



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-00410
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Gatha Manns, Esq., Department Counsel  
For Applicant: *Pro se*

June 6, 2023

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**Decision**

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LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of Case**

On August 10, 2021, Applicant submitted a security clearance application (e-QIP). (Item 3.) On May 15, 2022, 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, *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 for Determining Eligibility for Access to Classified Information*, effective within the DoD after June 8, 2017.

Applicant responded to the SOR (Answer) on June 13, 2022. (Item 2.) He requested that his case be decided by an administrative judge on the written record. Department Counsel submitted the Government’s written case on September 13, 2022. A complete copy of the File of Relevant Material (FORM), containing five Items was received by Applicant on September 29, 2022. He was afforded an opportunity to file

objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. Applicant submitted a response to the FORM. This case was transferred to the undersigned DOHA administrative judge on May 24, 2023. Items 1 through 5, will hereinafter be referred to as Government Exhibits 1 through 5.

### **Findings of Fact**

Applicant is 70 years old and married and has two step-children, one is deceased. He has a Master's degree. He is employed part-time by a defense contractor as a Business Financial Manager. He is seeking to obtain a security clearance in connection with his employment.

### **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 alleges that Applicant is indebted for three charged-off private student loan accounts totaling over \$158,000. Applicant admits two of the debts, specifically 1.a., and 1.b., and denies responsibility for 1.b., and 1.c., explaining that 1.b., may have been paid by his grandson; but he is not sure, and 1.c., is not a debt, but the name of the loan servicing company for the debt listed in 1.a. Accordingly, Allegation 1.c., is found for the Applicant. Applicant's credit report dated October 5, 2021, and his enhanced summary interview dated October 13, 2021, confirm the indebtedness set forth in Allegations 1.a. and 1.b. (Government Exhibits 4 and 5.)

Applicant stated that he co-signed on two student loan accounts for the benefit of his grandson about ten years ago. The first student loan Applicant co-signed for is set forth in 1.b. of the SOR. The second loan Applicant co-signed for is set forth in 1.a. of the SOR. Applicant's grandson failed to pay the student loan accounts when they became due. Applicant stated that he made a few payments toward the loans before they were charged off, and he has made no further payments since then.

Applicant currently lives comfortably with his pension and active income. He wants his grandson to re-pay the student loans, however, he stated that he understands that he is responsible to pay them if his grandson does not pay them. Applicant retired from working for a Federal Civil Service in December 2011. He remained retired from January 2012 until May 2012. He re-entered the workforce as a part-time contract employee in about May 2012. He has worked for his current employer since 2018. He currently holds a security clearance which he was granted in August 2011. Applicant is an avid international traveler in his free time. He has sufficient money to pay his grandson's delinquent student loan debt.

The following delinquent debts set forth in the SOR are of security concern:

1.a. A delinquent debt is owed to a creditor for an account that was charged off in the approximate amount of \$64,324. Applicant admitted that he co-signed on the loan with this creditor. Applicant learned that the debt became delinquent in January 2017. Applicant stated that he made a few payments on the account until it was charged off. Applicant understands that as co-borrower on the loan, he is guaranteeing repayment of the loan. In Applicant's June 13 response to the SOR, Applicant stated that he has just received a letter from the collection agency regarding the loan. On or about June 10, 2022, Applicant wrote back to the creditor requesting specific information as to whether they had standing regarding loan payment and settlement. Applicant stated that since then, they have provided a partial but not complete response. There is no evidence in the record to prove that Applicant's grandson has paid the debt. Applicant has not paid off the debt, despite his clear ability to pay it. The debt remains owing.

1.b. A delinquent debt is owed to a creditor for an account that was charged off in the approximate amount of \$36,796. Applicant admitted that he co-signed on the loan with this creditor. Applicant learned that the debt became delinquent in June 2018. Applicant stated that he made a few payments on the account until it was charged off. Applicant understands that as co-borrower on the loan, he is guaranteeing repayment of the loan. In Applicant's response to the SOR, he stated that in April 2022, a change was noted on his credit report stating that the lender or creditor reported that the loan was no longer in derogatory status, and in the remarks section stated that there was "payment after charge off/collection and settled for less than full balance". Applicant stated that he has tried to contact his grandson to find out if he has paid anything towards the debt, but he has not been successful. There is no convincing evidence in the record to prove that Applicant's grandson has paid the debt. Applicant has not paid the debt, despite his clear ability to pay. The debt remains owing.

1.c. Discussed above, the SOR stated that Applicant owed a delinquent debt to a creditor for an account that was charged off in the approximate amount of \$57,183. Applicant contends that this is the same debt owed to the creditor set forth in allegation 1.a. There is no evidence to the contrary. It appears that this entity was the loan servicing company for the loan set forth in allegation 1.a. Accordingly, there is nothing owed to this entity, and this allegation is found for the Applicant.

Overall, Applicant has failed to provide sufficient evidence in total mitigation. He has not made a good faith effort to address the delinquent student loan debts that he co-signed for, nor has he taken any meaningful step to resolve these delinquencies. He has submitted no documentary evidence to show that he has established an acceptable payment arrangement or that he is complying with a payment arrangement. There is no meaningful track record of repayment. He stated that he understands that he is responsible to pay the debts, but he continues to ignore his legal obligations as co-signor to pay them.

## 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 is indebted to two creditors for delinquent student loan accounts totaling in excess of \$100,000 that have been charged off for many years. 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; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant, as the co-signer on two student loans for his grandson has defaulted on the two loans and has refused to pay them. He has failed to provide sufficient evidence in mitigation. This shows poor judgment and unreliability. Accordingly, Applicant does not meet the requirements to access classified information.

### **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.

Applicant has been as irresponsible as his grandson by failing to pay the student loan debts he co-signed for. Applicant knew that the loans were delinquent back in 2017 and 2018 respectively. He also knew that as the co-signer on the loans, he was responsible to pay them if his grandson defaulted. Many years have passed since the loans became delinquent and ultimately defaulted. Applicant now claims that one of the loans may have been paid-off or settled by his grandson, but he does not know that for sure. Applicant stated that has not confirmed this with the creditor, nor has he spoken to his grandson about the matter. Applicant does know that his grandson defaulted on the loan several years ago, and that the creditor was looking to the Applicant, the co-signer, for payment. Applicant made a few payments towards the debts until the loans were charged off. He has made no payments since then, and it does not appear that he plans to resolve the debts. His actions or inactions show poor judgment, unreliability, and untrustworthiness. 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 concerns.

### **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.: and 1.b:	Against Applicant
Subparagraph 1.c.	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 interest to grant or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson  
Administrative Judge