



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



In the matter of:)	
)	
)	ISCR Case No. 23-02580
)	
Applicant for Security Clearance)	

Appearances

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

03/28/2025

Decision

Dorsey, Benjamin R., Administrative Judge:

Applicant did not mitigate the financial considerations security concerns. The personal conduct security concerns were not established. Eligibility for access to classified information is denied.

Statement of the Case

On December 11, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations) and Guideline E (personal conduct). He responded to the SOR with an undated answer, and requested a decision based on the written record in lieu of a hearing.

The Government submitted its written case on February 6, 2024, and again on April 6, 2024. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was advised that he had 30 days from his date of receipt to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on April 17, 2024, and he did not respond to it. The case was assigned to me on February 20, 2025. The Government exhibits included in the FORM, marked as Items 1 through 11, are admitted in evidence without objection.

Findings of Fact

Applicant is a 31-year-old employee of a government contractor for whom he has worked since July 2021. When he completed and certified the October 7, 2022 security clearance application (2022 SCA) upon which this adjudication is based, he claimed he was also a full-time college student from 2011 to the present. However, he earned a bachelor's degree in December 2019, and does not appear to have been a student after he earned that degree. He has never married and has no children. (Items 2-5)

In the SOR, the Government alleged Applicant's 12 delinquent debts totaling approximately \$154,000 (SOR ¶¶ 1.a through 1.l). A substantial portion of these delinquencies consist of student loans in the approximate amount of \$145,000 (SOR ¶¶ 1.a through 1.g). The other delinquent debts are as follows: a residential lease (SOR ¶ 1.h); credit cards (SOR ¶¶ 1.i through 1.k); and an auto loan (SOR ¶ 1.l). He admitted the SOR allegations. His admissions are adopted as findings of fact. The SOR allegations are established through his admissions and the Government's credit reports. (Items 2-11)

The student loans listed in SOR ¶¶ 1.a through 1.l in the approximate amount of \$145,000 have not been resolved. I take administrative notice that all federal student loans were placed in a deferment status because of the COVID-19 pandemic (Deferment) as of late March 2020. The Deferment ended in September 2023. The Government's February 2024 credit report reflects a last payment date of July 2021 on these loans. Therefore, Applicant did not begin repayment on these loans when the Deferment ended. In his response to the statement of reasons, Applicant claimed that he had contacted the student loan creditor on an undisclosed date to discuss repayment options. He claimed that he plans to repay the lower student loan debts listed in SOR ¶¶ 1.f and 1.g in installments of about \$1,035 per month over 12 months to satisfy those loans. He then plans to repay the remaining delinquent student loan debts listed in SOR ¶¶ 1.a through 1.e in monthly installments of about \$2,200 for 60 months. He did not allege that he has begun making any of these payments. He did not provide any documents regarding his efforts to resolve the student loan debts. He did not provide any documents to show that he can afford to make these payments. (Items 1, 4-11)

The residential lease delinquency listed in SOR ¶ 1.h in the amount of about \$4,593 has not been resolved. This debt became delinquent in about 2018 when Applicant and his roommates were evicted from an apartment for failing to timely pay rent. During his May 2023 security interview (2023 SI), he initially told the DOD investigator that he believed that he and his roommates paid off this debt. However, during the same interview, he conceded that perhaps they had not paid it. In his response to the SOR, he claimed that he made a payment arrangement with the relevant leasing office on an unspecified date. He claimed that he would pay \$583 in February 2024, and \$4,000 total split equally between two March 2024 payments. He provided no documents to corroborate his resolution efforts, his payments, or the status of the debt. (Items 1, 4-9, 11)

The delinquent credit card listed in SOR ¶ 1.i in the approximate amount of \$2,442 is being resolved. Applicant became delinquent on this account in about October 2018. On an unspecified date, Applicant made a payment arrangement with the creditor to pay the balance in full on February 23, 2024. He provided a screen shot to reflect this proposed payment, but he did not provide any documentation to show that he made the required payment. (Items 1, 4-11)

The delinquent credit card listed in SOR ¶ 1.j in the approximate amount of \$1,160 has been resolved. Applicant became delinquent on this account in about November 2017. He paid this account in full on January 19, 2024, and provided a screenshot from the creditor's website reflecting the payment and the paid-in-full status. (Items 1, 4-11)

The delinquent credit card listed in SOR ¶ 1.k in the approximate amount of \$862 has been resolved. Applicant became delinquent on this account in about November 2017. He paid this account in full on January 19, 2024, and provided a screenshot from the creditor's website reflecting the payment and the paid-in-full status. (Items 1, 4-11)

The delinquent auto loan listed in SOR ¶ 1.l, in the approximate amount of \$995 with a total loan balance of \$18,258 has been resolved. Applicant opened this account in about 2020 and fell behind on payments sometime during the pandemic. His car payments were about \$497 per month. He was generally no more than three payments behind on the account, and the automobile securing the account was not repossessed. He claimed he is current on the account, and provided a screen shot from the creditor's website to corroborate this status. (Items 1, 4, 7-11)

Applicant's financial delinquencies were caused by immaturity, a lack of financial acumen, and some periods of underemployment and unemployment. He was unemployed from April 2021 until June 2021 as a result of being laid off by another government contractor. However, he has been gainfully employed with this current employer since June 2021. During the 2023 SI, he told the DOD investigator that he was paid \$83,000 annually and had a monthly surplus of about \$1,664. He claimed he had about \$6,000 to \$8,000 in a savings account and about \$1,500 to \$2,000 in a checking account. He claimed that he has about \$5,000 in a retirement account. He has not provided any more recent budget information or evidence to show his current financial status. He provided no evidence that he has undergone financial counseling. (Items 3-5)

Despite being required to divulge information regarding his delinquent financial accounts in the 2022 SCA, Applicant failed to do so. He volunteered many of these delinquencies before being confronted by the investigator during the 2023 SI. He claimed that he did not divulge these delinquent debts because he did not understand the question and he made a mistake. In his response to the SOR, he acknowledged that he made a mistake and did not accurately report the required information. He again claimed it was an inadvertent mistake, and that he was not trying to deceive or withhold information deliberately. He wrote that he was not intending to falsify material facts. He listed delinquent debts on a security clearance application that he completed and certified on January 10, 2020 (2020 SCA). Some of the delinquent debts he listed in the 2020 SCA

were debts that were still delinquent at the time he completed the 2022 SCA. He listed other derogatory information in the 2022 SCA, such as quitting a job before being fired for poor performance and being let go by another employer for not meeting an employer mandated quota. (Items 1-5)

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 within DOD 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.

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; and
- (c) a history of not meeting financial obligations.

Applicant had 12 delinquent debts totaling about \$154,000. Several of the SOR accounts have been delinquent for years. The above disqualifying conditions are established.

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;
- (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

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

Applicant's financial delinquencies are recent and ongoing. He has not provided sufficient evidence that he is resolving the vast majority of his SOR debts. While he claimed that he has a plan in place to resolve his delinquent student loans, the evidence that he has executed that plan is equivocal, because it is aspirational. It is reasonable to expect Applicant to present documentation about the resolution of specific debts, but he has not provided documentation regarding any of his student loans (SOR ¶¶ 1.a through 1.g), the residential lease (SOR ¶ 1.h), or one of his credit cards (SOR ¶ 1.i). See, e.g., ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 16, 2016). While he has provided documentary evidence concerning the resolution of three of his financial delinquencies (SOR ¶¶ 1.j, 1.k, and 1.l), these debts were by far the smallest listed in the SOR, totaling only about \$3,000 of the \$154,000 total. He has not established a track record of financial responsibility. AG ¶ 20(a) does not apply.

Applicant's delinquencies were caused by immaturity and unemployment. To the extent that his delinquencies were caused by unemployment they can be seen as being beyond his control. For AG ¶ 20(b) to apply, he must also provide evidence that he acted responsibly under the circumstances. For AG ¶ 20(d) to apply, he must show that he made good-faith efforts to resolve his debts. The timing of his resolution efforts detracts from his ability to meet his burden of persuasion in mitigation under these two mitigating conditions. Despite being gainfully employed since June 2021 and telling the investigator in May 2023 that he had a fair amount in savings, he provided little to no evidence to show that he attempted to resolve these delinquencies until after the SOR was issued. An applicant who acts to mitigate security concerns only after his personal concerns are threatened, such as by the potential loss of his or her security clearance, may not be motivated to follow rules and regulations when his personal interests are not affected. For these reasons, I find he has not acted responsibly or in good faith with respect to his delinquencies. AG ¶¶ 20(b) and 20(d) do not apply.

Guideline E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during the national security investigative or adjudicative processes.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying condition is potentially applicable:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

There is some evidence that Applicant's failure to list his financial delinquencies in the 2022 SCA was deliberate. He claimed that he did not understand the question about his delinquent debts, yet he seemed to understand it sufficiently when he listed some of the same financial delinquencies in the 2020 SCA. However, there is also evidence that he did not deliberately omit this information. He volunteered these delinquencies to the investigator during the 2023 SI, and he listed other derogatory information in the 2022 SCA related to his employment record. He also made at least one seemingly neutral mistake regarding his college education that tends to show that he was not being careful while completing the 2022 SCA. On the whole, I find the conflicting evidence that augurs both for and against a finding that his omissions were deliberate effectively cancels one another out. Therefore, I find that there is insufficient evidence that his omission was deliberate. AG ¶ 16 does not apply and Guideline E is not established.

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 Guidelines F and E in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the financial considerations security concern. The personal conduct security concern was not established.

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.l:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant

Conclusion

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

Benjamin R. Dorsey
Administrative Judge