



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



In the matter of:)	
)	
[Name Redacted])	ISCR Case No. 22-00790
)	
Applicant for Security Clearance)	

Appearances

For Government: Karen Moreno-Sayles, Esq., Department Counsel
For Applicant: *Pro se*

10/20/2023

Decision

HOGAN, Erin C., Administrative Judge:

Applicant mitigated the security concerns under Guideline E (personal conduct). She did not mitigate the security concerns under Guideline F (financial considerations). Eligibility for access to classified information is denied.

Statement of the Case

On September 16, 2022, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines E and F. Applicant responded to the SOR on September 22, 2022, and requested a hearing before an administrative judge. The case was assigned to me on June 14, 2023.

The hearing was convened as scheduled on August 22, 2023. Government Exhibits (GE) 1 through 9 were admitted in evidence without objection. Applicant testified and submitted Applicant’s Exhibits (AE) A through F, which were admitted without objection. The record was held open until September 7, 2023, to allow Applicant the opportunity to submit additional documentary evidence. She timely submitted five documents which were admitted as AE G – AE K, without objection. The transcript (Tr.) arrived on August 31, 2023.

Findings of Fact

Applicant is a 30-year-old employee of a defense contractor. She has worked for her current employer since July 2022. In September 2022, she was removed from her position because her interim clearance was suspended pending her security clearance adjudication. The company has saved a position for her if she receives her security clearance. She served on active duty in the United States Navy from 2011 to 2015, separating with an honorable discharge at the rank of Petty Officer Second Class. She deployed overseas on two occasions. She has some college credits. She is married, but separated from her spouse in 2017. She has no children. (Tr. at 16, 23-24, 43-45, 85; GE 1, 2; AE I)

Guideline F, Financial Considerations

On May 10, 2021, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP). In response to Section 26 – Financial Record - Delinquency Involving Routine Accounts, she listed a debt related to an apartment eviction, but indicated it was paid in full, and a truck that was repossessed with a loan balance of approximately \$9,000. (GE 1 at 48-51)

Applicant's subsequent background investigation revealed additional delinquent debts. The SOR alleges 27 delinquent debts including a \$25,030 debt incurred by a voluntary automobile repossession (SOR ¶ 1.a); a \$9,747 debt related to an apartment eviction (SOR ¶ 1.q); an approximate total of \$7,088 of delinquent consumer accounts (SOR ¶¶ 1.b – 1.g, 1.m, 1.t, 1.z and 1.aa); and 15 delinquent medical accounts, totaling approximately \$4,435. (SOR ¶¶ 1.h – 1.l, 1.n – 1.p, 1.r, 1.s, and 1.u – 1.y)

Applicant struggled financially after she separated from active duty. It was difficult to find employment that paid as well as the military. At one point, she lived in her car. Before the SOR was issued, she resolved 12 delinquent accounts that were not alleged in the SOR. (Tr. 10 -12, 29) The status of the remaining debts are as follows:

SOR ¶ 1.a: \$25,030 charged-off account resulting from a voluntary car repossession: Applicant purchased a new car around the time she separated from active duty. She could not afford the payments so she surrendered the car back to the dealer. This is her highest debt. She intends to pay it back when she is able to make payments. She is concentrating on paying off the smaller debts first. This debt remains unresolved. (Tr. 13, 29-30, 70; GE 3 at 5; GE 4 at 2; GE 5 at 2)

SOR ¶ 1.b: \$1,177 collection account owed to a university. Applicant enrolled in classes at the university and dropped out before the semester was completed. This debt remains unresolved. (Tr. 30, 73; GE 4 at 3; GE 5 at 2)

SOR ¶ 1.c: \$1,003 charged-off credit card account owed to a credit union: Applicant did not see this on her credit report. If she still owes the debt, she will pay it. This debt remains unresolved. (Tr. 30, 73; GE 4 at 3; GE 5 at 2)

SOR ¶ 1.d: \$891 loan placed for collection: Applicant provided a document showing that the loan was transferred to a new collection agency. The balance of the debt is \$927. After the hearing, Applicant indicated that she entered into a repayment agreement with the collection agency on September 6, 2023, to make two payments of \$25 each month. She was unable to provide documentation of the payment agreement. The debt is unresolved. (Tr. 31, 76; GE 5 at 2; AE A at 1, AE J)

SOR ¶ 1.e: \$825 cable television account placed for collection: Applicant intends to pay this debt when she can. After the hearing, Applicant indicated that she entered into a repayment agreement with the creditor on September 6, 2023, to make two payments of \$25 each month. She was unable to provide documentation of the payment agreement. The debt is unresolved. (Tr. 32, 76; GE 3 at 6; GE 4 at 4; GE 5 at 3; AE A at 2; AE J)

SOR ¶ 1.f: \$626 electric utility account placed for collection: Applicant admits this debt. This debt remains unresolved. (Tr. 32, 77; GE 5 at 3)

SOR ¶ 1.g: \$598 cell phone account placed for collection: Applicant claims this account was paid. She did not provide documentary proof the debt was paid. The debt is considered unresolved. (Tr. 32; GE 3 at 6; GE 4 at 4; GE 5 at 3)

SOR ¶ 1.h: \$255 medical account placed for collection: Applicant claims this account is paid. It is likely this debt is resolved. Applicant made payments to another collection agency regarding these medical accounts. (Tr. 32; AE H at 2, 5)

SOR ¶¶ 1.i and 1.j: \$250 and \$250 medical accounts placed for collection: Applicant claims both debts were paid. It is likely these accounts were resolved. Applicant made payments to another collection agency regarding some of the medical accounts. (Tr. 32; AE H at 2, 5)

SOR ¶ 1.k: \$245 medical debt place for collection: In her response to the SOR, Applicant said she is working with the Department of Veteran's Affairs to determine whether this medical debt was service-connected. During the hearing she denied this debt. It is likely this account is resolved. Applicant made payments to another collection agency regarding some of the medical accounts. (Tr. 32; GE 5 at 4; AE H at 2, 5)

SOR ¶ 1.l: \$243 medical debt placed for collection: Applicant admits this debt in her response to the SOR. She is working with the Department of Veteran's Affairs to determine whether this medical debt is service-connected. During the hearing she denied this debt. It is likely this account is resolved. Applicant made payments to another collection agency regarding some of the medical accounts. (Tr. 32; GE 5 at 5; AE H at 2, 5)

SOR ¶ 1.m: \$237 account placed for collection: In her response to the SOR, Applicant said she was paying this off soon. She did not provide documentary evidence that the debt was paid. The debt is unresolved. (Tr. 79)

SOR ¶¶ 1.n (\$174); 1.o (\$103) and 1.p (\$100) are medical accounts placed for collection: In her response to the SOR, Applicant said she is working with the Department of Veteran's Affairs to determine whether these medical debts were service-connected. During the hearing she denied these debts. The debts are unresolved. (Tr. 32)

SOR ¶ 1.q: \$9,747 charged-off account: Applicant said this debt was related to a car loan. She is unable to pay the debt at this time. The debt is unresolved. (Tr 80; GE 4 at 10; GE 5 at 6)

SOR ¶¶ 1.r (\$1,516) and 1.s (\$1,026) medical accounts placed for collection: After the hearing, Applicant entered into an agreement to settle these two accounts for \$1,700. She made a payment of \$25 towards this settlement. It is not clear whether the debtor expects her to make payments towards the settlement or wants to be paid in one payment. During the hearing, she testified she would pay this debt when she was able. These debts remain unresolved. (Tr. 80-81; GE 4 at 2-3; AE A at 1; AE K)

SOR ¶ 1.t: \$865 utility account placed for collection: Applicant intends to pay this debt. After the hearing, Applicant indicated that she entered into a repayment agreement with the collection agency on September 6, 2023, to make two payments of \$25 each month. She was unable to provide documentation of the payment agreement. The debt is unresolved. (Tr. 81-82; GEE3 at 6; GE 4 at 4; AE A at 2; AE J)

SOR ¶¶ 1.u – 1.y. delinquent medical accounts placed for collection in the respective amounts \$494, \$484, \$64, \$62, and \$33: Applicant disputes these accounts because she does not recognize them. She provided no evidence that she formally disputed these debts. The debts remain unresolved. (Tr. 33, 82; GE 4 at 7-9)

SOR ¶ 1.z: \$316 charged-off retail store account: Applicant testified she paid this debt off. She did not provide documentation indicating the debt was resolved. A March 2022 credit report lists the debt balance as zero, but states the reason as the debt being "Transferred or Sold" and "Charged Off Account." The debt is unresolved. (Tr. 33, 82; GE 3 at 9; GE 5 at 6)

SOR ¶¶ 1.aa: \$550 charged-off retail store account: Applicant testified she paid this debt off. She did not provide documentation indicating the debt was resolved. A March 2022 credit report lists the debt balance as zero, but states the reason as the debt being "Transferred or Sold" and "Charged Off Account." The debt is unresolved. (Tr. 33, 82; GE 3 at 9; GE 5 at 6)

Applicant testified that she is paying her current bills. She now attends school full-time. She receives VA disability pay of \$1,663 a month. She receives \$2,500 monthly stipend from the GI Bill since she is a full-time student. Her total income is \$4,163. Her monthly expenses include rent: \$1,400; and utilities: \$70. She is current on federal and state taxes. She is focused on her education. She recently started a housecleaning service to make extra money. (Tr. 83- 84; AE J)

Applicant intends to pay all of her delinquent debts. Her layoff in September 2022 affected her ability to pay her delinquent debts. She also had several health issues that incurred unplanned medical expenses.

Guideline E, Personal Conduct

Under Personal Conduct, concerns are raised about Applicant's employment history from March 2016 to February 2021, including:

SOR ¶ 2.a: In February 2021, she was fired by Employer A due to attendance issues. Applicant admits that she was fired, but also states she quit because her co-workers refused to wear masks. Applicant was concerned about catching the COVID-19 virus because of her medical issues. (Tr. 35-36; 65-66)

SOR ¶ 2.b: In October 2020, she was fired by Employer B due to performance issues. Applicant admits to being fired from Employer B, but states she was not being treated fairly. She filed a complaint under EEOC, but withdrew the complaint because she could not afford lawyers. During her employ, the pandemic started and the company went remote. Employer B claimed she was absent from work. She denies this because she was teleworking on the days in question. (Tr. 36, 63; GE 6; AE E)

SOR ¶ 2.c: In May 2019, she was fired by Employer C due to attendance and performance issues. Applicant admits she was terminated. She states she never received counseling about her performance issues. (Tr. 38, 62; GE 7; AE B)

SOR ¶ 2.d: In March 2019, she was fired by Employer D due to attendance issues. Applicant denies this allegation. She was hired during a furlough and did not have a paid position. She left because of financial issues. (Tr. 39; 59-61; GE 8; AE C)

SOR ¶ 2.e: In December 2018, she left employment with Employer E without notice and without paying back her relocation bonus. (Gov 9) Applicant admits she left without proper notice. She was at the company for four months. She left because there was no opportunity for growth. She was paid a \$500 relocation bonus. If she had stayed at the company for one year, she would not have to repay the relocation bonus. It is not clear that she paid the \$500 relocation bonus back to Employer E. (Tr. 40, 57-58; GE 9, AE D)

SOR ¶ 2.f: In July 2016, she was fired by Employer F due to attendance issues. Applicant admits this allegation. She suffered heat exhaustion while delivering items in a vehicle that had no air conditioning in over 100 degree heat. She went home sick. The next day she came into work, she was fired because she did not have any leave balance. (Tr. 56; GE 2 at 12)

SOR ¶ 2.g: In March 2016, she was allegedly recommended for a general discharge from the Navy due to multiple unexcused absences. Applicant denies this allegation. She provided a copy of her DD Form 214, which shows she was separated on July 31, 2015, with an honorable discharge. While the investigator conducting her

background investigation confronted her about the general discharge in March 2016, no DD Form 214 or other evidence verifying this is in the record. I find SOR ¶ 2.g for the Applicant. (GE 2 at 26; AE I)

Whole-Person Evidence

Ms. C.M. has known Applicant over the past three years, both personally and professionally. She describes Applicant as a person of integrity, and honesty. She conducts herself with the utmost professionalism and is dedicated to her work responsibilities. She states Applicant has proactively sought out financial counseling to assist with her financial issues. Ms. C.M. claims Applicant has paid off nearly half of her debt and is committed to her personal growth. (AE F at 4)

SSgt G. states Applicant has exemplified a remarkable journey of personal growth over a few short years that is “inspiring.” She is an example of diligence and perseverance. She has overcome a lot of adversity in her life and has “demonstrated resilience and an unyielding spirit.” (AE F at 17)

Applicant’s performance evaluation for the period of June 12, 2021, to December 31, 2021, was favorable. (AE F at 12-15) The program manager at her current employer wrote a statement indicating Applicant was performing her duties in a prompt and efficient manner. She has been pleased with Applicant’s display of character and professionalism. (AE F at 16)

Applicant’s awards during her active duty service in the United States Navy include the Navy “E” Ribbon, Good Conduct Medal, National Defense Service Medal, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, Sea Service Deployment Ribbon, and Pistol Marksmanship Ribbon. (AE I at 4)

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 E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15, as follows:

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 clearance investigative or adjudicative processes.

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

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single

guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information.

Between July 2016 to February 2021, Applicant was fired from five jobs. She left another job without providing notice and without paying back a \$500 relocation bonus to her employer. Her employment history raises concerns under AG ¶ 16(c) about her judgment, trustworthiness and reliability which raises issues about whether she will properly safeguard classified information.

AG ¶ 17 provides conditions that could mitigate security concerns. The following are potentially applicable:

(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; and

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

Initially, Applicant was young and just starting out in the civilian employment world. While concerning, her employment history is understandable. Overtime, Applicant has since matured and her current employer speaks highly of her. AG ¶¶ 17(c) and 17 (d) apply She mitigated the concerns raised under the Personal Conduct Concern.

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.

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 financial problems and delinquent debts. AG ¶¶ 19(a) and 19(c) are applicable.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (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 of the dispute or provides evidence of actions to resolve the issue.

While Applicant intends to pay her debts, a lot of the alleged delinquent debts remain unresolved. After the hearing, Applicant entered into repayment plans for three debts (SOR ¶¶ 1.d, 1.e, and 1.t). With regards to these debts, she has not developed a significant track record of regular timely payments to indicate she is likely to resolve them.

AG ¶ 20(b) partially applies because circumstances beyond Applicant's control adversely affected her financial situation. After separating from active duty, she experienced several periods of unemployment. She also had several health issues. This mitigating condition is given less weight because I cannot conclude Applicant acted

responsibly under the circumstances. While Applicant struggled financially after separating from active duty in 2015, it has been eight years. By now, she should have developed a plan to manage her finances, yet, she continues to have financial issues.

AG ¶ 20(c) and AG ¶ 20(d) partially apply in that Applicant testified that she was seeking the assistance of a financial counselor. She likely resolved the medical debts alleged in SOR ¶¶ 1i – 1.l. She also resolved several accounts not alleged in the SOR. Both mitigating conditions are given less weight because Applicant still has several unresolved debts.

AG ¶ 20(e) does not apply because Applicant did not provide sufficient information about the debts she disputed and any evidence of actions she has taken to dispute each debt.

While Applicant is taking steps to resolve her financial problems, the evidence is insufficient for a determination that Applicant's financial problems will be resolved within a reasonable period. I am unable to find that she acted responsibly under the circumstances. Applicant's financial issues are recent and ongoing. They continue to cast doubt on her current reliability, trustworthiness, and judgment. None of the mitigating conditions are sufficient to fully mitigate the financial considerations security concerns.

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 have incorporated my comments under Guidelines E and F in my whole-person analysis.

I considered Applicant's honorable service in the United States Navy. I considered the favorable recommendations of her co-workers. I considered that she is attending college. I also considered that at the close of the record, several delinquent

debts in the SOR remain unresolved. At this time, Applicant's history of financial problems remains a concern.

I find Applicant mitigated the security concerns under Personal Conduct. Applicant did not mitigate the concern raised under Financial Conduct. Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance at this time.

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.h, 1.m-1.aa	Against Applicant
Subparagraphs 1.i – 1.l	For Applicant
Paragraph 2, Guideline E:	For Applicant
Subparagraphs 2.a – 2.g:	For Applicant

Conclusion

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.

Erin C. Hogan
Administrative Judge