



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-01257
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Rhett Petcher, Esq., Department Counsel  
For Applicant: *Pro se*

01/26/2024

**Decision**

HYAMS, Ross D., Administrative Judge:

Applicant did not provide sufficient information to mitigate the financial considerations security concerns arising from her delinquent student loans. Eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on January 14, 2022. On July 11, 2022, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. Applicant answered the SOR on July 21, 2022 and requested a hearing before an administrative judge. The case was assigned to me on February 2, 2023.

The hearing convened, as scheduled, on August 22, 2023. Department Counsel submitted Government Exhibits (GE) 1-4, which were admitted in evidence without objection. Applicant did not present any documentation at the hearing. After the hearing, I held the record open for two weeks to provide Applicant with the opportunity to submit documentary evidence. She submitted Applicant's Exhibits (AE) A-B, which I admitted without objection.

**Findings of Fact**

In her answer, Applicant admitted SOR allegations ¶¶ 1.a-1.l and 1.n, and denied ¶ 1.m. Her admissions are incorporated into the findings of fact. Based on my review of the pleadings, evidence submitted, and testimony, I make the following additional findings of fact.

Applicant is 28 years old. She has worked as an assembler for a defense contractor since 2021. She earned an associate degree in 2015 and a bachelor's degree in 2018. (Tr. 14-17; GE 1)

Applicant stated that she has struggled with her finances since graduating college. She was unable to get a job in her field of study that paid her sufficiently to meet her monthly expenses. She has not made any payments on her federal student loan balance since she graduated from college, and she does not currently have the means to do so. She reported that she tries to assist her mother financially, but often is unable to meet her own basic monthly expenses. She makes about \$16 an hour, but her work hours have been recently cut. She is looking for a second job to assist her with her financial difficulties. (Tr. 13-41; GE 3)

In September 2021, Applicant hired a credit building and repair company that she discovered online, to help with her finances and resolve her delinquent debt. She reported giving them a few hundred dollars, but after a few months discovered that this business was scamming customers without offering any real assistance. (Tr. 13-41; AE B)

The SOR alleges 13 delinquent debts, including 11 federal student loans totaling \$32,604, and two medical debts totaling \$433. The status of the allegations is as follows:

SOR ¶¶ 1.a-1.k and 1.n are 11 federal student loans placed for collection for \$32,604. Applicant reported that in 2021, she tried to get her student loans resolved by looking at the Department of Education (DoE) website. She stated that it was confusing, and she could not figure out what to do. She did not contact DOE, the lender, or anyone else for assistance. She had not made previous payments on her student loans, and did not make earlier or subsequent efforts to get them deferred or resolved. (Tr. 13-41; AE A; GE 2, 3, 4)

SOR ¶¶ 1.l (\$300) and 1.m (\$133) are medical debts placed for collection. The first debt was for an ER visit. Applicant claimed that she has made some payments and reduced the balance by about \$100. The second debt she did not recognize and did not know what creditor to contact to resolve it. (Tr. 13-41; GE 2, 3, 4)

Applicant reported that she had surgery about a year ago and was on short-term disability for about three months, earning about 60% of her expected monthly income. She has not had credit counseling. A monthly budget from May 2022, showed that she does not earn enough to cover her basic monthly expenses. She did not provide a more recent monthly budget. (Tr. 23-39; GE 3)

## 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 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.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's medical debts are small and do not appear to be part of a larger pattern of delinquent debt or financial irresponsibility. I find the medical debts do not represent a security concern. SOR ¶¶ 1.l and 1.m. are resolved in Applicant's favor.

The guideline notes two 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.

The other debts alleged in the SOR are established by the credit reports and Applicant's admissions. AG ¶¶ 19(a) and 19(c) apply to SOR ¶¶ 1.a-1.k and 1.n.

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; and
- (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.

AG ¶ 20(a) does not apply. Applicant failed to provide sufficient documentation showing that any of the alleged student loans are being paid or otherwise resolved, or became delinquent under such circumstances that are unlikely to recur. Her failure to pay these loans is both long-term and recent, as well as ongoing and unresolved. This continues to cast doubt on her current reliability, trustworthiness, and good judgment.

AG ¶ 20(b) does not apply. Applicant's difficulty finding sufficient employment in her field after graduation and having her work hours curtailed by her employer are circumstances beyond her control. However, she failed to provide sufficient evidence showing that she acted responsibly under the circumstances. The DoE website may have been hard to navigate in 2021, however, she has a college degree, and should have been able to contact someone at the DoE, the lender, or find some way to get assistance from another source to get her loans out of a collection status. It appears that she gave up after being scammed by the credit building and repair company that she found online. Regardless of her current ability to make payments on these loans, she has not acted responsibly with regard to her student loan debt by leaving it unresolved.

### **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 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 in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility for a security clearance. She did not provide sufficient evidence to mitigate the security concerns under Guideline F arising out of her student loans in collection. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for eligibility for access to classified information in the future.

### **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.k, 1.n:	Against Applicant
Subparagraphs 1.l and 1.m:	For Applicant

### **Conclusion**

It is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

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Ross D. Hyams  
Administrative Judge