



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



In the matter of:)
)
) ISCR Case No. 24-00560
)
)
Applicant for Security Clearance)

Appearances

For Government: Brian Farrell, Esq., Department Counsel
For Applicant: *Pro Se*

09/16/2024

Decision

BORGSTROM, Eric H., Administrative Judge:

After graduating from college in December 2019, Applicant entered the work force in January 2020, shortly before the COVID pandemic. He experienced a period of underemployment of unspecified length when he could not afford his student loan payments. Although his ability to pay resumed, and he claimed to have made payment arrangements, he has not provided any corroborating evidence of payments or payment arrangements. Applicant has not demonstrated that he acted responsibly to address and resolve his delinquent student loans once he was financially capable of doing so. Eligibility for access to classified information is denied.

Statement of the Case

On April 11, 2024, the Department of Defense Consolidated Adjudication Services (GAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). The GAS acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines implemented by the DOD on June 8, 2017.

In Applicant's June 4, 2024 response to the SOR (Answer), he admitted all nine delinquent debts without explanation. He did not attach any documents to his Answer. He requested a decision by a Defense Office of Hearings and Appeals (DOHA) administrative judge based upon the written record in lieu of a hearing. (Answer)

On June 10, 2024, Department Counsel submitted a file of relevant material (FORM) and provided a complete copy to Applicant. Department Counsel's FORM includes Government Exhibits (GE) 1 through 7. In the FORM, Department Counsel provided Applicant notice that failure to respond to the FORM may be considered a waiver of any objections to the admissibility of the evidentiary exhibits.

On June 24, 2024, Applicant received the FORM and its attachments. He did not submit a response to the FORM within 30 days of receipt. He did not raise any objections to the admissibility of any of the evidentiary exhibits. The case was assigned to me on September 4, 2024. GE 1 through 7 are admitted in evidence without objection.

Findings of Fact

Applicant is 26 years old. He graduated from high school in June 2015, and he earned a bachelor's degree in December 2019. He was in school and unemployed until January 2020. From January 2020 to September 2022, he was employed full time with a car dealership. Since October 2022, he has been employed full time as a security officer with a DOD contractor. He also worked part time as a security officer for a private company from November 2022 to at least January 2023. (GE 1, GE 7)

The SOR alleges financial considerations security concerns arising from nine student loans totaling approximately \$210,000 (SOR ¶¶ 1.a.-1.i.). These loans were obtained between August 2015 and August 2019, while Applicant attended college. In his September 2022 security clearance application, he admitted his delinquent student loans and noted that they became delinquent in about August 2020. (GE 1-6)

On January 13, 2023, Applicant was interviewed by an authorized investigator with the Office of Personnel Management. During the interview, he admitted all nine delinquent student loans. He explained that the loans had become delinquent when he did not have sufficient funds to make payments. Even after he regained the financial means to initiate payments, he let the loans go into collection status in late 2020, seeking eligibility for a repayment plan or debt-relief program. He claimed that he had been paying \$700 monthly since January 2021; however, he provided no corroborating evidence. (GE 7)

In his August 2023 response to DOHA interrogatories, Applicant claimed that payment arrangements had been made for all nine loans but that he was not making payments at that time. He provided no documentary evidence of payments or payment arrangements. He attributed these delinquent accounts to being unable to afford the required monthly payments and a period of underemployment during COVID. He did not specify when his hours were reduced or what steps he has taken since the pandemic. He alluded to debt-relief programs but provided no further information or documentation. In his August 2023 response, he included a monthly budget projecting a \$1,000 net remainder without any student loan payments. (GE 1-7)

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 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(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 ¶ 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 sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive 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 ...

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

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

Applicant's nine delinquent student loans, totaling approximately \$210,000, became delinquent in about August 2020. During his security interview, Applicant admitted that, after a period of underemployment, he regained the financial means to make loan payments and chose not to. These accounts remain delinquent. AG ¶¶ 19(a), 19(b), and 19(c) apply.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable in this case:

- (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 has initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant bears the burdens of production and persuasion in mitigation. An applicant is not held to a standard of perfection in his debt-resolution efforts or required to be debt-free. "Rather, all that is required is than an applicant act responsibly given his circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct,' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017). See, e.g., ISCR Case No. 13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014).

Applicant has admitted all nine delinquent student loans. During his January 2023 security interview, he claimed to have been making payments on his student loans, but he did not provide any corroborating evidence. In his August 2023 response to the DOHA interrogatories, he admitted that arrangements had been made but no payments had been made in accordance with those arrangements. As of the close of the record, there is no evidence to corroborate Applicant's claimed payments on any of his delinquent student loans. There is no evidence of credit counseling. Notwithstanding his period(s) of underemployment, Applicant has not established that he has acted responsibly to address and resolve his delinquent student loans. None of the financial considerations mitigating conditions apply.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a position of trust 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 and the factors in AG ¶ 2(d) in this whole-person analysis.

After graduating from college in December 2019, Applicant entered the work force in January 2020, shortly before the COVID pandemic. He experienced a period of underemployment of unspecified length when he could not afford his student loan payments. Although his ability to pay resumed, and he claimed to have made payment arrangements, he has not provided any corroborating evidence of payments or payment arrangements. Applicant has not demonstrated that he acted responsibly to address and

resolve his delinquent student loans once he was financially capable of doing so. Eligibility for access to classified information is denied.

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.i.:	Against Applicant

Conclusion

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

Eric H. Borgstrom
Administrative Judge