



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



In the matter of: )  
)  
) ISCR Case No. 23-00348  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Andrea M. Corrales, Esq., Department Counsel  
For Applicant: *Pro Se*

03/25/2024

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**Decision**

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HESS, Stephanie C., Administrative Judge:

Applicant has mitigated the Guideline F (Financial Considerations) raised by her past financial issues. Her delinquent student loan, which constituted the majority of her outstanding debt, has been resolved and she has not incurred any recent delinquencies. Access to classified information is granted.

**Statement of the Case**

Applicant submitted a security clearance application (e-QIP) on June 16, 2022. On February 28, 2023, the Department of Defense (DOD) sent her a Statement of Reasons (SOR), alleging security concerns under Guideline F. The DOD acted under Executive Order (Ex. Or.) 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 June 8, 2017.

Applicant answered the SOR on April 10, 2023, and requested a decision on the record without a hearing. Department Counsel submitted the Government's written case on May 10, 2023. On May 11, 2023, a complete copy of the file of relevant material (FORM), which included Government Exhibits (GX) 1 through 8, was sent to Applicant.

She received the FORM on May 19, 2023. The Defense Office of Hearings and Appeals (DOHA) transmittal letter dated May 11, 2023, informed Applicant that she had 30 days after receiving it to file objections and to submit material to refute, extenuate, or mitigate the Government's evidence. She did not submit a response. The case was assigned to me on September 28, 2023.

On January 30, 2024, I reopened the record, via email to both parties, until February 16, 2024, to permit the parties to submit any additional evidence. Applicant timely submitted Applicant's Exhibit (AX) A. I admitted Government's Exhibits (GX) 1 through 8 and AX A without objection.

### **Findings of Fact**

Under Guideline F, the SOR alleges that Applicant is indebted for a delinquent student-loan account of \$72,482, and judgment for a delinquent medical debt in the amount of \$2,167. In her answer to the SOR, Applicant admits each of the debts. Applicant's admissions are incorporated in my findings of fact.

Applicant, 62, is a hardware technician currently working for a defense contractor since April 2022. She married in 1983 and divorced in 1993. She has one adult child. She attended some college. In 2021, she briefly attended a technical training program. This is her first application for a security clearance. (GX 3.)

Applicant experienced the following periods of unemployment: October 2017 through December 2017 due to health issues, and March 2020 through December 2021. She worked part time for one ride-share company from January 2018 to through January 2020, and for a second ride-share company from November 2019 until March 2020. She again worked part time for a ride-share company from January 2022 until April 2022. (GX 3.)

Applicant lived at the same residence from August 1995 until June 2020. After being served with a summons for unlawful detainer for failure to pay her rent while unemployed during the COVID-19 pandemic, she moved in with a friend. She stated in her June 2022 e-QIP that she was "staying with a friend until I could get a better job." She listed on her e-QIP in the Financial Record section, the \$7,230 debt owed on the summons, the case number, the June 1, 2020, writ of eviction date, and the date she satisfied the debt, which was September 23, 2021. She has since moved out of her friend's house. (GX 3; Answer.)

Applicant opened her student-loan account in 2005. She made payments until 2014, with her last payment date of July 2014. In 2017, the loan servicer sold the loan, with a balance of \$37,352, to another servicer/creditor. At some point, the second servicer/creditor sold the loan to a third servicer/creditor. In 2022, the balance was \$72,482. However, due to the blanket forbearance on student loans during the COVID-19 pandemic, the loan was listed as "pays account as agreed" with a \$0 past-due balance. (GX 6; GX 7.)

Applicant listed her student loan on her June 2022 e-QIP, stating that she had "not made enough money to pay back the loan." She also stated that the loan was "on hold until the Government decided what to do with it." With her answer to the SOR, Applicant provided a copy of her earnings record from the Social Security Administration, which dated from 1981 through 2022. In admitting to the student-loan debt (SOR ¶ 1.a), she stated that she had never earned more than \$27,789 in a single year, that she had raised her daughter by herself, and that she was currently working at the first job that would "afford [her] the opportunity to pay the loan back." However, at the time she received the SOR in February 2023, her loan was in forbearance and she was not required to make payments or establish a payment plan. (GX 3; Answer.)

For the 18-year period from when Applicant's daughter was born in 1996 through 2014, Applicant earned a total of \$210,334. Although her income varied from a low of \$800 in 2004 to a high \$25,611 in 2012, her annual income averaged over those 18 years was \$11,685. Due to the COVID-19 pandemic and her resulting sustained period of unemployment, she earned \$1,950 in 2020 and \$0 in 2021. (Answer.)

At some point, Applicant submitted an application for forgiveness of her student loan. On December 7, 2023, she received notice that her student-loan balance of \$37,352 had been forgiven effective April 30, 2016. SOR ¶ 1.a is resolved. (AX A.)

In her answer to the SOR, Applicant admitted the \$2,167 judgment for a medical debt (SOR ¶ 1.b) but stated that she was unaware of the debt. She explained that she had requested a full copy of her credit report but had not received it yet. She further explained that she monitors her credit with each of the three major credit-reporting companies on a weekly basis, and that none of them reported the judgment. She also attached supporting documentation from each of the credit-reporting companies. She stated that she had been in contact with the creditor to rectify the judgment. The judgment was entered against her in November 2013. (GX 8.)

Applicant's 2022 and 2023 credit-bureau reports show that all of Applicant's open accounts are current and without any late payments. With the exception of her student loan, there are no delinquent accounts. (GX 6; GX 7.)

## **Policies**

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20; 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant's meeting the criteria contained in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 92-1106 at 3, 1993 WL 545051 at \*3 (App. Bd. Oct. 7, 1993).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

### **Guideline F, Financial Considerations**

The concern under this guideline is set out in AG ¶ 18:

Failure or inability 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 .... An individual who is financially overextended is at 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. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The record evidence establishes two disqualifying conditions under this guideline:

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:

AG ¶ 20(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;

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; and

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Due to circumstances largely beyond her control, Applicant experienced several periods of unemployment, underemployment, and years of low-income earning. As a result of the COVID-19 pandemic, she was unemployed from March 2020 until December 2021, and worked part time from January 2022 before she started working at her current job in April 2022. Because of her low income, she simply could not afford to maintain her student-loan payments after 2014.

Applicant acted responsibly under the circumstances. Despite her lack of income, she maintained a home for her daughter, living in the same residence from 1995 until 2020. She fell behind on her rent payments in 2020 while unemployed and moved in with a friend while she sought employment. She has since moved. She did not amass significant consumer debt and her recent CBRs show that her only delinquent account was her student loan.

Applicant applied for and was granted student-loan forgiveness in December 2023, and the loan-forgiveness effective date was April 2016. She has contacted the creditor of the \$2,167 judgment entered in 2013 for a medical debt with the intention of resolving the account. She was unaware of the judgment prior to receiving the SOR.

Applicant monitors her credit by receiving weekly information from the three major credit-reporting companies. She has requested a copy of her credit report.

Applicant has acted in good faith in her efforts to resolve her financial delinquencies. "Good faith" means acting in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation. ISCR Case No. 99-0201 (App. Bd. Oct. 12, 1999). A security clearance adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010.) A person is not required to establish resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. The adjudicative guidelines do not require that an individual make payments on all delinquent debts simultaneously, nor do they require that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant's financial difficulties arose many years ago and were exacerbated by circumstances largely beyond her control; however, she acted responsibly under the circumstances. While those granted access to classified information are held to a high standard of conduct, they are not held to a standard of perfection. There is nothing in the record that suggests Applicant's financial habits are reckless or irresponsible or that she is likely to disregard her financial obligations in the future. She is current on her ongoing financial obligations and has not incurred any recent delinquent debt. Applicant's past financial issues do not cast doubt on her current reliability, trustworthiness, or good judgment. AG ¶¶ 20(a), 20(b), and 20(d) apply.

### **Whole-Person Concept**

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. In applying the whole-person concept, an 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. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a).

After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the potential security concerns raised by her past financial issues. Accordingly, I conclude she has carried her burden of showing that it is clearly consistent with the national interest to grant her eligibility for access to classified information.

### **Formal Findings**

As required by section E3.1.25 of Enclosure 3 of the Directive, I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F (Financial Considerations):	FOR APPLICANT
Subparagraphs 1.a and 1.b:	For Applicant

### **Conclusion**

I conclude that it is clearly consistent with the national interest to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

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Stephanie C. Hess  
Administrative Judge