



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-02238
	)	
Applicant for Security Clearance	)	

**Appearances**

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

12/05/2023

**Decision**

BENSON, Pamela C., Administrative Judge:

Applicant mitigated the security concerns arising from his financial issues alleged under Guideline F (Financial Considerations). There is sufficient evidence to show that his financial problems are under control and are unlikely to recur. National security eligibility for access to classified information is granted.

**Statement of the Case**

On January 26, 2023, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudications Services (CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (Financial Considerations). The action was taken 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 *National Security Adjudicative Guidelines* (AG) effective within the DOD on June 8, 2017.

Applicant submitted an undated response to the SOR. He denied two of the ten SOR allegations (SOR ¶¶ 1.h, and 1.i), and he admitted the remaining eight allegations. He requested a hearing before an administrative judge. On June 28, 2023, the case was

assigned to me. On September 15, 2023, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for October 3, 2023. The hearing proceeded as scheduled using the DOD Microsoft Teams video teleconference system.

During the hearing, Department Counsel submitted Government Exhibits (GE) 1-5. Applicant testified and offered three documents labeled Applicant Exhibits (AE) A through C. I admitted all proffered exhibits into evidence without objection. I held the record open for two weeks after the hearing in the event either party wanted to supplement the record with additional documentation. Applicant timely submitted eight documents, AE D through AE K, and Department Counsel submitted GE 6. All proffered documents were admitted into evidence without objection. On October 10, 2023, DOHA received a copy of the transcript (Tr.), and the case closed on October 25, 2023.

### **Findings of Fact**

Having thoroughly considered the evidence in the record, including Applicant's admissions, I make the following findings of fact: Applicant is a 31-year-old employee of a DOD contractor who has worked for his employer since March 2022. His job title is web developer. He is unmarried and does not have any children. His annual salary is approximately \$70,000. This is his first application for a DOD security clearance. (Tr. 19-21; GE 1)

### **Financial Considerations**

Applicant explained that he first began to experience financial issues while attending a community college from 2012 to 2015. He was living with his mother at the time and had no income. Although he obtained U.S. Department of Education student loans to help pay his tuition, he had to drop out of college because he could not afford to continue his education. In 2016, he started working for a company making approximately \$22,000 a year. He enrolled into another college in 2016, and he had to drop out in 2019 due to a serious medical issue. He went into a diabetic coma, and in 2019 his doctor diagnosed him with diabetic neuropathy. Applicant had to recover at home, and he was authorized a nurse aid to help care for him. He was unemployed from 2019 to early 2022, and he did not receive any disability income during his unemployment. His inability to work worsened his already poor financial situation. (GE 1; Tr. 21, 31-39; AE A)

Applicant attended a technical school full time from October 2020 to at least March 2022. He received full stack development certification in information technology (IT) coding, which allowed him to obtain his current employment as a web developer. He provided documentation of a long and steady track record of \$810 monthly payments toward his tuition for this certification. His last monthly payment is scheduled in November 2023. He then plans to use this budgeted monthly amount to pay more towards his U.S. Department of Education student loans and to make payment arrangements with his remaining two SOR creditors.

SOR ¶¶ 1.a - 1.b, and 1.d - 1.g allege that Applicant is indebted to the U.S. Department of Education for six student loans placed for collection in the total amount of

\$26,402. He admitted these student loans in his SOR response and stated that while attending community college from 2012 to 2015, he sporadically made payments on these loans for approximately a year. He stopped making payments on these loans before he enrolled into a private college in 2016. During the pandemic, he took advantage of the federal student loan pause and focused on paying other debts. Beginning in March 2023, Applicant consolidated his six student loans with a consumer student loan company. He made an initial payment of \$299 in March 2023, and thereafter he has been making monthly payments of \$49 that are automatically withdrawn from his bank account. He intends to increase his monthly payment after he makes his final monthly tuition payment for his IT certification debt in November 2023. These student loans are in the process of being paid. (AE B, AE C; Tr. 31-40; SOR response; GE 1)

Applicant stated that the debt alleged in SOR ¶ 1.b was for his 2016 to 2019 enrollment at a private college. This private student loan debt was placed for collection in the amount of \$5,265. Applicant admitted this student tuition debt, and he intends to start making payments, but at the current time he cannot make any payments until he has satisfied his IT certification debt in November 2023. (Tr. 29-30, 33, 49-50; AE C-AE E, AE G-AE L, AE Q, AE R, AE V)

SOR ¶ 1.h alleges that Applicant is indebted to a collection agency for a delinquent credit card account in the amount of \$1,220. Applicant denied this debt in his SOR response. He provided documentation that showed this account was fully resolved in 2022. (Tr. 41-45; AE G; SOR response)

SOR ¶ 1.i alleges that Applicant is indebted to a bank for a charged-off credit card account in the approximate amount of \$745. Applicant denied this debt in his SOR response. During the hearing he testified that he was uncertain whether he had paid or settled this account. If it was not paid, then he intended to pay this account soon. He did not submit post-hearing documentation verifying the resolution of this account. The current credit report in the record indicated that this account has not yet been satisfied. (Tr. 45-47; GE 6)

SOR ¶ 1.j alleges that Applicant is indebted to a collection agency for a delinquent fitness/gym account in the amount of \$159. Applicant admitted this debt in his SOR response. He provided documentation that showed this account was fully resolved in October 2023. (Tr. 47; AE H; SOR response)

Applicant provided a personal financial statement (PFS) after the hearing. With his current annual income of \$70,000, he has sufficient funds to pay his monthly expenses and creditors. He reported that he puts away about \$400 every month into his savings account in the event of an emergency, leaving him with a monthly net remainder of approximately \$500. (AE D)

### **Character Reference**

Applicant submitted two character reference letters from his current program manager and a co-worker. Both employment colleagues lauded Applicant's reliability,

diligence, and his outstanding work ethic for the mission he supports. Both have worked closely with Applicant for the past 20 months, and they place a great deal of confidence in his abilities. They readily endorsed Applicant for DOD security clearance eligibility.

### **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(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 access to classified information will be resolved in favor of 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 not drawn inferences grounded on mere speculation or conjecture.

Directive ¶ E3.1.14 requires the Government to 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 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 Executive Order 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).

## Guideline F: Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

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. . . .

AG ¶ 19 includes two disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability to satisfy debts"; and "(c) a history of not meeting financial obligations." The SOR alleges delinquent debts and student loans totaling approximately \$33,800. The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions.

The following financial considerations mitigating conditions under AG ¶ 20 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; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant experienced financial difficulties after attending college with no income or while he was underemployed. From 2019 to early 2022 he was unemployed after he suffered from a diabetic coma and was later diagnosed with diabetic neuropathy, which worsened his financial situation. These are circumstances beyond his control. However, to receive full credit for this mitigating condition, Applicant must demonstrate that he acted responsibly under the circumstances.

Applicant made systematic monthly tuition payments of \$810 after the completion of his technical certification, with one final month to pay to satisfy this account in full. With

this certification, he was hired by his current employer and earns an annual salary of \$70,000. In March 2023, Applicant consolidated his U.S. Department of Education loans and has made good-faith monthly payments since that time. Beginning in December 2023, it is his intention to use the budgeted amount of \$810 to pay more money towards his consolidated student loans, and to also make payment arrangements for his two remaining SOR creditors.

Applicant earns sufficient income to pay all of his monthly expenses, to include putting some money away into his savings account for unforeseen emergencies. He has not developed any new delinquent debt. It is his intention to pay his remaining financial obligations and to remain debt-free by following a monthly budget. He provided sufficient documentation to show his responsible efforts in resolving his delinquent student loans and consumer debts. Under the current circumstances, there is sufficient evidence to show that his financial problems are under control and are unlikely to recur. Applicant has successfully mitigated the security concerns under Guideline F.

### **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 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 the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F and the AG ¶ 2(d) factors in this whole-person analysis.

The Federal government must be able to repose a high degree of trust and confidence in persons granted access to classified information. In deciding whether to grant or continue access to classified information, the Federal government can take into account facts and circumstances of an applicant's personal life that shed light on the person's judgment, reliability, and trustworthiness. Furthermore, security clearance decisions are not limited to consideration of an applicant's conduct during work or duty hours. Even if an applicant has a good work record, his or her off-duty conduct or

circumstances can have security significance and may be considered in evaluating the applicant's national security eligibility.

Applicant's financial problems were caused by circumstances beyond his control, and he took responsible action in addressing them. His program manager and co-worker praised his strong work ethic and reliability. Applicant is committed to keeping his financial affairs in order, and I find that future financial problems are unlikely to recur. After evaluating all the evidence in the context of the whole person, I conclude Applicant has 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:	FOR APPLICANT
Subparagraphs 1.a-1.j:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, I conclude that it is clearly consistent with national security to grant Applicant's national security eligibility. Eligibility for access to classified information is granted.

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Pamela C. Benson  
Administrative Judge