



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-02281
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Mark D. Lawton, Esq., Department Counsel  
For Applicant: *Pro se*

12/06/2023

\_\_\_\_\_

**Decision**

\_\_\_\_\_

Curry, Marc E., Administrative Judge:

Applicant failed to carry the burden of establishing that she mitigated the financial considerations security concerns generated by her history of delinquent debt. Under these circumstances, her application for a security clearance is denied.

**Statement of the Case**

On December 9, 2022, the Defense Counterintelligence and Security Agency Consolidated Adjudications Services (CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations, explaining why it was unable to find it clearly consistent with the interests of national security to grant security her clearance eligibility. The CAS took the action under Executive Order (EO) 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 National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017.

On January 9, 2023, Applicant answered the SOR. She admitted all the allegations and requested a decision based on the written record in lieu of a hearing. On January 31,

2023, the Government prepared a File of Relevant Material (FORM), setting forth its arguments against Applicant's security clearance-worthiness. The FORM contained seven attachments, identified as Item 1 through Item 7.

Applicant received a copy of the FORM on February 1, 2023. She was given 30 days to file a response. Applicant did not file a response, whereupon the case was assigned to me on June 1, 2023.

### **Findings of Fact**

Applicant is 34 years old and unmarried. She graduated from high school in 2010 and attended college from 2015 to 2017. (Item 1 at 12) She did not graduate from college. Applicant has been working as a senior security analyst for the federal contractor sponsoring her clearance since June 2021. (Item 2 at 12)

The SOR alleges 15 collection accounts totaling \$37,049. Thirteen of the accounts are federal student loans. By January 2023, Applicant had brought six of the accounts, as alleged in subparagraphs 1.a, 1.e, 1.g, 1.i, 1.j, and 1.k, into current status with payments made after the issuance of the SOR. (Item 2 at 4-9) The amount of these payments are unknown from the record. As for the remaining debts, she contends that she is working with the creditors set forth in subparagraphs 1.b through 1.d, 1.f, and 1.h to lower the loan balances, and she is paying down the debts alleged in subparagraphs 1.i through 1.o. (Item 2 at 4-9) She did not support her contentions with substantiating evidence.

Applicant was unemployed from December 2019 to May 2020. (Item 7 at 2) During this time, she supported herself with savings. (Item 7 at 2) In May of 2021, she submitted a budget as part of the investigative process, in which she reported approximately \$2,780 of monthly discretionary income. (Item 7 at 6) She did not proffer information about her relevant income or expenses prior to May 2021, nor did she indicate the reason that she did not make any payments toward her delinquent debts before December 2019 or between May 2021 and January 2023. During an investigative interview in October 2021, she contended that she retained a credit repair agency to help her resolve the delinquent student loans. (Item 7 at 5) However, she did not support her contention with a copy of the retainer agreement, or otherwise establish which debts that the credit repair agency has been helping her to resolve, or the status of any progress made toward resolving them. Moreover, Applicant did not respond to the FORM, so she did not provide any updated information about her debts or her finances.

### **Policies**

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (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 required to be considered 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 overall 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 ¶ 1(d) 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, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

## **Analysis**

### **Guideline F: Financial Considerations**

Under this concern, "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." (AG ¶

18) Applicant's multiple outstanding student loan accounts trigger the application of AG ¶ 19(a), "inability to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations."

The following mitigating conditions are potentially applicable under AG ¶ 20:

(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 was unemployed for six months between December 2019 and May 2020. However, she did not establish that her unemployment was beyond her control, or that the savings she accessed during her period of unemployment were insufficient to meet her expenses. Consequently, I am unable to conclude that her delinquent debts are attributable largely to her period of unemployment or that she acted reasonably to address her delinquent debts. AG ¶ 20(b) does not apply.

Applicant stated that she was working with a credit repair company. However, she provided no proof of any agreement, nor any evidence of a payment plan that this credit repair company assisted her with. Under these circumstances, the first prong of AG ¶ 20(c) applies, but it has minimal probative value.

After receiving the SOR, Applicant made payments to get the student loans alleged in subparagraphs 1.a, 1.e, 1.g, 1.i, 1.j, and 1.k out of delinquent status. I resolve these debts in her favor. Although the record indicates that these debts are out of delinquent status, there is no record evidence of how much Applicant paid to get them out of delinquent status. Moreover, despite having \$2,780 of monthly discretionary income since at least May 2021, Applicant did not begin making these delinquent debt payments until after the issuance of the SOR. Consequently, I cannot conclude that AG ¶ 20(d) applies. In sum, I conclude Applicant failed to mitigate the financial considerations security concerns.

### **Whole-Person Concept**

Absent more concrete evidence of debt rehabilitation, I cannot conclude that Applicant's financial problems are under control and unlikely to recur. Upon considering

this case in the context of the whole-person concept, I conclude Applicant has failed to mitigate the 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
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b – 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	Against Applicant
Subparagraphs 1.i – 1.k:	For Applicant
Subparagraphs 1.l – 1.o:	Against Applicant

### **Conclusion**

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

---

Marc E. Curry  
Administrative Judge