



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



In the matter of:	)	
	)	
	)	ISCR Case No. 21-00177
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Aubrey M. De Angelis, Department Counsel  
For Applicant: *Pro se*

March 28, 2023

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**Decision**

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LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of Case**

On June 30, 2020, Applicant submitted a security clearance application (e-QIP). On July 13, 2021, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order 10865 (EO), *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 Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective within the DoD after June 8, 2017.

Applicant answered the SOR on July 20, 2021, and requested a hearing before an administrative judge. The case was assigned to me on September 6, 2022. The Defense Office of Hearings and Appeals issued a notice of hearing on September 14, 2022, and the hearing was convened as scheduled on November 8, 2022. The

Government offered two exhibits, referred to as Government Exhibits 1 and 2, which were admitted without objection. The Applicant offered one exhibit, referred to as Applicant's Exhibit A, which was admitted without objection. Applicant testified on his own behalf. The record remained open following the hearing, until close of business on November 15, 2022, to allow the Applicant to submit additional supporting documentation. Applicant submitted four additional documents referred to as Applicant's Post-Hearing Exhibits A through D, which was admitted into evidence without objection. DOHA received the transcript of the hearing (Tr.) on November 18, 2022.

### **Findings of Fact**

Applicant is 36 years old. He is married with one child, and one "on the way." He has a bachelor's degree in Information Management Systems. He holds the position of Help Desk Administrator. He is seeking to obtain a security clearance in connection with his employment with a defense contractor.

### **Guideline F - Financial Considerations**

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness and ability to protect classified information.

The SOR identified twelve delinquent student loan debts totaling \$71,150. Applicant admitted each of the allegations set forth under this guideline. A credit report of the Applicant dated January 29, 2021, confirms the indebtedness listed in the SOR. (Government Exhibit 2.)

Applicant attended college from 2005 to 2009. To pay for his education, he obtained student loans totaling about \$60,000. He graduated from college in 2009, and joined the U.S. Air force. He served in the Air Force from November 2009 to January 2019. While in the Air Force, Applicant was deployed overseas for about eight years, and his student loans were deferred for about six or seven of those deployment years. (Tr. p. 21.) He achieved the rank of Staff Sergeant, E-5, and an honorable discharge.

Applicant has been employed with a U.S. defense contractor since January 2019, and he currently resides in Japan. He testified that he first learned that his student loans were in default sometime in 2015/2016. (Tr. p. 42.) At that time, he did nothing to address the loans. He stated that it was not until he received the SOR in July 2021, that he knew who to contact about his student loan debt and took some action. A letter from the Applicant indicates that he has reached out to these creditors and set up a payment plan to get the loans out of their delinquent status. (Applicant's Exhibit A.) He testified that in November 2021, he received correspondence from the Government about his student loans, listing a contact telephone number, advising him

on how to rehabilitate his loan status, and how to apply for Federal Student Loan Debt Relief. Applicant testified that he has not yet had the chance to call them. (Tr. p. 29.)

Applicant stated that his student loans were sold and were split between two different creditors. At some point, he thought that he owed Creditor A a total of \$52,262; and Creditor B \$18,863. Concerning Creditor A, Applicant stated that he is currently going through the process of loan rehabilitation. To pull his loan out of default status, he must make the required payments for several months to complete the rehabilitation process before he is allowed to start a payment plan. He stated that he has paid \$150 monthly for five months so far while in rehabilitation. Once he completes the rehabilitation process, he will be permitted to set up a payment plan with the creditor, to begin to resolve the debt. He stated that he plans to begin his regular monthly payments plan in January 2023. (Tr. p. 36.) Concerning Creditor B, Applicant stated that he is required to pay \$250 monthly through the rehabilitation process before he can start their payment program. (Applicant's Post-Hearing Exhibits B and C.)

Applicant testified that his wife is pregnant with their second child. She earns about \$25,000 annually. Applicant earns about \$67,000 annually. He has \$2,800 in his checking account, and \$15,000 in his savings account. (Tr. p. 47.) He believes that even with the new baby and the related expenses, he can also afford to pay his regular monthly expenses, and make his payments towards resolving his student loan debt. Applicant stated that when he starts his payment plan with the creditors he understands that he will be making payments for more than ten years to resolve these debts. (Tr. pp. 47-53.)

The following delinquent debts are of security concern:

1.a. Applicant is indebted to a creditor for a delinquent student loan in the amount of \$3,324 that was placed for collection. Applicant stated that he is in the process of loan rehabilitation and plans to start making his first payment in January 2023. (Tr. p. 43.) The debt remains owing.

1.b. Applicant is indebted to a creditor for a delinquent student loan in the amount of \$6,986 that was placed for collection. Applicant stated that he is in the process of loan rehabilitation and plans to start making his first payment in January 2023. (Tr. p. 43.) The debt remains owing.

1.c. Applicant is indebted to a creditor for a delinquent student loan in the amount of \$4,433 that was placed for collection. Applicant stated that he is in the process of loan rehabilitation and plans to start making his first payment in January 2023. (Tr. p. 43.) The debt remains owing.

1.d. Applicant is indebted to a creditor for a delinquent student loan in the amount of \$6,816 that was placed for collection. Applicant stated that he is in the process of loan rehabilitation and plans to start making his first payment in January 2023. (Tr. p. 43.) The debt remains owing.

1.e. Applicant is indebted to a creditor for a delinquent student loan in the amount of \$2,948 that was placed for collection. Applicant stated that he is in the process of loan rehabilitation and plans to start making his first payment in January 2023. (Tr. p. 43.) The debt remains owing.

1.f. Applicant is indebted to a creditor for a delinquent student loan in the amount of \$5,971 that was placed for collection. Applicant stated that he is in the process of loan rehabilitation and plans to start making his first payment in January 2023. (Tr. p. 43.) The debt remains owing.

1.g. Applicant is indebted to a creditor for a delinquent student loan in the amount of \$1,034 that was placed for collection. Applicant stated that he is in the process of loan rehabilitation and plans to start making his first payment in January 2023. (Tr. p. 43.) The debt remains owing.

1.h. Applicant is indebted to a creditor for a delinquent student loan in the amount of \$1,592 that was placed for collection. Applicant stated that he is in the process of loan rehabilitation and plans to start making his first payment in January 2023. (Tr. p. 43.) The debt remains owing.

1.i. Applicant is indebted to a creditor for a delinquent student loan in the amount of \$7,584 that was placed for collection. Applicant stated that he is in the process of loan rehabilitation and plans to start making his first payment in January 2023. (Tr. p. 43.) The debt remains owing.

1.j. Applicant is indebted to a creditor for a delinquent student loan in the amount of \$11,574 that was placed for collection. Applicant stated that he is in the process of loan rehabilitation and plans to start making his first payment in January 2023. (Tr. p. 43.) The debt remains owing.

1.k. Applicant is indebted to a creditor for a delinquent student loan in the amount of \$6,323 that was placed for collection. The Applicant stated that he is in the process of loan rehabilitation. (Tr. p. 53.) The debt remains owing.

1.l. Applicant is indebted to a creditor for a delinquent student loan in the amount of \$12,565 that was placed for collection. The Applicant stated that he is in the process of loan rehabilitation. (Tr. p. 53.) The debt remains owing.

Applicant testified that his most recent correspondence from the creditors dated October 1, 2022, indicates that he currently owes Creditor A, \$60,000, and Creditor B, \$11,000, for a total of approximately \$71,000 in delinquent student loan debt. (Tr. p. 56-57.)

Applicant is applying for the Student Loan Debt Relief Program and has been in contact with both creditors about resolving his debts. (Applicant's Post-Hearing Exhibits A, B and C.)

## Policies

When evaluating an applicant's suitability for a security clearance, 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 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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. 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 clearance 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 as to 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 security concern 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Two are potentially applicable in this case:

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

Applicant has a history of not addressing his financial obligations, namely his student loan debts. His actions or inactions both demonstrate a history of not addressing his debt and/or an inability to do so. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under the Financial Considerations guideline are potentially applicable under AG ¶ 20.

- (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, or a death, divorce, or separation), 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 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 incurred delinquent student loan debt after graduating from college in 2009. He has ignored the debts for about thirteen years. Only recently, after receiving the SOR in July 2021, did he make any effort to address these debts. Even so, he still remains in rehabilitation status, which means that he has yet to make his first payment. Applicant's financial irresponsibility and inaction for so long casts doubt on his current reliability, trustworthiness, or good judgment. Applicant appears to want to resolve his debt but has work to do to achieve this. At this time, Applicant needs more time to show the Government that he will properly resolve his financial delinquencies with regular systematic payments and consistency. He has started the rehabilitation process to pull his loans out of default status, but nothing more. No regular monthly payments have been started. None of the mitigating conditions are applicable.

There is insufficient evidence in the record to show that Applicant has made a good-faith effort to resolve his debts. Overall, Applicant shows little progress towards resolving his debts. He has started the rehabilitation process, but has not yet completed it in order to start making his first payment. He owes a significant amount of money to these creditors. There is insufficient evidence in the record to show that he has carried his burden of proof to establish mitigation of the government security concerns under Guideline F. Accordingly, guideline F is found against the Applicant.

### **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. In the event that Applicant follows through with his commitment to show financial responsibility,

sometime in the future he may be found to be sufficiently reliable to properly protect and access classified information, but not at this time.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I conclude Applicant has not mitigated the Financial Considerations security concern.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a., through 1.i.	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 interest to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson  
Administrative Judge