



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



In the matter of: )  
)  
) ISCR Case No. 22-00574  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: *Pro se*

09/20/2022

**Decision**

RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline F, financial considerations. Eligibility for access to classified information is denied.

**Statement of the Case**

On April 1, 2022, the Department of Defense (DOD) issued to Applicant a Statement of Reasons (SOR) 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 (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 June 8, 2017.

Applicant answered the SOR on April 28, 2022, and elected to have her case decided on the written record in lieu of a hearing. Department Counsel submitted the Government’s file of relevant material (FORM), and Applicant received it on June 14, 2022. She was afforded an opportunity to file objections and submit material in refutation,

extenuation, or mitigation within 30 days of receipt of the FORM. The Government's evidence is identified as Items 4 through 9. (Item 1 is the SOR and Items 2-3 are administrative documents). Applicant submitted a response to the FORM and provided documents. She did not object to any of the Government's evidence. Items 4 through 9 are admitted into evidence. Applicant's documents are marked as Applicant Exhibits A through E and are admitted without objection. The case was assigned to me on September 12, 2022.

### **Findings of Fact**

Applicant admitted the SOR allegations in ¶¶ 1.a through 1.j and denied the allegation in 1.k. In her FORM response, she amended her answer and admitted the allegation in SOR ¶ 1.k. Applicant's admissions are incorporated into the findings of facts. After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 34 years old. She has cohabitated since 2010 and has a 10-year-old child. She served on active duty in the military from 2007 to 2011, and received an honorable discharge. She then served in the Army National Guard from 2012 to 2016, and was honorably discharged. Applicant attended technical school from 2011 to 2012 and earned an associate's degree. She attended community college from 2013 to 2015 and earned two additional associate's degrees. She was unemployed while she was a student. She has been employed by a federal contractor since February 2017. (Item 4)

The SOR alleges 11 delinquent debts. Nine of the delinquent debts are student loans totaling approximately \$40,851 (SOR ¶¶ 1.b through 1.j) and the two remaining debts are for a repossessed vehicle (SOR ¶ 1.a - \$8,538) and a collection account for unpaid rent and carpet cleaning services. (SOR ¶ 1.k - \$1,436).

In November 2017, Applicant was interviewed by a Government investigator. She told the investigator that she owed about \$12,000 for her student loans as of June 2013. She had failed to defer the student loans in a timely manner so they went into collection. She said she subsequently deferred them as of June 2013, and will keep them in that status until she can manage monthly payments with a stable job. She was, however, considering an income-based repayment plan to start paying the loans soon. (Item 9)

Applicant discussed with the investigator the debt in SOR ¶ 1.a and explained the debt was a car loan that she signed for her brother. At the time, she believed she was cosigning for the loan, but later found out the loan is solely in her name. Her brother was supposed to make the monthly payments and failed to do so. She said the car was repossessed in approximately 2015. At the time of her interview, she did not know the current status of the account, but was going to contact the creditor. She said this debt was beyond her control. (Item 9)

Applicant told the investigator that she intended to pay all of her debts as soon as possible and would contact the creditors as soon as possible to resolve the accounts.

She said she had learned her lesson. She was not financially stable before the beginning of the year, but now has a stable job and better income. She has become financially responsible and capable of meeting her financial obligations. (Item 9)

In Applicant's January 2020 SCA, she disclosed her student loans and said they were deferred and she would address them when she had a sufficient salary. (Item 4)

In June 2020, Applicant was interviewed again by a Government investigator. She confirmed during the interview that she had previously told the investigator that she had planned to setup a payment plan and attempted to resolve the delinquent debts previously discussed. She was asked if she had made payment arrangements and said she had not. She initially said she did not have an explanation and then said she knew she should have made it a priority, but chose not to. She told the investigator that the interview has opened her eyes as to the importance of resolving her debts and she now realizes she should have followed through with the actions she previously told the investigator that she said she would do. She believed she owed around \$12,000 for her delinquent student loans. She has never made a payment on her student loans. She received letters saying the student loans were in default and would be sent to collection if payment was not made. Applicant told the investigator that she thought she had ten years after opening the accounts before she was required to make a payment. She believed that since the ten-year period had not passed, she was not required to make a payment. She made no effort to contact the creditor or make payment arrangements. She said she had no other explanation for why she did not pay her student loans.

Regarding the repossessed vehicle, Applicant told the investigator that she confronted her brother regarding the debt when she learned she was solely responsible for it. She told her brother as long as he made the payments, he could keep the car. She told the investigator that sometime in 2015 or 2016, she was notified the car was repossessed. From 2015 to 2019, she received calls and letters from the creditor about the remaining balance owed on the car. She ignored them until 2019 when she decided to address the delinquent debt. She setup a payment plan of \$100 a month. (Item 9)

During her June 2020 interview, Applicant was confronted with the debt in SOR ¶ 1.k. She explained she had a dispute with the creditor. The debt was for her last month's rent on a residence she leased and an additional \$500 for carpet cleaning. She had the carpets cleaned, but did not retain the receipt to prove it and was charged the cleaning fee. At the time, she was unwilling to make the final payment on the amount she felt was wrongfully charged. This debt was placed for collection in December 2015. She did not explain why she failed to pay her last month's rent. She told the investigator that she now agrees with the debt and will contact the creditor and setup a payment plan or settlement agreement. (Items 8, 9; AE E)

Applicant disclosed to the investigator that after she paid her bills she had approximately \$128 remaining each month. She had about \$2,000 in saving. She said she lives within her means. She did not have a budget. She advised the investigator that

she would make changes and start to consider what she needed instead of what she wanted, and eliminate unnecessary expenses. (Item 9)

The debts alleged in the SOR are corroborated by Applicant's admissions in her SCA, SOR answer, response to the FORM, statements to the Government investigator, and credit reports from May 2020, June 2021, and March 2022. (Items 4, 5, 6, 7, 8, 9)

In response to the FORM, Applicant stated she is a trustworthy and reliable person and has been given responsibilities at work and assisted fellow employees. She said that financial allegations have not had a negative impact on her work performance. (AE A)

Applicant provided a document to show that she began making \$100 payments in February 2019 on the debt in SOR ¶ 1.a. It shows a current balance of \$8,184 as of June 2022. This debt is being resolved. (AE A, B)

Applicant provided a receipt from June 2020 showing she paid the debt in SOR ¶ 1.k in June 2020, and it is resolved. (AE E)

Regarding Applicant's delinquent student loans, she stated that she was under a "Consolidation of Rehabilitation" program and the accounts were no longer in a default status. She did not provide evidence of the terms of this program, a payment plan, or that the debts are no longer in a default status. She provided a document showing recent payments she has made towards the loans. The document shows she made her first payment on April 8, 2022 for \$100, and three more payments in April of \$50, \$100, and \$155. She then made three payments in May 2022 of \$200, \$150 and \$150. In June 2022 she made two payments of \$50 and \$100. The document also reflects two "treasury offsets" from June 2019 for \$886 and \$111. These are presumably tax refunds that were involuntarily captured and applied to the delinquent balances. (AE D)

### **Policies**

When evaluating an applicant's suitability for national security eligibility, 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 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, 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 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states 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 as to obtaining 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 an applicant may deliberately or inadvertently fail to 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 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 relating to the guideline 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. Affluence that cannot be explained by known sources of income is also a

security concern insofar as it may result from criminal activity, including espionage.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

AG ¶ 19 provides conditions that could raise security concerns. The following are potentially applicable:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant has delinquent student loans totaling \$40,850. She also has two accounts that are in collection since about 2015. There is sufficient evidence to support the application of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following 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, 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.

Applicant acknowledged her student loan debts during her 2017 background interview and explained she had them deferred in 2013. She indicated she would contact the creditor and begin to address the loans. In her 2020 interview, she claimed that she thought she had a ten-year grace period to pay the loans. Based on her past statements, that assertion is not credible. She acknowledged she received letters notifying her that the loans were in default and were being placed in a collection status. She had no explanation for why she failed to address them after they were brought to her attention during her 2017 interview. Regarding the repossessed vehicle, she believed this debt was beyond her control. Even if she was unaware that the loan was solely in her name, she was still ultimately responsible for it if her brother failed to make payments. She began receiving collection notices in 2015 or 2016 and chose to ignore them until 2019. None of these circumstances were beyond Applicant's control. Applicant failed to act responsibly regarding her debts. AG ¶ 20(b) does not apply.

Applicant has been employed since 2017. She was interviewed in November 2017 and said she had learned her lesson. She acknowledged that she was not previously financially stable before, but now had a stable job and better income, and had become financially responsible and capable of meeting her financial obligations. She indicated her intent to contact creditors and make payment arrangements. In June 2020, she was interviewed again and admitted she had not made any effort to contact the creditors and address the delinquent debts. She told the investigator that her interview had opened her eyes as to the importance of resolving her debts. She said she realized she should have followed through with the actions that she previously told the investigator she would do.

The evidence shows that Applicant did not make payments towards her student loans until sometime after receiving the SOR in April 2022. She was aware of the collection account for the repossessed car in about 2015 or 2016 and admitted to ignoring it until 2019 when she relented and began paying \$100 a month. Her debt owed for her rent and cleaning dates back to 2015. She resolved it in 2020.

Applicant's financial issues are ongoing and recent. Despite being put on notice in 2017 and again in 2020 during her interviews, and advising the investigator that she understood the importance of addressing her delinquent debts, she failed to make any payments on her student loans until April 2022. I find AG ¶ 20(d) marginally applies to the debts in SOR ¶¶ 1.a and 1.k, but note that Applicant failed to resolve these debts until years after they were due. Under the circumstances, I am unable to conclude that future financial issues are unlikely to recur. Applicant's conduct casts doubt on her reliability, trustworthiness and good judgment. There is no evidence she has participated in financial counseling. She provided insufficient evidence that her finances are under control. AG ¶¶ 20(a), 20(c), and 20(e) do not apply.

## 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 the 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.

Applicant has been steadily employed since 2017. She repeatedly promised to address her student loans, but failed to do so until days after the SOR was issued. It has taken her years to address the two other debts that were alleged in the SOR. Applicant has failed to establish a reliable financial track record, and it is too early to conclude that she will continue to make consistent payments on her student loans. Applicant failed to meet her burden of persuasion. The record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the security concerns raised under Guideline F, financial considerations.

## 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
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b-1.j:	Against Applicant
Subparagraph 1.k:	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 security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Carol G. Ricciardello  
Administrative Judge