



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-01442
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: William H. Miller, Esq., Department Counsel  
For Applicant: *Pro se*

05/30/2023

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**Decision**

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COACHER, Robert E., Administrative Judge:

Applicant has not mitigated the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On August 22, 2022, the Department of Defense (DOD) issued Applicant a statement of reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DOD acted 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) effective on June 8, 2017.

On September 12, 2022, Applicant answered the SOR and requested a hearing before an administrative judge. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on December 16, 2022, and the hearing was convened as scheduled on January 23, 2023, using video teleconferencing capabilities. The Government offered exhibits (GE) 1 through 7, which were admitted into evidence without

objection. The Government's exhibit list was marked as Hearing Exhibit (HE) I. Applicant testified, but she did not offer any exhibits at the hearing. The record remained open after the hearing, and Applicant timely submitted Applicant Exhibits (AE) A-B, which were admitted without objection. DOHA received the hearing transcript (Tr.) on February 3, 2023.

### **Findings of Fact**

In her SOR answer, Applicant admitted all of the allegations, with an explanation. Her admissions are adopted as findings of fact. After a review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is a 36-year-old employee of a federal contractor performing the duties of a financial analyst. She began working at her present job in June 2018. She previously worked for a federal contractor from 2015 until taking her current position. She was unemployed from May 2013 to March 2014. She earned hourly wages from \$14 to \$18 per hour from 2014 to 2018. She holds a bachelor's degree and is one examination away from earning her master's degree. She is single, never married, and has no children. She provides regular monthly financial support to her elderly parents. (Tr. 6, 19-20, 26; GE 1)

The SOR alleged five delinquent student loans totaling approximately \$90,000. (SOR ¶¶ 1.a – 1.e) The debts are established by credit reports from December 2021, June 2022, August 2022, and January 2023; Applicant's personal subject interview (PSI) with an investigator in December 2021; her answers to interrogatories in April 2022; and her SOR admissions. (GE 2-7; Answer to SOR)

Applicant's financial difficulties began after her student loan deferments ended in 2014 shortly after she finished attending classes for her master's program. During this time, she was either working low-paying hourly jobs or she was unemployed. She did not start making an annual salary until starting with her current employer in 2018. She initially earned a yearly salary of \$90,000 and is now making approximately \$110,000. (Tr. 19-21)

Applicant took out both private student loans and federally funded student loans to finance both her bachelor's and master's programs. Her federal student loans have a current balance of approximately \$108,000, and are not at issue here. Those loans are currently in a deferred status from COVID-19 relief executive orders. (See: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/pausing-student-loan-payments/>) She claimed she made \$300-\$400 per month payments on her federal student loans before the COVID-19 deferments. She did not provide documentation supporting her assertion. (Tr. 51-54)

As stated above, Applicant provides financial support for her mother (age 70) and her father (age 90). They live in a different state than does Applicant. She is the only family member in a position to help her parents. She started helping them financially in approximately 2019, and since February 2020, she has done so on a consistent monthly basis. She estimates she provides between \$400-\$800 monthly. Her mother has direct access to Applicant's bank account and will transfer or take out money when necessary.

She always informs Applicant when she does so. Between her own monthly living expenses and what she provides her parents, she claims she did not make enough to pay her private student loans. She looked into the possibility of hiring two debt-relief companies, but she could not afford the monthly payments each calculated for her, and so she declined to hire them. She admitted that she put her private student-loan obligations on the “back burner,” in terms of her financial priorities. She provided a monthly budget that shows a \$1,200 monthly surplus after all expenses. She also provided a copy of an earnings statement. The budget does not account for any payments to either her private or her federal student loans. (Tr. 21-22, 31-32, 51, 56; GE 3)

The status of the SOR debts is as follows:

**SOR ¶¶ (Student Loans) 1.a-\$22,105; 1.b-\$20,160; 1.c-\$19,368; 1.d-\$17,312; 1.e-\$11,493.** Applicant admitted these delinquent student loans. All five were originally assigned for collection between May 2006 and August 2008, and a more recent credit report shows major delinquencies for all accounts between June and December 2019. Recently, they were bought by a collection agency, which approached Applicant with settlement offers for all five loans in July 2022. Applicant admitted receiving the offers and provided copies of them. The offers expired in August 2022 without Applicant committing to them. She stated paying her student loans was not a priority in her life right now. She has not entered into an agreement with the collector holding her private student loans since then. These debts are unresolved. (Tr. 22, 29, 35, 57; GE 2-7; SOR answer; AE A1-A5)

Applicant provided a character letter written on her behalf by a coworker who stated that Applicant is a great asset to their work team. She also opined that Applicant’s reliability, trustworthiness, and good judgment make her worthy of holding a security clearance. (AE B)

### **Policies**

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.

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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that 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**

AG ¶ 18 expresses the security concern for financial considerations:

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. I have considered all of them under AG ¶19 and the following potentially apply:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant's five charged-off private student loans were first assigned for collection back between 2006 and 2008 and are now charged off. She admitted not making payments on these loans either because she could not afford to at the time, or because they were a low priority to her. Applicant's admissions and credit reports establish the debts. I find all the disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant's debts are recent because they are ongoing. She has made no efforts, according to the evidence, to address these five delinquent student loans. AG ¶ 20(a) is not applicable.

Applicant presented evidence that the debts were affected by circumstances beyond her control, namely, her unemployment and underemployment, and the need to provide financial support to her elderly parents. However, she did not act responsibly concerning the debts, because she failed to resolve them in a timely fashion. Additionally, in July 2022, when given an opportunity to settle the debts at a much reduced rate, she

declined to act on the offer. AG ¶ 20(b), therefore, has some application, but does not fully apply.

Applicant presented no evidence of financial counseling. Her track record to date does not support a good financial picture. Based upon her past history and the approximately \$100,000-worth of federal student loans that are currently deferred, there is no reason to believe that she will right her financial ship in the future, because she presented no viable plan to do so. Applicant's financial problems are not under control. AG ¶¶ 20(c) and 20(d) do not apply.

### **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 the 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 relevant facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

I considered Applicant's contractor service, her underemployment and unemployment, and the financial support she provides to her parents. However, I also considered that she has not adequately addressed her delinquent student loans. She has not established a meaningful track record of debt management, which causes me to question her ability to resolve her debts in the future.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. For these reasons, 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 section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F: AGAINST APPLICANT

Subparagraphs: 1.a-1.e: 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 Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Robert E. Coacher  
Administrative Judge