1.d through 1.l are reported as delinquent on the 2020 credit bureau report. (Answer; GE 1-5)

Applicant attributes her delinquent debts to periods of unemployment from January 2006 to August 2008, and from September to December 2011; an unpaid leave of absence from May to September 2011, to care for her grandmother who became ill; minimal income from 2010 until 2015; and financial hardship in 2015 due to a relocation, and residing and continuing to care for her ill grandmother, whose funeral expenses she contributed to financially. She also testified that she discovered that, in 2019, her ex-boyfriend stole her identity and opened around six accounts in her name, unbeknownst to her. She disputed these debts as she learned about them. She acknowledged, during her background interview, that she also incurred delinquent debts due to immaturity and not living within her means. (Answer; Tr. at 29, 42, 51-58, 65-68, 76-77, 81-82; GE 1, 2)

SOR ¶¶ 1.a and 1.b are for two charged-off credit cards, in the amounts of \$1,144 and \$3,605, respectively. Applicant testified that both of these credit cards were among the accounts opened by her ex-boyfriend using her identity. She incorrectly believed she

disputed them, as she had with the other accounts he opened in her name. As of the date of the hearing, she contacted both creditors and was in the process of resolving both debts. (Answer; Tr. at 23-26, 51-58, 83; GE 1, 2)

SOR ¶ 1.c is for a \$335 medical account in collection. Applicant believed this debt was related to a surgery she had in 2009, which she understood was covered by medical insurance. She spent two years trying to get her insurance company to pay for this debt. She paid this debt in March 2018. (Answer; Tr. at 24-27, 61; GE 2, 5; AE A)

SOR ¶¶ 1.d through 1.l are for delinquent federal student loans totaling \$56,269. Applicant obtained both federal and private student loans to finance her college education and living expenses while she attended college from 2003 to 2010. All of her student loans were in forbearance from 2010 until approximately 2011, due to minimal income. In 2013, she was notified that her federal student loans were approximately \$6,000 delinquent. She was unaware that they had been in a repayment status because she did not receive the bills, which were sent to her grandmother's old residence. She unsuccessfully attempted to negotiate a payment plan with the servicer for her federal student loans between 2013 and 2018, and the servicer told her that she had to pay the outstanding delinquency in full. In 2018, when her federal student loans were switched to a different servicer, she entered into an automatic payment plan of \$5 monthly for approximately 12 to 18 months and made timely payments in accordance with her payment plan. (Answer; Tr. at 27-29, 32, 35-47, 49-50, 58-68, 70-75, 77-83; GE 1, 2; AE B)

Applicant's federal student loans were placed in forbearance through executive order in 2020, due to the Covid-19 pandemic. As of January 2022, they remained in forbearance. She intended to resume payments even while her federal student loans were in forbearance, and she planned to timely pay her federal student loans once they were no longer in forbearance. Unlike her federal student loans, she has been repaying her private student loans since 2011. She made payments according to a monthly payment plan that progressively increased from \$25 to \$356 monthly, as of the date of the hearing. She was current on her private student loans, and she estimated that the total balance of her private student loans was \$30,000. (Answer; Tr. at 27-29, 32, 35-47, 49-50, 58-68, 70-75, 77-83; GE 1, 2; AE B)

Applicant stated that she lived within her means, she timely paid her bills, and she intended to continue to timely pay her bills in the future. She rents her mother's second home, and her mother was in the process of putting Applicant's name on the deed. She paid her mother \$1,200 monthly for the mortgage payment and she also paid for all of the household expenses. She has a monthly net remainder of approximately \$2,500 after expenses, and she has approximately \$20,000 in savings and \$200,000 in retirement savings. She described her financial situation as "great." She monitors her credit to prevent future identity theft and she did not have any other delinquent debts. She also stated that she received credit counseling in 2012 and again in 2019. In addition, her mother, who has a financial background, has provided her with credit counseling, helped her develop a budget, and has assisted her with getting her finances in order since 2018. Letters of recommendation from Applicant's co-worker, a friend, and a family member, all

attested to Applicant's trustworthiness, integrity, and work ethic. (Tr. at 20-21, 25, 29-34, 37-38, 42, 47-49, 54-55, 58-61, 66-69, 75-78, 82-85; GE 1; AE C, E)

## **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 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(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."

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 Exec. Or. 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* Exec. Or. 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 was unable to pay her debts. The evidence is sufficient to raise AG ¶¶ 19(a) and 19(c).

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;
- (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's circumstances, as previously discussed, are conditions beyond her control that contributed to her financial problems. The first prong of AG ¶ 20(b) partially applies. For the full application of AG ¶ 20(b), she must have acted responsibly under her circumstances. She paid SOR ¶ 1.c before she received the SOR, and I find SOR ¶ 1.c in her favor. As of the date of the hearing, her federal student loans had been in forbearance since 2019. From 2013 to 2018, she attempted to reach a payment plan with her previous federal student loan servicer. When her federal student loans were switched to a different servicer in 2018, she entered into an automatic payment plan of \$5 monthly for approximately 12 to 18 months. She intended to pay her federal student loans once they were out of forbearance.

A security clearance adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). The adjudicative guidelines do not require that an individual make payments on all delinquent debts simultaneously, pay the debts alleged in the SOR first, or establish resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). Applicant has the financial capacity to pay her federal student loans and continue resolving SOR ¶¶ 1.a and 1.b, with a monthly net remainder of approximately \$2,500 and \$20,000 in savings. She received credit counseling in 2012 and 2019. Her mother, who has a financial background, has also been financially advising her since 2018. I find that AG ¶¶ 20(a), 20(b), 20(c), and 20(d) are established.

### **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 without questions and doubts as

to Applicant's eligibility and suitability for a security clearance. 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 section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F: FOR APPLICANT

Subparagraphs 1.a – 1.l: 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 continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

---

Candace Le'i Garcia  
Administrative Judge