



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



In the matter of: )  
)  
) ISCR Case No. 21-00531  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Carroll J. Connelley, Esq., Department Counsel  
For Applicant: *Pro se*  
01/26/2023

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**Decision**

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BENSON, Pamela C., Administrative Judge:

Applicant failed to demonstrate that she has acted responsibly to address and resolve her financial delinquencies. Her lack of action reflects poor judgment. Applicant did not provide sufficient evidence to mitigate the financial considerations security concerns. National security eligibility for access to classified information is denied.

**History of the Case**

Applicant submitted a security clearance application (SCA) on May 27, 2020. (Item 2) On April 15, 2022, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) alleging security concerns under Guideline F (financial considerations). (Item 1) Applicant provided an undated answer to the SOR, and requested a decision based upon the administrative record (Answer). (Item 1)

A copy of the file of relevant material (FORM), dated August 16, 2022, was provided to Applicant. Department Counsel attached as evidence to the FORM Items 1 through 5. Applicant received the FORM on August 23, 2022, and she was afforded a period of 30 days to file objections and submit material in refutation, extenuation, or mitigation. She did not respond to the FORM. On December 2, 2022, the case was assigned to me.

## Findings of Fact

Applicant is 32 years old. She has never been married and does not have any children. She attended college between 2016 and 2018, but she did not earn a college degree. Since November 2019, she has worked for a government contractor employer as a fire inspection coordinator. Her employer is sponsoring her for a Department of Defense (DOD) security clearance so she can perform specific job duties. This is her first application for security clearance eligibility. (Item 2)

The SOR alleges that Applicant is responsible for ten accounts placed into collections, charged off, or delinquent in the total amount of \$23,094. In her Answer, Applicant admitted one allegation (SOR ¶ 1.g), and she denied the remaining nine allegations, indicating these accounts had either been paid or were unknown to her. (SOR ¶¶ 1.a through 1.f, and 1.h through 1.j.) She failed to provide any documentation to support her claims. The credit reports in the record support the SOR allegations. (Item 1; Item 2; Item 4; Item 5)

SOR ¶¶ 1.a, 1.b, 1.d, and 1.e allege four student loans that were referred to the U.S. Department of Education for collection in the total amount of \$16,422. Applicant admitted during her June 2020 background interview that these student loans were obtained under her name so she could attend college. Due to her overextended finances, she made a last payment on these loans in January 2019. She denied these student loans in her Answer as “unknown,” and she did not provide supporting documentation or explain why she did not recognize these student loans. These four student loan remain unresolved. (Item 1, Item 3, Item 4; Item 5)

SOR ¶¶ 1.c, 1.f, and 1.j allege three delinquent medical accounts in the total amount of \$5,489. Applicant admitted during her June 2020 background interview that these medical accounts developed from an emergency medical service she received for a severe asthma attack on an unreported date. She denied these medical debts in her Answer, and she did not provide supporting documentation to show the status of these accounts. These debts remain unresolved. (Item 1, Item 3, Item 4; Item 5)

SOR ¶ 1.g alleges an account placed for collection for \$771. Applicant admitted during her June 2020 background interview that this debt was due to a missed car payment. She admitted this debt in her Answer. She did not provide supporting documentation to show the status of this account. This debt remains unresolved. (Item 1, Item 3, Item 4; Item 5)

SOR ¶ 1.h alleges a delinquent account in the amount of \$289 placed for collection by an insurance company. Applicant denied this debt in her Answer, and she did not provide any supporting documentation to show that she is not responsible for this account. This debt remains unresolved.

SOR ¶ 1.i alleges an account placed for collection by a cable/communications utility company for \$123. Applicant denied this debt in her Answer, and she did not provide any supporting documentation to show that she is not responsible for this account. This debt remains unresolved.

Applicant disclosed during her June 2020 background interview that her financial problems developed due to earning low wages. She also told the DOD authorized investigator that she was budgeting better, keeping track of her bills, and she intended to contact her creditors. She planned to dispute the charges or settle the delinquent accounts for less than the full balance. (Item 3)

Department Counsel made it clear in the Government's brief that Applicant had not provided any evidentiary documentation to show what steps she had taken to resolve her significant delinquent debt. Applicant chose not to respond or submit documentation during her 30-day period following the receipt of the Government's file of relevant information.

### **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 concern under Guideline F (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 . . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information.

The record evidence of Applicant's delinquent debts and her admission establish the following disqualifying conditions under AG ¶ 19:

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

AG ¶ 20 describes conditions that could mitigate security concerns. The following are potentially applicable 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 or provides evidence or actions to resolve the issue.

Applicant bears the burden of production and persuasion in mitigation. An applicant is not held to a standard of perfection in his or her debt-resolution efforts or required to be debt-free. "Rather, all that is required is that an applicant act responsibly given his circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct,' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017). See, e.g., ISCR Case No. 13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014).

Applicant attributed her financial delinquencies to underemployment. Notwithstanding this situation that adversely affected her finances, Applicant must demonstrate that she acted responsibly under the circumstances. In June 2020, she admitted during her background interview several of the debts that were alleged in the SOR. She did not mention the CARES Act when discussing the federal student loans she obtained to attend college. The CARES Act automatically put all federal loans into forbearance in March 2020. I find it is important to note that at that time her student loans were placed into forbearance, they were over a year delinquent. In her Answer, she listed that all four student loans were "unknown" by her. She also denied five other delinquent accounts in her Answer, without further explanation or submitting supporting records.

Applicant did not provide sufficient information to mitigate the financial concerns in this case. She did not provide any receipts or correspondence from her creditors, and she did not provide documentation to validate her claim that she would either dispute the charges or settle the delinquent accounts for less than the full balance. There is nothing in the record that shows she successfully disputed, settled, paid, or initiated payments on any of the delinquent accounts alleged in the SOR. Overall, I find that Applicant has not demonstrated that she acted responsibly to address her financial delinquencies. She did not provide sufficient evidence to mitigate the financial considerations security concern.

## **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.

Access to classified and protected information requires faithful adherence to the rules and regulations governing such activity. A person who fails to address concerns, even after having been placed on notice that his or her access or security clearance is in jeopardy, may lack the willingness to follow rules and regulations when his or her personal interests are at stake.

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. In light of all the facts and circumstances surrounding this case, I conclude Applicant has not met her burden of proof and persuasion. At the present time, she did not mitigate the financial considerations security concerns or establish her eligibility for a security clearance.

### **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F: AGAINST APPLICANT

Subparagraphs 1.a – 1.j: Against 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 or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Pamela C. Benson  
Administrative Judge