



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



In the matter of: )  
)  
) ISCR Case No. 20-00135  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Kelly Folks, Esq., Department Counsel  
For Applicant: *Pro se*

02/01/2023

**Decision**

Curry, Marc E., Administrative Judge:

Applicant failed to provide evidence substantiating his contention that he has been satisfying his delinquent student loans. Clearance is denied.

**Statement of the Case**

On April 8, 2020, the Department of Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, financial considerations. The DCSA CAF took the action 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 National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017. On August 24, 2021, Applicant answered the SOR, admitting all of the allegations, and requesting a decision based on the documentary record, instead of a hearing.

On July 22, 2022, Department Counsel submitted a file of relevant material (FORM), containing eight attachments (Items 1 – 6) in support of the SOR allegations. Applicant received a copy of the FORM on August 10, 2022. (Item 7) That day, he emailed a four-page reply. The case was assigned to me on August 16, 2022.

### **Findings of Fact**

Applicant is a 28-year-old, married man. He earned a high school diploma in 2013 and an associate degree in 2015. Since 2018, he has been working for a defense contractor as an insulator.

Applicant has experienced financial stress over the course of several years that has caused him to incur approximately \$26,000 of delinquent debt, composed primarily of student loans. (Item 3 at 34-36; Item 5 at 3-5) He attributes his financial problems to immaturity. Applicant contends that he has been satisfying his debts in \$500 monthly payments and that he has reduced the balance to approximately \$10,000. (Item 7) He did not specify when he began making these payments, nor did he provided any documented proof of these payments. Applicant also asserts that he now manages his finances responsibly, uses credit cards only in case of emergencies, and has established a spending limit, which he does not exceed. (Item 4 at 9) He provided no evidence of a budget, or nor evidence that he has ever received financial counseling.

### **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 ¶ 1(d) 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.

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

## **Analysis**

### **Guideline F: Financial Considerations**

Under this concern, “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.” (AG ¶ 18) Applicant’s history of financial problems triggers the application of AG ¶ 19(a), “inability to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations.”

The following mitigating conditions are potentially applicable under AG ¶ 20:

- (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;
- (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 made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Applicant readily admits that his financial problems stem from poor spending decisions related to immaturity, rather than to circumstances beyond his control. However, he did not submit any evidence corroborating his claims that he is paying his student loans and managing his finances more responsibly. When assessing security clearance worthiness, it is reasonable to expect applicants to provide documentation supporting their efforts to resolve debts. (See, e.g. ISCR Case No. 20-00615 at 2 (June 7, 2021). Absent production of such evidence, none of the mitigating conditions apply, and Applicant has failed to mitigate the security concern.

### **Whole-Person Concept**

I have considered the whole-person factors in my analysis of the disqualifying and mitigating conditions, and conclude that they do not warrant a favorable conclusion.

### **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.g:	Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Marc E. Curry  
Administrative Judge