



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



In the matter of:	)	
	)	
	)	ISCR Case No. 20-01672
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Nicole A. Smith, Esq., Department Counsel  
For Applicant: *Pro se*

10/12/2022

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**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 2, 2020, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). Applicant provided an undated response to the SOR (Answer), and requested a hearing before an administrative judge. After a delay because of the COVID-19 pandemic, the case was assigned to me on June 28, 2022.

The hearing was convened as scheduled on September 7, 2022. Government Exhibits (GE) 1 through 4 were admitted in evidence without objection. At Applicant's request, I left the record open until October 5, 2022, for her to provide documents to support her case. On September 29, 2022, she submitted Applicant's Exhibit (AE) A, consisting of six pages, which was admitted in evidence without objection. DOHA received the transcript (Tr.) on September 14, 2022.

## Findings of Fact

Applicant is a 33-year-old employee of a government contractor. She has worked for her current employer since about March 2021. She worked for another government contractor from 2016 until 2019 and another from 2019 until she started her current employment. She was awarded a high school diploma in 2007 and attended college for several years without earning an undergraduate degree. She was married from 2015 until her divorce in July 2019. She currently resides with a cohabitant. She has no children. (Tr. 18-20; GE 1)

The SOR alleges Applicant's six delinquent debts totaling approximately \$39,000. These delinquencies are a federal student loan (SOR ¶ 1.a), a credit-card account (SOR ¶ 1.b), and four medical debts (SOR ¶¶ 1.c through 1.f). Approximately \$32,000 of the delinquent debt in the SOR is for a student loan. Applicant admitted all of the SOR allegations with additional comment. Her admissions are adopted as findings of fact. The SOR allegations are established through Applicant's admissions and the Government's evidence. (Answer; GE 1-4)

Applicant claimed her financial issues resulted from underemployment and unemployment. She quit a job to provide assistance to an ill family member who required care. She went through a divorce in 2019. She and her boyfriend recently allowed her boyfriend's sibling to move in with them until he can "get back on his feet." She claimed that she only has enough income to pay one delinquent bill at a time. She acknowledged that she did not address her federal student loan appropriately when it first became due in about 2013 because she was immature. (Tr. 26, 29, 33, 35, 37; Answer; GE 1)

Applicant's take-home pay is about \$2,300 per month. She is paid hourly and earns \$22.15 per hour. From March 2019 until March 2021, she earned between \$14.25 and \$18 per hour. Her boyfriend, who resides with her, shares with household income and expenses. His take-home pay is about \$2,700 per month. Applicant has \$5,000 in a retirement account. She pays \$450 per month in rent. She purchased a new Honda crossover SUV in 2020 for \$25,000. She pays \$629 per month on that car note. Her latest monthly electric bill was \$430, and she pays \$160 per month for her cell phone and internet. Her boyfriend pays \$90 per month for child support and has a \$400 monthly car payment. He also pays \$80 to \$90 per month for insurance. She claimed that at the end of the month, after paying all of her expenses, she has about \$100 left over for savings. (Tr. 20-21, 26-29, 31, 43-45)

In about April 2021, Applicant inherited about \$12,000 from her late grandmother. In about June 2021, she inherited another \$7,000 for a total inheritance of about \$19,000. Applicant plans to use this inheritance to pay for a down payment on a house. However, there is no legal impediment to her using this inheritance for other purposes. As a result of additional deposits that Applicant and her boyfriend have made into the checking account containing the inheritance, this account holds a balance of about \$23,000. (Tr. 22-25, 29-30).

The delinquent federal student loan in the amount of \$32,351 listed in SOR ¶ 1.a has not been resolved. The payments on this debt became due in 2013, about a year after Applicant stopped attending college. She did not make any payment on this debt or attempt to contact the creditor until about 2015. In 2015, she worked with a company not affiliated with the Federal Government, and made payments of \$100 per month for a year. After that year, in about 2016, this company asked her to make a \$1,600 payment to continue with their program, which she could not afford. She therefore discontinued making payments and did not attempt to remedy her delinquency on this debt until about 2018. In 2018, she contacted the same company, but they still wanted a down payment that was more than she could afford. As of the hearing, she had yet to contact the Department of Education to try to resolve her delinquency. (Tr. 32-36, 40-41; Answer; GE 1-4; AE A)

In her post-hearing document submission, Applicant provided an undated document from the Department of Education reflecting that her student loans are not currently eligible for forgiveness or an income-driven repayment plan. I have taken administrative notice that all federal student loans were eligible for placement in a deferment status as of late March 2020 at the earliest. Therefore, available evidence shows that Applicant was delinquent on these debts prior to any placement in a deferment status. This debt appears on the 2021 and 2020 credit reports with a last activity date of May 2017. (Tr. 32-36, 40-41; Answer; GE 1-4; AE A)

The delinquent credit-card account in the amount of \$4,467 listed in SOR ¶ 1.b has not been resolved. Applicant claimed that she fell behind on this debt because of a lack of income due to underemployment and unemployment while she cared for a family member who was ill. She stopped making payments on this debt in about May 2014. She claimed that she contacted the creditor about another account she had with it and paid off that account, but has not made any effort to resolve this account. This debt appears on the 2020 and 2019 credit reports. (Tr. 36-38; Answer; GE 1, 3, 4)

The delinquent medical debts totaling about \$3,400 listed in SOR ¶¶ 1.c through 1.f are being resolved. Applicant incurred these debts in 2016 when she had surgery without medical insurance. She claimed that she has been making payments on these debts and provided documentation showing that she made monthly payments to a debt collector from August 2021 until September 2022. This document also showed that she made a \$25 payment in January 2020 and a \$100 payment in January 2021. She claimed that the balance on these debts is about \$900. These debts appear on the 2019 credit report. (Tr. 38-39, 42; Answer; GE 1, 4; AE A)

Applicant has a second delinquent federal student loan in the amount of about \$30,000 that is not listed in the SOR.<sup>1</sup> This account is also unresolved. She made the same attempts to resolve this account that she did with the aforementioned student loan account listed in SOR ¶ 1.a. Available evidence shows that she was delinquent on this

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<sup>1</sup> Any adverse information not alleged in the SOR, such as Applicant's second federal student loan account, cannot be used for disqualification purposes. It may be considered when assessing the application of mitigating conditions and for the whole-person analysis.

debt prior to any placement in a deferment status. This debt appears on the 2021 credit report with a last activity date of May 2017. (Tr. 36, 41; GE 1, 2; AE A)

In late 2021, Applicant contacted an individual in order to help clear up her credit report. She paid this person \$150 to have her dispute the entries on her credit report regardless of whether she had a reasonable basis for her dispute. She engaged this individual for about two months. She claimed that, as a result of this individual's help, her credit score rose, and some entries no longer appeared on her credit report. This individual did not assist Applicant with budgeting. (Tr. 38-40, 42-43)

### **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 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;
- (b) unwillingness to satisfy debts, regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant has delinquent debts, several of which have gone unresolved for years. Her unresolved federal student loan became delinquent in about 2013, and her unresolved credit-card account became delinquent in 2014. Since about June of 2021, she has had about \$19,000 in savings from an inheritance that she could have used to address her delinquent debts, but she has not done so.

Although President Biden extended a pause on the collection of student loans due to COVID-19, thus creating a deferment period on student-loan payments (<https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/pausing->

[federal-student-loan-payments/](#)), that action does not excuse previously delinquent student loans. See ISCR Case No. 20-01527 at 2 (App. Bd. June 7, 2021).

The evidence is sufficient to raise AG ¶¶ 19(a), 19(b), and 19(c), thereby shifting 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;

(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 financial problems resulted both from conditions within her control and beyond her control. Her unemployment, underemployment, and need to take care of a sick family member were beyond her control. Her failure to address her federal student loan when it became due because she was immature was within her control.

There is sufficient evidence that the debts alleged in SOR ¶¶ 1.c through 1.f are being resolved through payment. While Applicant began making consistent payments on these debts after the SOR was issued, she made fairly substantial monthly payments for a little over a year and reduced the balance on these debts by about 75 percent. I find in Applicant's favor with respect to these debts.

Applicant has only sporadically addressed her federal student loans. A security clearance represents an obligation to the Federal Government for the protection of national secrets. Accordingly, failure to honor other obligations to the Government has a direct bearing on an Applicant's reliability, trustworthiness, and ability to protect classified information. ISCR Case No. 14-03358 at 2 (App. Bd. Oct. 9, 2015). While these debts are in a deferment status because of the pandemic, Applicant had already defaulted on them prior to the deferment. When student loans are placed in a deferment

status after they are in default, Applicant's past inactions are not excused in the context of security clearance eligibility.

Applicant did not contact the Department of Education until 2022, well after the SOR was issued. Despite earlier efforts, she made no attempt to resolve these student loans from about 2018 until this time. See ISCR Case No. 20-01527 at 2 (App. Bd. June 7, 2021). An applicant who begins to resolve security concerns only after having been placed on notice that his or her clearance is in jeopardy may lack the judgment and willingness to follow rules and regulations when his or her personal interests are not threatened. See, e.g., ISCR Case No. 17-04110 at 3 (App. Bd. Sep. 26, 2019). The timing of her renewed effort to address these debts undermines her ability to show that she acted in good faith or responsibly under the circumstances. Even after contacting the Department of Education, she has not provided evidence that she has a viable plan to address these debts.

Applicant has largely ignored the credit-card account listed in SOR ¶ 1.b for about eight years. She has not presented evidence as to how she plans to resolve this debt. She has not acted in good faith or responsibly under the circumstances with respect to resolving this debt.

Applicant sought assistance with her credit from an individual she contacted after the SOR was issued. While this individual helped Applicant with her credit score by disputing credit entries, there is no evidence that this individual was a legitimate and credible source of financial counseling. In actuality, this individual's method of disputing credit entries regardless of having a good-faith basis for the dispute tends to show her form of counseling was neither legitimate nor credible.

Applicant's unresolved delinquent accounts detract from her ability to show that her financial problems are under control. They also provide evidence that her financial problems are ongoing. She arguably has sufficient funds to address her delinquent accounts, but plans on using these funds for other purposes. As she made either no or untimely resolution effort with the majority of her financial delinquencies, she has not acted responsibly under the circumstances or in good faith with respect to her delinquent debts. I find that the security concerns arising out of Applicant's financial problems are unmitigated and continue to cast doubt on her reliability, trustworthiness, and good judgment.

### **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 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 concern.

### **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.b:	Against Applicant
Subparagraphs 1.c-1.f:	For 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