



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



In the matter of: )  
)  
) ISCR Case No. 20-02399  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Patricia Lynch-Epps, Esq., Department Counsel  
For Applicant: *Pro se*

03/17/2023

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**Decision**

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MURPHY, Braden M., Administrative Judge:

The Government alleged security concerns under the guidelines for financial considerations, criminal conduct, and personal conduct. Criminal conduct security concerns are either dated or not established, and are therefore resolved. Applicant did not provide sufficient evidence to mitigate financial security concerns. Applicant did not mitigate established security concerns about her personal conduct. Applicant's eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on August 23, 2019. On December 7, 2020, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations), Guideline J (criminal conduct), and Guideline E (personal conduct). The CAF issued the SOR under Executive Order (Exec. Or.) 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 Security Executive Agent Directive (SEAD) 4, *National Security Adjudicative Guidelines* (AG), effective within DOD on June 8, 2017.

Applicant submitted two answers to the SOR, one handwritten and one typed. The answers are undated but the typed answer references an earlier “initial response.” The first answer is also incomplete, as it does not address the Guideline E allegations. Her answers include the contact sheet, signed on June 14, 2021, in which she requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was forwarded to the DOHA hearing office on February 4, 2022, and assigned to me on September 8, 2022. On September 21, 2022, DOHA issued a notice scheduling the hearing for November 1, 2022.

Applicant’s hearing convened as scheduled. Department Counsel offered Government’s Exhibits (GE) 1 through 8 (including GE 2a and 2b), which were admitted without objection. Applicant testified and submitted Applicant’s Exhibits (AE) A through E, which were admitted without objection.

I held the record open to allow her the opportunity to submit additional documents, which she did. On November 15, 2022, Applicant submitted a narrative statement by email (AE F) and 50 pages of additional documents. Those documents are marked as AE G through AE M and admitted without objection. She also sought and received more time to submit additional materials. On November 25, 2022, she submitted seven additional documents, which are marked as AE N through AE T and admitted without objection. (An eighth document was already in evidence). On November 28, 2022, Department Counsel indicated that she had no objections to admission of Applicant’s post-hearing submissions, but she submitted post-hearing comments that I have considered. (Hearing Exhibit (HE IV)). The record closed on November 29, 2022. DOHA received the hearing transcript (Tr.) on November 16, 2022.

### **Findings of Fact**

In her handwritten Answer, Applicant admitted Guideline SOR ¶¶ 1.a-1.h, 1.o, and 1.p. She denied her student loans (SOR ¶¶ 1.i – 1.n) noting that they were now current. She admitted both Guideline J allegations (SOR ¶¶ 2.a and 2.b). As noted, the first answer did not address the Guideline E allegations.

In her second, typed Answer to the SOR, Applicant admitted Guideline F allegations SOR ¶¶ 1.a-1.p, with a general explanation. She admitted the Guideline J allegations at SOR ¶¶ 2.a and 2.b, with explanations. Under Guideline E. she “admitted” SOR ¶¶ 3.a-3.c, three falsification allegations, but with explanations that I construe as denials. Her admissions are incorporated into the findings of fact. After a thorough and careful review of the pleadings and evidence submitted, I make the following additional findings of fact.

This case resulted from Applicant's May 2019 credit report, pulled via the DOD's Continuous Evaluation Program (CEP). It showed over \$76,000 in delinquent debts. (GE 3). Applicant submitted her SCA in August 2019. (GE 1)

Applicant is 40 years old. She is not married. She has two adult children (ages 22 and 23) and a 10-year-old child, for whom she receives child support. Her eldest and youngest children live with her. Applicant graduated high school in 2000 and has some college education. She is currently taking college courses (and has student loans, discussed below). (Tr. 43-44, 98-99, 124-126; GE 1)

Applicant worked sporadically during 2009, and then worked for a contractor for about a year, from 2010 to 2011. She was wrongfully terminated from that job after she became pregnant. She did not work for about the next year, while home with her daughter. From 2012 to 2015, Applicant worked a variety of jobs with various contractors. Since 2018, she has worked for a DOD contractor as a travel manager. She began her career as an administrative assistant and has worked her way up from there. She has an annual salary of about \$100,000. She has had a clearance since about 2009. (Tr. 40-48, 66-67, 98-100; GE 1; AE D, AE L)

The financial allegations in the SOR (¶¶ 1.a-1.p) relate to delinquent federal student loans (just under \$60,000), plus about \$19,000 in consumer debts and other delinquencies. The debts are established by credit reports from December 2019 (GE 5), and October 2020 (GE 6), and by Applicant's admissions. Many of the debts are also listed on earlier credit reports, from May 2019 (GE 3), July 2019 (GE 4), pulled during the CEP, and by the November 2019 credit report (GE 2b) as well.

Applicant blamed her financial troubles on "just not being smart with money, [and] not being responsible" in paying her bills on time. She stated that she makes more money now and is able to address her debts and be more responsible. (Tr. 52, 133)

Applicant enrolled many of her debts in a debt consolidation program. (AE E, AE S) She claimed she started the program in either 2019 (Tr. 73) or in late 2021, (Tr. 58) but she admitted she was "guessing" about the date. (Tr. 123-124) She said the company takes \$350 twice a month. She later documented a list of creditors enrolled in the program, with balances due. (Tr. 58-61; AE F, AE O) AE T includes 2022 account statements from company GH. Applicant enrolled in the company in March 2021, and AE T appears to show payments to creditors, so it may be a statement from the debt relief company though this is not clear. (AE T)

SOR ¶ 1.a (\$12,071) is the account for a repossessed motorcycle. The amount alleged is what was charged off after the motorcycle was sold at auction. (GE 5, GE 6; Tr. 54, 67-68) Applicant purchased the bike in 2014. She stopped making payments on the bike, in about 2016, because she did not want it anymore. (Tr. 68-72) The bike was later repossessed. (GE 5, GE 6)

The creditor agreed to settle the account for about \$3,621, with monthly payments (starting at \$50, increasing to \$520) between April 2022 and March 2023. (AE S) The account is enrolled in the debt relief program. (AE O) The amount owed is now \$11,971 (down \$100 from what is alleged). (AE F, AE G) This account is not resolved.

SOR ¶ 1.b (\$597) is a charged-off credit-card account with a department store. It became delinquent in about 2015. (GE 5; GE 6; Tr. 77-78) Applicant enrolled the account in the debt relief program. (AE O) Applicant received a settlement offer in 2021. (AE Q) A recent credit report shows the account was legally paid for less than the full balance and has been closed. (Tr. 78, 130-131, AE G, AE O)

SOR ¶¶ 1.c (\$264) and 1.d (\$1,546) are past-due debts to unidentified medical creditors. (GE 5) Applicant said she was unaware of these debts because she had medical insurance. She contacted the hospital's collection office but was not able to resolve the debts. She stated that she intends to pay them. (Tr. 79-82, 131) The debt at ¶ 1.d is enrolled in the debt relief program but no settlement has been reached. (AE E) Applicant was in a car accident in February 2020 and required medical treatment and physical therapy. Applicant provided documentation about resolution of some of her other medical accounts, with payments made in November 2022. (AE H, AE I, AE J; Tr. 131-132)

SOR ¶ 1.e (\$739) is a credit-card account placed for collection by a retailer. (GE 5, GE 6) Applicant believes the account is covered by the debt relief program. (Tr. 82, 85, 130-131) A recent credit report shows that the account was charged off but closed with a zero balance. (AE G)

SOR ¶ 1.f (\$577) is an account placed for collection by a bank. (GE 5, GE 6) Applicant became aware in 2017 that this account was delinquent. (Tr. 83-84) She had a settlement in place in April 2021 for \$288 and is paying on the debt. (AE P, Tr. 130-131) She indicated post-hearing that she will pay \$50 a month until the debt is resolved. (AE F; AE P) A recent credit report shows that the balance as of November 2022 was \$361. (AE G) This account is being resolved.

SOR ¶ 1.g (\$2,448) is an account placed for collection by a retailer, concerning musical equipment. (GE 5, GE 6) The account became delinquent in 2019. The debt is being resolved through the debt relief company but no settlement amount is noted. (Tr. 85-86; AE E)

SOR ¶ 1.h (\$60) is an account placed for collection by a power company. (GE 5) This account is a utility bill at an old apartment, Applicant asserts that this debt was paid several years ago but provided no documentation. (Tr. 87-89, 130)

SOR ¶¶ 1.i (\$5,034), 1.j (\$2,808), 1.k (\$5,142), 1.l (\$16,018), 1.m (\$26,444), and 1.n (\$4,042) are federal student loans with the U.S. Department of Education (USDOE), all placed for collection. (GE 5; GE 6) Applicant acknowledged missing payments. She thought they were the same student loans as with creditor N, but now knows differently.

(Tr. 56-57, 89-92, 129) She took out loans for more than she needed for tuition to cover other costs. (Tr. 125-127) She said she has made no federal student loan payments on these accounts since at least 2015. (Tr. 94, 129) She has received no communication or correspondence from the USDOE about her loans, (Tr. 130) A recent credit report lists all of these accounts, all with USDOE, as past due, in the amounts alleged, totaling over \$59,500. These accounts are unresolved.

At the time of the hearing, repayment of federal student loans had been on hold due to the COVID-19 pandemic under multiple Presidential Executive Orders since March 2020. Federal student loan payments remain paused until at least June 30, 2023. See <https://studentaid.gov/announcements-events/covid-19>; (Tr. 55-56, 92-94)

As of May 2021, Applicant owed about \$27,000 to private student loan creditor N, with nothing past due. (AE B) As of November 2022, she has an arrangement in place with creditor N to resume \$400 monthly payments in January 2023 on her private student loans. The balance due is \$28,789. No past-due amount is listed. (AE B, AE K; Tr. 128)

SOR ¶ 1.o (\$535) is an account placed for collection by a phone company. (GE 5) Applicant asserted that her current home is serviced by the same phone company and she is in good standing but provided no documentation. (Tr. 94-96)

SOR ¶ 1.p (\$547) is an account placed for collection by insurance company P. (GE 6) Applicant had insurance with company P at the time of her accident but changed companies soon thereafter. She settled the account for \$300 and is disputing the remainder. (AE F; AE G, AE R; Tr. 97)

Applicant does not owe past-due taxes or other delinquent debts. She keeps an informal budget, but has not taken any formal budget or financial counseling classes. (Tr. 97, 104, 107-108, 111) She acknowledged about \$17,000 in credit card debt, not alleged. (Tr. 103) Many of the delinquent debts in the SOR are also listed on credit reports from 2021 and 2022 provided by Applicant. (AE C, AE G)

In June 2013, Applicant was at work when she received a call that police were at her house. When she arrived, the police told her that they had found marijuana. It was found in a baggie in her young son's closet. He was in junior high school at the time. Applicant was cited for possession of marijuana since it was her house. She was not handcuffed or placed in jail; she received a citation to go to court. (Tr. 114, 119-120) Applicant pleaded no contest, received deferred adjudication, and the case was dismissed in November 2014. (AE A; GE 8) (SOR ¶ 2.b) Applicant denied guilt but pled no contest so her son would not get in further trouble with the law. She said she had no idea her son was involved with marijuana. Applicant did not have to attend counseling or treatment. She took and passed a urinalysis test. (Tr. 49-50, 114-116) Applicant has had no other arrests. (Tr. 127)

Applicant was not involved in the illegal purchase, manufacture, cultivation, trafficking, production, transfer, shipping, receiving, handling or sale of a drug or controlled substance. Applicant knew she was subject to drug testing and held a clearance at the time of the citation. She did not report the citation to her employer. As a contractor at a large DOD facility, she claimed that she did not know who to report the issue to. About a week after she appeared in court, she was called in to security at the DOD facility where she worked; she had been “flagged” because of the marijuana citation. She told them what had happened and she was allowed to go back to work. (Tr. 116, 120-123)

SOR ¶ 2.a, alleged under Guideline J for criminal conduct, mostly concerns several traffic citations that Applicant allegedly incurred between “August 2011 and October 2019.” They include: 1) expired inspection or failure to have vehicle inspected (August 2011, September 2012; February 2017); 2) driving without a license or driving on a suspended license (February 2014, and twice in June 2014); 3) a commuter parking violation (August 2014); 4) violations of the high-occupancy vehicle (HOV) lane (May 2017 and October 2017); and 5) speeding (80 miles per hour (mph) in a 65 mph zone (October 2013). All of these citations are traffic infractions but for driving without a license or driving with a suspended license, which are misdemeanor offenses. (GE 7, Tr. 112-113) The most recent citation was issued in October 2017, not October 2019.

Applicant admitted the violations. She said she sometimes drove too fast on her motorcycle, and most of her traffic tickets came during that period. She returned the motorcycle (in a voluntary repossession) after a close friend died in a motorcycle accident. (Tr. 52-53) As part of her deferred adjudication for the marijuana citation, Applicant’s driver’s license was restricted (to and from work, school, a court-ordered facility, and while transporting a minor child). This restriction ran from February 2014 to May 2014. (GE 8)

As to the expired inspections, Applicant stated she knew that at the time she was driving a car that would not pass inspection. She acknowledged knowing that she should not have done this. (Tr. 114) Due to her traffic tickets, her license was suspended in 2014 for a few months. (Tr. 64-65) Since about August of last year, Applicant leases a used luxury truck. She pays \$605 per month. Her driver’s license is current. (Tr. 65-66, 102)

Applicant did not disclose her marijuana possession citation or any of her debts on her August 2019 SCA. She denied any intent to withhold information. (Tr. 42; Answer)

SOR ¶ 3.a alleges that Applicant deliberately failed to disclose her 2013 citation for marijuana possession in answer to two questions under Section 22: Police Record on her August 2019 SCA:

Have any of the following happened?: In the last seven (7) years, have you been issued a summons, citation, or ticket to appear in court in a

criminal proceeding against you? (Other questions ask about arrests, charges, convictions, or sentences, none of which apply to a citation for marijuana possession leading to deferred adjudication and a dismissal.)

[and]

Have you EVER been charged with an offense involving alcohol or drugs?

SOR ¶ 3.b alleges that Applicant deliberately failed to disclose her 2013 citation for marijuana possession in answer to two questions under Section 23: Illegal Use of Drugs or Drug Activity on her August 2019 SCA:

In the last seven (7) years, have you been involved in the illegal purchase, manufacture, cultivation, trafficking, production, transfer, shipping, receiving, handling, or sale of any drug or controlled substance?

[and]

Have you EVER illegally used or otherwise been illegally involved with a drug or controlled substance while possessing a security clearance other than previously listed?

Applicant did not report the 2013 marijuana citation on her 2019 SCA. She had two opportunities to do so: 1) in answer to the first “seven-year” question detailed in SOR ¶ 3.a (and also arguably the second, since it was a drug offense, though she was cited and not “charged”); and 2) in answer to the second “have you EVER” question detailed in SOR ¶ 2.b. (Applicant did not use marijuana with a clearance, but possession of marijuana constitutes “illegal involvement” with it.) She was not engaged in the sale, distribution, cultivation, etc., of marijuana, as called for in the other question under SOR ¶ 2.b.

Applicant asserted that she did not report the offense because it was outside the seven-year scope of the question. (Tr. 50-51, 118); She also asserted that she did not report the offense because it had been dismissed. (Tr. 50-51; Answer) She acknowledged that the investigator knew about the arrest during her interview. (Tr. 52) She also acknowledged that she did not want to lose her job. She now understands that she should have listed the citation, since it was six years before her August 2019 SCA, and was also a drug offense. (Tr. 120)

Applicant did not disclose her debts on her SCA. She said she did not disclose them because she was paying on them and therefore did not believe they were delinquent. (Tr. 61) She first acknowledged that some of her debts were delinquent when she filled out her SCA, (Tr. 62) but later said she did not believe they were delinquent because “they were in the program to be paid.” (Tr. 123) Applicant asserted that the motorcycle debt was not delinquent when she prepared her SCA because it

was being paid through the debt relief program, which she said she started in 2019. She acknowledged that the account was past due before then. (Tr. 72-73)

In Applicant's background interview summary, she discusses her debts at length, but not before she was confronted about many of them. She also discussed many of the traffic infractions in SOR ¶ 2.a. The marijuana citation is not discussed, either by Applicant or the interviewer. (GE 2a)

Applicant provided a reference letter from a co-worker. Applicant is regarded as a hard worker, and she is polite and respectful. She carries herself with "levelheadedness and grace." She possesses the character and judgment of someone working for the betterment of the community. (AE M)

### **Policies**

It is well established that no one has a right to a security clearance. As the Supreme Court has held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of Navy v. Egan*, 484 U.S. 518, 531 (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 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(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. Likewise, I have not drawn 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. Under Directive ¶ E3.1.15, 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 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.

## **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. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

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; and
- (c) a history of not meeting financial obligations.

Applicant has a history of delinquent debts, as shown by her admissions and by credit reports in the record, from 2019 and 2020. AG ¶¶ 19(a) and 19(c) apply.

AG ¶ 20 sets forth conditions that could mitigate security concerns arising from financial difficulties. 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;
- (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 has a long history of incurring delinquent debts. Her divorce was finalized in May 2021. Some of her debts have been paid and some are being resolved through a debt relief service. However, the bulk of Applicant's debts are ongoing, including her student loans and the motorcycle repossession. She has undertaken few steps to address them. Applicant's debts are recent, ongoing, and not isolated, and they are largely due to her own poor decisions, and not to circumstances beyond her control. She has not established that her financial behavior is unlikely to recur or no longer casts doubt on her reliability, trustworthiness, or good judgment. AG ¶ 20(a) does not apply.

Applicant keeps an informal budget but has not pursued formal credit counseling. Her debts are also not under control or being resolved. AG ¶ 20(c) does not apply.

Applicant has undertaken some effort to pay or resolve her debts. But the debt for the repossessed motorcycle remains unresolved after many years. Applicant has not undertaken responsible, good-faith effort to address her student loans. Applicant needs to establish more of a track record of steady payments towards her debts to establish good faith. AG ¶ 20(d) does not apply.

### **Guideline J: Criminal Conduct**

AG ¶ 30 details the security concern for criminal conduct:

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying condition is potentially applicable:

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

In 2014, Applicant was cited for possession of marijuana. The marijuana was found in her home, in the closet of her young son, who was in junior high school. She pled no contest to keep her son out of trouble. The case was resolved through a deferred adjudication program and dismissed a year later. AG ¶ 31(b) applies to that offense, in SOR ¶ 2.b.

Most of the allegations grouped into SOR ¶ 2.a are traffic infractions, as shown in GE 7. As such, they are not established as criminal conduct. The exceptions are the two citations for driving with a license or driving on a suspended license, which are misdemeanors, as detailed in GE 7. AG ¶ 31(b) applies to those citations only. No Guideline J disqualifying conditions otherwise apply to the infractions at SOR ¶ 2.a.

AG ¶ 32 sets forth the potentially applicable mitigating conditions:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

The established instances of criminal conduct are quite dated, as they occurred about eight years ago. There is no indication of subsequent criminal citations or charges so the issues are also isolated to that timeframe. Applicant accepted responsibility for the marijuana to keep her young son out of trouble and the other two misdemeanors concern driving without a license or driving on a suspended license, a circumstance that may stem from her requirements in deferred adjudication for the marijuana citation. No subsequent criminal charges or citations are evident. Applicant has been gainfully employed ever since. Both AG ¶¶ 32(a) and 32(d) apply. Criminal conduct security concerns are mitigated.

## **Guideline E: Personal Conduct**

AG ¶ 15 expresses the security concern for personal conduct: Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative proceedings. . .

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying condition is potentially applicable:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

The personal conduct allegations in this case all concern Applicant's August 2019 SCA. The first two allegations of falsification concern her omission of the June 2013 citation for marijuana possession.

As to SOR ¶ 3.a, Applicant should have listed the offense in answer to the "seven-year" question under Section 22, Police Record, since she received a citation to go to court. It was also a drug offense, so she should have disclosed it then as well.

As to SOR ¶ 3.b, Applicant should have also disclosed the offense because it constituted "illegal involvement" with a drug or controlled substance (though not "use") while she held a clearance.

However, I find that Applicant did not deliberately fail to disclose the offense. I find that she believed it was outside the "seven-year" scope of the first question, and she thought she did not have to disclose it since it was dismissed. The fact that she pled no contest to a misdemeanor drug citation to keep her young son out of trouble is also believable. I find that as to SOR ¶¶ 3.a and 3.b, deliberate falsification is not established. AG ¶ 16(a) does not apply to those allegations.

Applicant's debts are a different matter. Applicant has a long history of delinquent debts. Indeed, her investigation began because credit reports gathered through the Continuous Evaluation Program revealed numerous delinquencies, in 2019. Applicant also acknowledged that she knew about many of her delinquencies when she submitted her August 2019 SCA, yet she reported none of them. AG ¶ 16(a) applies to SOR ¶ 3.c.

AG ¶ 17 sets forth potentially applicable mitigating conditions under Guideline E:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment of falsification before being confronted with the facts; and

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment.

Applicant did not make prompt, good-faith efforts to acknowledge her debts before being confronted. Falsification of a security clearance application is not a minor issue, and it casts doubt on Applicant's reliability, trustworthiness, and good judgment. Neither AG ¶¶ 17(a) nor 17(c) applies. Established personal conduct security concerns are not mitigated.

### **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 considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F, J, and E in my whole-person analysis.

Applicant has a long history of financial delinquencies she has only recently begun to address. She has extensive student loans and other debts to address, and she has yet to set forth a reasonable plan for addressing them. Applicant also failed to disclose any of her numerous debts on her SCA. While criminal conduct security concerns are dated and resolved, security concerns about her finances and personal conduct are not mitigated or resolved. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility for a security clearance.

## 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:	Against Applicant
Subparagraphs 1.b-1.h:	For Applicant
Subparagraphs 1.i-1.n:	Against Applicant
Subparagraphs 1.o-1.p:	For Applicant
Paragraph 1, Guideline J:	FOR APPLICANT
Subparagraphs 2.a-2.b:	For Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraphs 3.a-3.b:	For Applicant
Subparagraph 3.c:	Against Applicant

## Conclusion

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

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Braden M. Murphy  
Administrative Judge