



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



In the matter of:)	
)	
)	ISCR Case No. 24-00319
)	
Applicant for Security Clearance)	

Appearances

For Government: Andrew H. Henderson, Esq., Department Counsel
For Applicant: *Pro se*

07/25/2024

Decision

RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline F, financial considerations. Eligibility for access to classified information is denied.

Statement of the Case

On February 24, 2024, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) 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 adjudicative guidelines (AG) effective within the DOD on June 8, 2017.

Applicant answered the SOR on March 3, 2024, and elected to have her case decided on the written record in lieu of a hearing. Department Counsel submitted the Government’s file of relevant material (FORM), and Applicant received it on April 2, 2024. She was afforded an opportunity to file objections and submit material in refutation,

extenuation, or mitigation within 30 days of receipt of the FORM. The Government's evidence is identified as Items 1 through 5. Applicant did not provide a response to the FORM. The case was assigned to me on July 11, 2024. There were no objections and the Government's documents are admitted in evidence.

Findings of Fact

Applicant admitted both of the SOR allegations. Her admissions are incorporated into the findings of fact. After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 32 years old. She attended a community college from 2011 to 2014 and 2017 to 2018 and a different community college from 2015 to 2017. She did not earn a degree from either school. She also attended a university from 2014 to 2018 and earned a bachelor's degree. She participated in an apprentice program from April 2023 to the present. She began employment with a federal contractor in April 2023. She never married and has no children. (Item 2)

Applicant completed a security clearance application in May 2023. She lists she was unemployed from July 2019 to October 2022. She did not disclose any delinquent debts. In August 2023, she was interviewed by a government investigator. She confirmed with the investigator she did not have any delinquent debts. She was confronted with two delinquent student loans, which she acknowledged. She said she found the student loans on Credit Karma and believed they were reported as a loss to the company, so she did not have to report the debts. She told the investigator she obtained the students loans in 2015 to fund her university education. She said she possibly made one payment on the loans but could not recall. She said she never received a bill that the loans were in collection, but it was possible her grandmother, who died in 2022, and co-signed the loans, may have received a bill. She had not made any arrangements to resolve the loans. She planned to resolve the loans by calling the collection agency and making a payment plan no later than December 2023. She said her finances were stable and she could resolve the loans. She intended to repay her student loans. (Item 2, 3)

In Applicant's SOR answer, she admitted the delinquent student loans in ¶ 1.a (\$21,127) and ¶ 1.b (\$8,015). She stated she had called the original creditor, but they no longer owned the loans and had charged them off. She said she made inquiries to find who owned the loans and "nothing has come about." She said she has been checking her credit reports and bank account to see if there were any updates on a new lender. She understood that a charge-off is not a "free pass on not paying my debts." She denied she has failed to live within her means, satisfy debts, and meet financial obligations. She said she has made consistent on-time payments to all of her creditors and pays more than the minimum on accounts before the due date. (Item 1)

No other information was provided by Applicant. Credit reports from May 2023 and February 2024 reflect the charged-off student loans alleged in SOR ¶¶ 1.a and 1.b. They are reported as being opened in 2014 and 2015. (Items 4, 5)

Any derogatory information that was not alleged will not be considered for disqualifying purposes. It may be considered in the application of mitigating conditions and in a whole-person analysis.

Policies

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines (AG). 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 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states 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 as to obtaining 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 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).

Analysis

Guideline F: Financial Considerations

The security concern relating to the guideline 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

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 handing and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

AG ¶ 19 provides conditions that could raise security concerns. The following are potentially applicable:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant has two delinquent student loans totaling approximately \$29,142 that remained unresolved. She completed her degree in 2018. She said her finances are stable. She did not provide any evidence she contacted the student loan creditor when the debts became due or made payments on them. She did not provide an explanation for why she failed to pay them. There is sufficient evidence to support the application of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following 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;
- (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 admitted she owes the two delinquent student loans. She did not provide information for why she did not make any payments when they were due or for the past five years, other than to suggest her deceased grandmother, who cosigned on the loans, may have been notified. She last attended college in 2018 and there is no evidence she did anything regarding the student loans until she was confronted with their delinquency during her security clearance investigation process. After she spoke with the government investigator, she said she called the original creditor, but they no longer owned the loans once they were charged off. She said she made other inquiries, but they did not produce results. She provided no other evidence of being proactive in resolving her student loans. The delinquent loans are recent and ongoing. There is no evidence she has participated in financial counseling or that she has initiated a good-faith effort to repay or otherwise resolve the debts. AG ¶ 20(a), AG ¶ 20(c) and AG ¶ 20(d) do not apply.

There is evidence that Applicant was unemployed after college. This was a condition beyond her control. For the full application of AG ¶ 20(b), Applicant must have acted responsibly under the circumstances. She did not provide evidence that she contacted the creditor at any point to have the loans placed in forbearance due to her unemployment. She has not provided sufficient evidence that she is being proactive in attempting to resolve these debts now that her finances are stable. It appears she is waiting to be notified by the current collection company. Applicant did not provide a response to the FORM. Because Applicant requested a determination on the record without a hearing, I had no opportunity to question her about her actions or evaluate her credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App.

Bd. Jul. 23, 2003). Applicant failed to act responsibly under the circumstances. AG ¶ 20(b) partially applies.

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 the 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.

Applicant has not met her burden of persuasion. The record evidence leaves me with questions and doubts as to her eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the security concerns arising under Guideline F, financial considerations.

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.b:	Against Applicant

Conclusion

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

Carol G. Ricciardello
Administrative Judge