



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



In the matter of:)
)
 REDACTED) ISCR Case No. 19-03868
)
 Applicant for Security Clearance)

Appearances

For Government: Rhett E. Petcher, Esq., Department Counsel
For Applicant: *Pro se*

08/11/2022

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant defaulted on a car loan, her federal student loans, and a small credit-card debt. More progress is needed towards resolving the past-due debts for which she is legally liable. Clearance eligibility is denied.

Statement of the Case

On March 4, 2022, the then Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F, financial considerations. The SOR explained why the DCSA CAF was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for her. The DCSA CAF took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG) effective within the DOD on June 8, 2017.

On March 6, 2022, Applicant responded to the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On April 25, 2022, Department Counsel indicated that the Government was ready to proceed to a hearing. On May 5, 2022, the case was assigned to me to determine whether it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant. I received the case file and assignment on May 9, 2022. After some coordination with the parties, on June 10, 2022, I scheduled a video conference hearing for June 28, 2022.

At the hearing convened on June 28, 2022, four Government exhibits (GEs 1-4) were admitted into the record without objection. Applicant testified, as reflected in a hearing transcript (Tr.) received by DOHA on July 13, 2022.

Findings of Fact

The SOR alleges that, as of March 4, 2022, Applicant owed \$13,539 (SOR ¶ 1.a) and \$334 (SOR ¶ 1.l) in charged-off automobile-loan debts; \$31,370 in federal student-loan debts in collection (SOR ¶¶ 1.b-1.j and 1.q-1.t); \$460 (SOR ¶ 1.k) and \$130 (SOR ¶ 1.o) in medical collection debts; a \$297 charged-off credit-card debt (SOR ¶ 1.m); a \$159 car insurance debt in collection (SOR ¶ 1.l); and a \$112 cellular-phone debt in collection (SOR ¶ 1.p). When Applicant responded to the SOR allegations, she denied owing anything on the automobile loans on the bases that she was told that she owed nothing on the debt in SOR ¶ 1.a after her car was repossessed and sold at auction, and the loan in SOR ¶ 1.l was paid off by insurance proceeds following a car accident. Applicant also denied the medical collection debts (SOR ¶¶ 1.k and 1.o) and the insurance debt (SOR ¶ 1.n) as she did not recognize them. She indicated that her account with the cellular-phone company was current (SOR ¶ 1.p). She admitted her defaulted student loans and credit-card debts. She stated she would pay off the credit-card debt within the year. She provided no corroborating documents to show that any debts had been resolved.

Based on her admissions, I accept and incorporate as factual findings that Applicant defaulted on the automobile loan in SOR ¶ 1.a, the credit-card account in SOR ¶ 1.m, and the student loans in SOR ¶¶ 1.b-1.j and 1.q-1. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 30-year-old plan production control specialist who has worked for a defense contractor since January 2019. (GE 1; Tr. 20, 24.) She did not do well academically in high school until her senior year. Needing credits before her college of choice would accept her as a transfer student, she took classes at several different educational institutions between June 2010 and December 2012. In January 2013, she matriculated into the university at which she earned her bachelor's degree in accounting in June 2016. (GE 1; Tr. 20-21, 52.) Applicant has never married and has no children. She currently lives with her significant other of almost nine years. (GE 1; Tr. 20-21.)

Applicant worked as a part-time server at a restaurant in high school and college. From November 2014 to March 2017, she worked full time as an account manager while continuing to work weekends as a server. She left her full-time job when offered a job in finance. Although she was offered the position, she was ultimately not hired because of her poor credit. (Tr. 52-53.) Her only employment from March 2017 to July 2017 was as a part-time server at a conference center. From July 2017 to November 2017, Applicant worked full-time for an energy assessment company. She resigned from that job because she did not like the nature of the work. She held a part-time position in data entry for two months in late 2017 before becoming a payroll specialist for a medical staffing company in January 2018 at \$15 an hour. (GE 1; Tr. 26.) She left that job after one year due to issues with the work environment. (GE 2.)

In January 2019, Applicant was hired by her current employer to work in a position that requires a security clearance. (Tr. 23.) On January 16, 2019, she completed a Questionnaire for Investigations Processing (SF 86) for a DOD security clearance. In response to the financial record inquiries concerning delinquency involving routine accounts, Applicant disclosed the vehicle loans in SOR ¶¶ 1.a and 1.l, but indicated that the debt in SOR ¶ 1.l was resolved in August 2016. She explained that she was trying to sell the car financed with the loan in SOR ¶ 1.a to settle the \$14,000 debt. She listed no other past-due debts on her SF 86. (GE 1.) About two months into her employment, she was granted an interim confidential security clearance. For the next 18 months or so, she maintained the clearance with no issues until it was withdrawn in connection with this pending adjudication. She has continued to work for her employer since then, but in a position that does not require her to hold a clearance. (Tr. 23.)

Applicant’s January 31, 2019 credit report revealed significant additional debts beyond the two car loans listed on her SF 86. The delinquency and payment histories of her past-due debts are shown in the following table.

Debt in SOR	Delinquency history	Payment history
1.a. \$13,530 charged-off auto loan	Auto loan obtained for about \$24,000 in Aug. 2016 for a 2012 model-year car (GE 2; Tr. 28-29); payments of about \$450 per month; car involuntarily repossessed (Tr. 29, 31); \$18,883 balance placed for collection (GE 3); after car sold at auction (GE 2; Tr. 31) \$13,539 charged-off balance as of Oct. 2019. (GE 4.)	No payments since about June 2017 (GEs 2-4; Tr. 30); reached out to towing company twice at time of repossession; no response; no efforts to collect by creditor; no evidence of debt satisfaction (Tr. 32); no recent efforts to research or pay debt. (Tr. 30.)
1.b. \$5,295 student loan in collection	Federal student loan for \$3,750 obtained Sep. 2012, last activity Oct. 2016; \$5,288 balance as of Jan.	Asserts wages garnished at about \$115 per week in 2018 and tax refunds from 2017-2019 of \$1,300 to

	2019; \$5,295 balance as of Nov. 2019. (GEs 3-4.)	\$3,000 taken and applied; no evidence showing significant reduction in loan balances; no voluntary payments or efforts to arrange for payments as of June 2022. (Tr. 35-37, 53-55, 61.)
1.c. \$4,583 student loan in collection	Federal student loan for \$4,500 obtained Aug. 2011, last activity Oct. 2016; \$4,676 balance as of Jan. 2019; \$4,583 balance as of Nov. 2019. (GEs 3-4.)	See SOR ¶ 1.b.
1.d. \$3,866 student loan in collection	Federal student loan for \$3,750 obtained Jan. 2013, last activity Oct. 2016; \$3,944 balance as of Jan. 2019; \$3,866 balance as of Nov. 2019. (GEs 3-4.)	See SOR ¶ 1.b.
1.e. \$3,672 student loan in collection	Federal student loan for \$3,500 obtained Aug. 2010, last activity Oct. 2016; \$3,721 balance as of Jan. 2019; \$3,672 balance as of Nov. 2019. (GE 3.)	See SOR ¶ 1.b.
1.f. \$3,436 student loan in collection	Federal student loan for \$3,000 obtained Sep. 2013, last activity Oct. 2016; \$3,494 balance as of Jan. 2019; \$3,436 balance as of Nov. 2019. (GE 3.)	See SOR ¶ 1.b.
1.g. \$1,364 student loan in collection	Federal student loan for \$1,250 obtained Jul. 2015, last activity Oct. 2016; \$1,384 balance as of Jan. 2019; \$1,364 balance as of Nov. 2019. (GEs 3-4.)	See SOR ¶ 1.b.
1.h. \$1,228 student loan in collection	Federal student loan for \$1,140 obtained Oct. 2015, last activity Oct. 2016; \$1,246 balance as of Jan. 2019; \$1,228 balance as of Nov. 2019. (GE 3.)	See SOR ¶ 1.b.

1.i. \$666 student loan in collection	Federal student loan for \$625 obtained Feb, 2016, last activity Oct. 2016; \$675 balance as of Jan. 2019; \$666 balance as of Nov. 2019. (GEs 3-4.)	See SOR ¶ 1.b.
1.j. \$620 student loan in collection	Federal student loan for \$592 obtained Jun. 2011, last activity Oct. 2016; \$628 balance as of Jan. 2019; \$620 balance as of Nov. 2019. (GEs 3-4.)	See SOR ¶ 1.b.
1.k. \$460 medical debt in collection	\$460 medical debt from January 2016, placed for collection May 2016; unpaid as of Nov. 2019. (GEs 3-4.)	Admits receives medical treatment; disputes balance on basis she was told work would cost \$175; not paid. (Tr. 39.)
1.l. \$334 charged-off auto loan	Auto loan for \$16,121 obtained Jul. 2012; \$334 charged off Sep. 2016. (GEs 3-4.)	Believes debt has been paid by insurance (GEs 1-2); knew it was on her credit report but disputes her liability so has not attempted to resolve it or dispute it with the credit-reporting agencies. (Tr. 40, 59.)
1.m. \$297 charged-off credit card	Credit-card account opened Jan. 2017, last activity Sep. 2017; \$297 charged-off balance Oct. 2019. (GEs 3-4.)	No payments as of June 2022; plans to pay this debt first as soon as she can afford to pay it. (Tr. 40-41, 59.)
1.n. \$159 insurance debt in collection	Insurance debt from Oct. 2017, \$159 for collection Dec. 2017; unpaid as of Sep. 2019. (GEs 3-4.)	Disputes debt; has always had insurance with the creditor; no efforts to determine whether she is liable, no collection efforts. (41-42.)
1.o. \$130 medical debt in collection	\$130 medical debt from Sep. 2016, for collection Jan. 2017; unpaid as of Oct. 2019. (GEs 3-4.)	Paid \$225 to resolve debt. Amount includes additional fees. (Tr. 42.)
1.p. \$112 cellular phone debt in collection	\$112 cellular phone debt from October 2018; in collection as of Jan. 2019. (GE 3.)	Disputes debt; has always had cell phone account with the company; no attempt to investigate debt. (Tr. 43.)

1.q. \$3,121 student loan in collection	Federal student loan for \$2,000 obtained Aug. 2010; \$3,121 balance as of Jan. 2019. (GE 3.)	See SOR ¶ 1.b. No longer on credit report as of Nov. 2019 (GE 4), but no proof of satisfaction.
1.r. \$2,971 student loan in collection	Federal student loan for \$2,000 obtained Aug. 2011; \$2,971 balance as of Jan. 2019. (GE 3.)	See SOR ¶ 1.b. No longer on credit report as of Nov. 2019 (GE 4), but no proof of satisfaction.
1.s. \$433 student loan in collection	Federal student loan for \$408 obtained Aug. 2010; \$433 balance as of Jan. 2019. (GE 3.)	See SOR ¶ 1.b. No longer on credit report as of Nov. 2019 (GE 4), but no proof of satisfaction.
1.t. \$115 student loan in collection	Federal student loan for \$110 obtained Oct. 2015; \$115 balance as of Jan. 2019. (GE 3.)	See SOR ¶ 1.b. No longer on credit report as of Nov. 2019 (GE 4), but no proof of satisfaction.

On August 19, 2019, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant volunteered that she had federal student loans that were initially in her parents' names for which her wages were garnished in her previous job. She stated she did not list them on her SF 86 due to oversight. She was not aware of the loans' current balances and was not sure if her wages were currently being garnished for the debts. Applicant attributed her defaults of the car loans listed on her SF 86 (SOR ¶¶ 1.a and 1.l) to having insufficient income to make her monthly car payments. She stated that the account in SOR ¶ 1.l was resolved as she "totaled" the vehicle and insurance paid the full loan balance so she should owe nothing on that loan. As for the other vehicle, Applicant admitted that she had become \$3,000 to \$4,000 past due in October 2017 before the car was auctioned off. She had taken a job at lower pay and could not afford to maintain her car payment. She expressed a plan to contact the creditor and establish a repayment plan. (GE 2.)

During her interview, Applicant was confronted with the adverse information on her credit record. As for her student loans, she could provide no details but did not dispute the information showing they were in collections as of January 2019. Applicant admitted owing the \$130 medical debt (SOR ¶ 1.o), which she recalled as becoming delinquent in 2013 or 2014. She did not recognize the \$460 (SOR ¶ 1.k), \$159 (SOR ¶ 1.n), or \$112 (SOR ¶ 1.p) collection debts. She acknowledged owing the \$297 credit-card delinquency and explained that she forgot about the debt. She expressed a willingness and ability to pay her debts as her financial situation was good. (GE 2.)

Applicant testified that her mother and stepfather applied (filled out the paperwork) for the federal student loans for her education, and that she believed all the loans were in her parents' names. She also stated that about ten years ago, her parents transferred the federal student loans into her name and did not inform her at that time. (Tr. 17-19.) She subsequently testified that she knew that her parents were co-signers, and that she would

someday be responsible for repayment. (Tr. 60.) When asked on cross-examination as to when she learned that the loans were seriously delinquent, she responded, "So long ago, a long, long time ago." (Tr. 34.) She admitted that when she learned that she was responsible for repaying them, she "did not do anything about it." She explained that, a few years ago, her wages were garnished and some tax refunds were applied to her student loans. After her OPM interview, she looked up her student loans and they were all reported as closed accounts. She did not pursue any additional steps to inquire about the status of her student loans or their balances because she did not know what action to take or whom to contact about her loans. (Tr. 17-19, 34-35.) As to why she did not investigate her student loans further, especially after being placed on notice of the security concerns raised by the delinquencies, Applicant responded, "I don't know. I'm just — anxiety. I don't know. I can't pay them." (Tr. 35.) Her wages are not currently being garnished for her student loans. (Tr. 37.)

As for the car loan delinquency in SOR ¶ 1.a, Applicant testified that she fully financed a 2012 model-year car for \$24,000. After she missed one payment, she "fell behind from there," and the car was repossessed and then sold at auction. She explained that she was told to come and pick up her belongings from the vehicle; that she called twice and received no response. She said she never heard anything about the sale. When then asked how she knew that she owed nothing on the loan, she responded,

I guess I'm not sure. I don't recall ever hearing back from them, so maybe I just assumed that everything was taken care of. Like I said, if they're going to take the car back, why didn't I hear from them. . . and I reached out twice. I reached out two times. I called the towing company, and they didn't have it. I had to call a different towing company because they didn't even tell me who took it, and I just never heard back from anybody. (Tr. 31-33.)

Applicant believes her student-loan delinquencies are hindering her career. She has not been eligible for promotions at work, which would have increased her income, because of a lack of security clearance. (Tr. 19.) Her income of "a little over \$60,000 a year" is barely enough to cover her living expenses. (Tr. 19, 24.) She received bonuses from her employer in April each year of her employment. For 2022, her bonus was \$1,200. (Tr. 25.) It went toward paying for car repair expenses of \$2,300 incurred from an accident during the winter. (Tr. 51.)

Applicant's significant other is an electrician. His annual income is comparable to her income, so about \$60,000-\$65,000. They try to split household expenses evenly each month, although they cover for each other when necessary. During the COVID pandemic in 2020, he was without any income for about four months. He has otherwise been consistently employed. (Tr. 22-23.)

In June 2022, Applicant and her significant other moved in with a friend because of a rent increase at their previous address. (Tr. 19, 37, 43.) They had been paying \$2,200 per month in rent, which included utilities. They had yet to pay rent for their new living quarters. Applicant expects the rent to be between \$900 and \$1,200 a month, which will be

split between her and her significant other. (Tr. 38, 44.) She expects her utility and cable expenses to decrease since those expenses will be split among her, her significant other, and the friend who owns the house. (Tr. 46.) She has nothing in savings and maintains about \$1,000 in her checking account. (Tr. 50-51.) She does not have any open credit-card accounts. Her only outstanding credit-card debt is the \$297 on the closed credit-card account (SOR ¶ 1.m). (GE 4; Tr. 51-52.) She has not had any financial counseling. (Tr. 52.) She expects to be able to pay \$100 from each paycheck toward her student loans. (Tr. 38.)

Applicant obtained a car loan of \$16,974 in May 2019 for a 2013-model year vehicle. Her car payment is \$445 per month. As of October 2019, the loan balance was \$16,979, and she was making her car payments on time. (GE 4.) The interest rate on her loan is high, around 25%, due to her poor credit. (Tr. 46-47, 49.) Applicant has tried several times to refinance her car loan without success. (Tr. 49-50.) She owes about \$12,000 on her car loan. (Tr. 49.) Her car insurance expense recently decreased from approximately \$300 to \$180 per month. (Tr. 47.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall 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.” 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 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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of EO 10865 provides that 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 concerns about financial considerations are articulated 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 Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant’s financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant’s self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant’s security eligibility.

Guideline F security concerns are established when an individual does not pay financial obligations according to terms. Applicant does not dispute that she owes the \$297 charged-off credit-card debt or the federal student-loan delinquencies totaling approximately \$31,370 as of January 2019. Applicant testified credibly that her wages had been garnished at her previous employment in 2018, but she did not provide any

documentation showing the amount garnished. In any event, the student loan balances in the SOR are from 2019, and so post-date any garnishments and any interception of income tax refunds in 2017 and 2018. Four student loan debts totaling \$6,640 (SOR ¶¶ 1.q-1.t) were no longer on her credit report by November 2019, but the record did not indicate whether those debts have been resolved or whether they have fallen off her credit report for other reasons, such as transfer to a servicer not reporting the debt. Applicant no longer disputes the validity of medical debt in SOR ¶ 1.o or that she received the medical services that led to the \$460 charge in SOR ¶ 1.k, although she contends that she was overcharged in that instance as she was told the procedure would cost her \$175.

While Applicant admits she defaulted on the automobile loan in SOR ¶ 1.a because she could not afford to maintain the monthly payments on her income at the time, she denied the debt when she answered the SOR on the basis that, after the car was repossessed and sold at auction, she was told there was no outstanding debt owed. As of November 2019, the account was on her credit report with a \$13,539 past-due balance. Similarly, the disputed delinquencies for \$334 (SOR ¶ 1.l) and \$159 (SOR ¶ 1.n) were on her credit report as of November 2019. The disputed cellular-phone debt for \$112 (SOR ¶ 1.p) was on her credit report as of January 2019, although it was not on her November 2019 credit report for reasons not indicated in the record.

Under ¶ E3.1.14, the Government bears the burden of establishing controverted issues of fact. The Appeal Board has held that adverse information from a credit report can normally meet the substantial evidence standard. See ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015) (citing, e.g., ISCR Case No. 03-20327 at 3 (App. Bd. Oct. 26, 2006)). The inclusion of all of the SOR debts on one or both of the credit reports in evidence is sufficient to establish the delinquencies. Applicant's evidence falls short of disproving her legal liability for the indebtedness. At her hearing, she admitted that other than the medical debts, she made no effort to contact her creditors about the debts at issue in the SOR. About the car loan deficiency balance in SOR ¶ 1.a, she is now not sure whether she was told or she just assumed based on the repossession that she owed no outstanding balance. That debt has been charged off, and there is no evidence of any collection efforts, so it may no longer be a source of undue financial pressure for Applicant. However, the federal government is still entitled to consider the facts and circumstances surrounding an applicant's conduct in incurring the debt and failing to satisfy it in a timely manner. See, e.g., ISCR Case No. 14-03991 at 2 (App. Bd. Jul. 1, 2015). Her record of delinquency establishes disqualifying conditions AG ¶¶ 19(a), "inability to satisfy debts," and 19(c), "a history of not meeting financial delinquencies."

Applicant bears the burden of mitigating the negative implications for her financial judgment raised by her proven delinquent debts. Application of the aforesaid disqualifying conditions triggers consideration of the potentially mitigating conditions under AG ¶ 20. The following are relevant to the issues in this case:

- (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;

(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.

AG ¶ 20(a) cannot reasonably apply, even though the SOR debts were not incurred recently. Applicant recently paid off the medical debt in SOR ¶ 1.o, but the other SOR debts have not been addressed. An applicant's ongoing, unpaid debts evidence a continuing course of conduct and are considered recent. *See, e.g.,* ISCR 17-03146 at 2 (App. Bd. Jul. 31, 2018), citing, *e.g.,* ISCR Case No. 15-08779 at 3 (App. Bd. Nov. 3, 2017).

Regarding AG ¶ 20(b), Applicant's mother may not have been initially forthcoming with Applicant about her responsibility for repaying the student loans. Nonetheless, Applicant admits that she learned a long time ago that she would have to begin repaying them. AG ¶ 20(b) has some applicability in that she could not afford to make student-loan payments over the 2017 and 2018 timeframe. As a payroll specialist for a staffing company in 2018, her hourly wage was only \$15. Applicant acknowledges in hindsight that she probably should not have taken on the car loan in SOR ¶ 1.a in August 2016. *See* Tr. 27. The evidence shows that she made payments for less than one year on the loan. Even so, the car was a used vehicle, the loan was for a reasonable amount, and she was working at the time. That debt was not caused by circumstances beyond her control, but low income was a factor in the delinquency.

AG ¶ 20(b) requires for mitigation that an individual act responsibly under his or her circumstances. A component of financial responsibility is whether Applicant maintained contact with her creditors and attempted to negotiate partial payments to keep debts current or payment plans for resolution of debt balances. With the exception of the medical collection debts, Applicant has done little over the last three years to investigate and attempt to address the debts at issue to the DOD. She was on notice as of her August 2019 interview with the OPM investigator of the delinquencies on her credit report. She indicated at that time that the car loan debt in SOR ¶ 1.a was not resolved and that she

needed to work out a repayment plan. She indicated that she would repay the credit-card debt in SOR ¶ 1.m. She had not contacted either of these creditors, or most of her other creditors for that matter, as of June 2022. She testified that she checked into her student loans online and saw that they were closed. She did not go further as she did not know what to do. AG ¶ 20(b) does not mitigate her failure to educate herself about her status of her student loans and other debts, which continue to adversely affect her credit, as evidenced by the high interest rate on her current car loan.

AG ¶¶ 20(c) and 20(d) are only applicable to the medical debt in SOR ¶ 1.o, which Applicant testified has been paid. The other debts in the SOR have not been resolved, and Applicant presently has no payment plans established for those debts. An applicant is not required to show that he or she has paid off each debt in the SOR, or that the debts in the SOR be paid first. See, e.g., ISCR Case No. 02-25499 at 2 (App. Bd. Jun. 5, 2006).

That being said, the Appeal Board has also held that an applicant must demonstrate “a plan for debt payment, accompanied by concomitant conduct, that is, conduct that evidences a serious intent to resolve the debts.” See ADP Case No. 17-00263 at 4 (App. Bd. Dec. 19, 2018) (citing, e.g., ISCR Case No. 16-03889 at 5 (App. Bd. Aug. 9, 2018)). Applicant plans to give first priority to paying the \$297 credit-card debt. A promise to pay a debt at some future date is not a substitute for a track record of timely debt payments or otherwise financially responsible behavior. See ISCR Case No. 07-13041 at 4 (App. Bd. Sep. 2008). Applicant has not made enough progress toward resolving her old delinquencies to apply AG ¶ 20(c) or AG ¶ 20(d). Moreover, she has not had financial counseling, although since her college degree is in accounting, one would expect her to have a better understanding of sound financial practices than she has displayed.

Regarding AG ¶ 20(e), Applicant failed to substantiate her disputes of the medical debt in SOR ¶ 1.k, the car-loan debt in SOR ¶ 1.l, the insurance debt in SOR ¶ 1.n, or the cellular-phone debt in SOR ¶ 1.p. She has the burden of showing that she was overcharged for a medical procedure; that the car debt was satisfied by an insurer; and that her accounts with the insurance and cellphone companies have zero balances. She provided no substantiating documentation, which is required under AG ¶ 20(e). The financial considerations security concerns are not mitigated by conduct which Department Counsel aptly described as a “head-in-the-sand response” to her delinquent obligations.

Whole-Person Concept

In assessing the whole person, the administrative judge must consider the totality of Applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). Those factors are:

- (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.

The analysis under Guideline F is incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

The Appeal Board has held that the security clearance adjudication is not a proceeding aimed at collecting an applicant's personal debts. Rather, it is a proceeding aimed at evaluating an applicant's judgment, reliability, and trustworthiness with regard to his fitness or suitability to handle classified information appropriately. See ISCR Case No. 09-02160 (App. Bd. June 21, 2010). It is not intended as punishment for past shortcomings. There is some evidence of financial responsibility in that Applicant is making timely payments on her current car loan, and she does not have any open credit-card accounts. Her financial affairs are likely to improve in the future as her monthly expenses will be lower with her recent move.

Appendix C of Security Executive Agent Directive (SEAD) 4 grants DOHA administrative judge's the discretionary authority to grant initial or continued eligibility for a security clearance *despite the presence of an issue(s) that can be partially but not completely mitigated* with the provision of additional security measures. See, also, Memorandum, Director for Defense Intelligence (Intelligence and Security), dated January 12, 2018, ("Appendix C identifies authorized exceptions that are to be utilized when making adjudicative decisions to grant initial or continued eligibility for access to classified information or to hold a sensitive position. . . Effective immediately, authority to grant clearance eligibility with one of the exceptions enumerated within Appendix C is granted to any adjudicative, hearing, or appeal official or entity now authorized to grant clearance eligibility when they have jurisdiction to render the eligibility determination.")

After carefully considering and weighing the financial considerations security concerns, I decline to exercise the discretionary authority under Appendix C at this time. Individuals granted eligibility for access to classified information must be held to a standard of good judgment, reliability, and trustworthiness which, at times, may require her or him to make choices that are personally difficult or disadvantageous. Despite sharing her living expenses with her cohabitant significant other and consistent annual income of approximately \$60,000 for the past three years, Applicant was living from paycheck to paycheck as of June 2022 without a reasonable plan to address her delinquent debts.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is strong presumption against the grant or renewal of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). Based on the evidence of record, it is not clearly consistent with the interests of national security to grant or continue security clearance eligibility for Applicant at this time. This decision should not be construed as a determination that Applicant cannot in the future attain the reform necessary to establish her security worthiness, especially if she is able to provide a track

record of financial stability and of timely payments on her debts, including her federal student loans. Persuasive evidence of Applicant's security worthiness is lacking at this time.

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.n:	Against Applicant
Subparagraph 1.o:	For Applicant
Subparagraphs 1.p-1.t:	Against Applicant

Conclusion

In light of all of the circumstances, it is not clearly consistent with the interests of national security to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge