



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



In the matter of: )  
)  
) ISCR Case No. 21-02112  
)  
Applicant for Security Clearance )

**Appearances**

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

01/30/2024

**Decision**

Curry, Marc E., Administrative Judge:

Applicant’s student loan payments are no longer delinquent. The majority of her delinquent commercial debts were the product of identity theft, which she successfully disputed. I conclude that Applicant has mitigated the financial considerations security concerns. Clearance is granted.

**Statement of the Case**

On October 17, 2021, the Department of Defense Counterintelligence and Security Agency Consolidated Adjudications Services (DCSA CAS) issued an SOR to Applicant detailing security concerns under Guideline F, financial considerations, explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The DCSA CAS took the action 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 Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017. On October 27, 2021, Applicant answered the SOR. She admitted subparagraphs 1.a through 1.h, admitted in part, and denied, in part, subparagraphs 1.i through 1.l, and denied subparagraphs 1.m through 1.q. She requested a decision on the record evidence instead of a hearing.

On February 23, 2022, Department Counsel prepared a File of Relevant Material (FORM) containing a brief supported by seven exhibits. Applicant was provided a copy of the FORM on March 7, 2022 and given 30 days to respond. She did not respond. At some time that is not clear from the record, the Defense Office of Hearings and Appeals converted the case to a pending hearing status. The case was assigned to another administrative judge on May 13, 2022. After being rescheduled twice, the case was assigned to me on August 11, 2023 and scheduled for September 26, 2023.

I held the case as rescheduled, incorporating seven government exhibits (Government Exhibit (GE) 1- 7) and one Applicant exhibit (Applicant Exhibit (AE) A), together with the testimony of one character witness. At the end of the hearing, I extended the record until October 20, 2023, to allow Applicant the opportunity to submit additional exhibits. Within the time allotted, she submitted five exhibits incorporated into the record as AE B through AE F. The transcript was received on October 6, 2023.

### **Findings of Fact**

Applicant is a 38-year-old single woman with two children, ages 13 and 5. She graduated from college in 2009 after which, she worked in a number of different fields, including as a medical assistant and as a teacher. During a four-month period in 2013, she worked fulltime as a teacher and parttime as a waitress while enrolled in vocational school. (GE 1 at 14, 18) In 2018, she began working for a defense contractor in the parts assembly division.

Applicant incurred approximately \$32,000 of delinquent student loan debts, as alleged in subparagraphs 1.a through 1.f, 1.h, and 1.n. (AE B) A single mother, Applicant attributes her problems keeping up with her student loan payments to difficulty supporting her two children, one of whom has special needs, with inconsistent financial support from the children's fathers. (Tr. 49-50) In 2020, Applicant contacted the student loan creditor for help refinancing the loans. After the creditor conducted an income and expense analysis, Applicant's monthly payments were reduced to \$5.00 per month. (AE B at 1-3) Applicant has been paying this amount as agreed. The accounts are currently in good standing. (AE B at 4; GE 6 at 3-6)

In 2015, Applicant's commercial debts began to fall behind after her live-in boyfriend broke up with her and stopped making payments towards a motorcycle loan that she had financed. Applicant subsequently discovered that her ex-boyfriend had been opening credit card accounts in her name without her knowledge while they were living together, "keeping it hidden," and had been continuing to abuse her credit after they had separated. (Tr. 22; GE 7 at 1) By 2020, the commercial debt that appeared on Applicant's credit report totaled \$14,000, as alleged in subparagraphs 1.a through 1.f, 1.h and 1.n.

Applicant then asked her father for help. He allowed her and the two children to move into his home so that she could stabilize her financial situation. (Tr. 22) After moving in with her father, Applicant then went to the police department to report the identity theft.

After finding them to be unhelpful, she closed all the accounts and retained an attorney who has been helping her identify and remove these accounts from her credit record. (Tr. 35)

The debt alleged in SOR subparagraph 1.g, totaling \$2,593, is the motorcycle that Applicant's ex-boyfriend stopped making loan payments after they separated. Applicant contacted the creditor, informed it of what happened, whereupon the creditor repossessed it. (AE C) The creditor told Applicant that she was responsible for the deficiency. (AE C) Applicant disputed this contention and is seeking its removal from her credit report. (AE A at 2) With the help of Applicant's attorney, all the debts alleged in subparagraph 1.i through 1.o and 1.q have been removed from her credit report. (AE A) Applicant satisfied the debt alleged in subparagraph 1.p, totaling \$363. (Answer at 6)

Applicant is now vigilant about managing her finances. In June 2019, she completed an employer-sponsored financial management course and in 2021, she took a course on how to satisfy outstanding debt. (AE E) In addition, she routinely watches financial self-help videos. (AE F)

### **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 history of struggling to pay her student loan debts on time, together with multiple debts that are listed as delinquent on her credit bureau reports, triggers the application of AG ¶ 19(a), "inability to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations." Applicant's ex-boyfriend incurred the majority of the commercial delinquent debt in her name without her knowledge, or in the case of the motorcycle loan that Applicant did open, ceasing to make payments after they separated. Once Applicant discovered these problems, she retained an attorney. With the attorney's help, she identified all the accounts that the boyfriend opened, contacted the credit reporting agencies, and had them removed from her credit reports. As for the student loan accounts, she renegotiated the payment amount and has complied with the renegotiated loan terms. Currently, they are no longer delinquent.

Applicant is no longer in touch with her ex-boyfriend, making the possibility of recurrence unlikely. She attended a financial counseling course through her employer, and she routinely watches financial self-help videos to help her keep abreast of her finances. I conclude that the following mitigating conditions are applicable:

20(a) the behavior . . . . 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;

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;

20(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

20(d) 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.

On balance, I conclude Applicant mitigated the financial considerations security concerns.

### **Whole-Person Concept**

I considered the whole-person factors in my analysis of the disqualifying and mitigating conditions, particularly, the circumstances surrounding the origin of the problem and the current, significant presence of rehabilitation.

### **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.q:	For Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Marc E. Curry  
Administrative Judge