



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



In the matter of:

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ISCR Case No. 24-01035

Applicant for Security Clearance

Appearances

For Government: Nicole A. Smith, Esq., Department Counsel

For Applicant: *Pro se*

08/08/2025

Decision

Curry, Marc E., Administrative Judge:

Applicant mitigated the personal conduct concerns but failed to mitigate the financial considerations security concerns. Her application for a security clearance is denied.

Statement of the Case

On July 12, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under guideline E, personal conduct, and guideline F, financial considerations, explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The DCSA took the action 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 National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017.

On August 27, 2024, Applicant answered the SOR, admitting subparagraph 1.a, in part, denying subparagraph 1.b, and admitting all the Paragraph 2 allegations except subparagraph 2.i. She requested a decision based on the evidence on file rather than a hearing. On October 10, 2024, Department Counsel prepared a File of Relevant Material (FORM), setting forth the Government's arguments against Applicant's security clearance worthiness. The FORM contains 8 attachments, identified as Item 1 through Item 8.

Applicant received a copy of the FORM on October 31, 2024. She was given 30 days to file a response. She filed an undated response. The case was assigned to me on April 2, 2025. After receiving the FORM, I incorporated Items 1 through 8 into the record without objection.

Findings of Fact

Applicant is 67-year-old married woman with two adult children. She attended college for a few years, earning some credits. She currently works as a service desk administrator. (GE 3 at 10) Applicant is highly respected on the job. According to a supervisor in June 2020, she "thrived in complex environment[s], and thrived in chaos." (Item 2 at 7)

Subparagraph 1.a alleges that Applicant was terminated from her job in August 2022 for timecard fraud. Specifically, between February and March of 2018, the times she input on the electronic time sheet exceeded what she swiped on her building entry card by 77 hours. She contends the discrepancy was unrelated to fraud. Rather, it occurred because the company had a problem with the electronic timesheet functioning correctly, and it was not accurate. Moreover, she would always contact her team lead when she left the office. Per her immediate supervisor who prepared a character reference, Applicant "always notified the government lead that she was going to be out of the office." (Item 2 at 8)

The time sheet discrepancy prompted Applicant's employer to conduct an internal investigation. The investigative officer determined that Applicant falsely claimed unauthorized work hours. In addition, her supervisor was found to have assisted her in falsely claiming these hours when she failed to follow up and ensure the false time was removed from Applicant's timecard before the payroll was processed. (Item 7 at 2) Her immediate supervisor stated, "[Applicant] was a hard worker and always requested extra work to assist other team members on daily activities." (Item 7 at 1)

Subparagraph 1.b alleges that Applicant was removed from a contract by her employer, a staffing company, in about March 2018 after a timecard disparity was discovered. Applicant denies this allegation and attributes the problem to a miscommunication. Per her immediate former supervisor, Applicant always worked hard

and always reported any time taken off from work. Applicant admits being terminated from this job but denies that she was terminated for timecard fraud since the termination letter did not reference timecard fraud as the reason for her termination. (Answer at 1)

Applicant incurred approximately \$20,000 of delinquent debt, as alleged in Paragraph 2 of the SOR. She attributes her financial problems to medical issues. (Item 2 at 11) Subparagraph 2.f, totaling \$575 and subparagraph 2.h, totaling \$500 are duplicate debts. Subparagraphs 2.j and 2.k are duplicate debts. (Item 2 at 4) Applicant settled and satisfied the debts alleged in subparagraphs 2.g, as duplicated in subparagraph 2.m, and 2.l. The amount satisfied totals approximately \$767. (Item 2 at 4)

In March 2024, Applicant contacted a debt consolidation firm to help her satisfy the delinquencies. The debts alleged in subparagraphs 2.d, 2.f, 2.h, and 2.i, totaling \$2,244, were included in the settlement plan. The debt consolidation company helped Applicant develop a budget. Per the budget, Applicant has \$27 of monthly after-expense income. (Item 2 at 37) In Applicant's Response to the FORM, she stated that she is no longer working with the debt consolidation company because the fees were too high. Moreover, she stated that she had retained a new debt consolidation company but had not yet begun making any payments. (Response at 1)

As of the date of the SOR, Applicant's delinquent debt balance totaled approximately \$17,000.

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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 overall 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 ¶ 1(d) 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. 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 applicant or proven by Department Counsel. . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

Analysis

Guideline E: Personal Conduct

Under this guideline, “[c]onduct 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.” (AG ¶ 15) The circumstances of Applicant’s departure from a job in August 2022 and a job in 2018 raise the issue of whether AG ¶ 16(d), as follows:

credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment., untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics

indicating that the individual may not properly safeguard classified or sensitive information [including] but . . . not limited to, a consideration of . .

- (4) evidence of significant misuse of Government time or resources.

Applicant was terminated from her job in August 2022, as alleged. However, given that there appeared to be an internal conflict within the hierarchy at Applicant's company regarding Appellant's performance, as her immediate supervisor wrote a character reference for Applicant stating that she was always on time, I conclude that Applicant's termination has no negative security significance. AG ¶ 16 does not apply to the allegation set forth in subparagraph 1.a.

Subparagraph 1.b is similarly rebutted by record evidence provided by Applicant's former supervisor at this job that she was always on time. In light of Applicant's denial, AG ¶ 16 does not apply to the allegation set forth in subparagraph 1.b. In sum, Applicant mitigated the personal conduct security concerns.

Guideline F: Financial Considerations

The security concern under this Guideline states, "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." (AG ¶ 18) Applicant satisfied the debts alleged in subparagraph 2.g, as duplicated in subparagraph 2.l, and 2.m. I resolve these debts in her favor.

The remaining delinquent debt triggers the application of AG ¶ 19(a), "inability to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations."

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 debt.

Applicant's delinquent debt is still largely outstanding. Consequently, AG ¶ 20(a) is inapplicable.

Applicant attributes her delinquent debt to expenses related to medical problems; however, she provided scant evidence in support of this contention. AG ¶ 20(b) does not apply.

In March 2024, Applicant retained a debt consolidation company to help her satisfy her delinquent debt. With the help of the company, she prepared a budget and a payment plan. However, since the SOR, she stopped working with the debt consolidation company and retained another one. Moreover, she has not made any payments under the new plan. Under these circumstances, AG ¶ 20(c) is partially applicable with respect to the engagement of financial counseling, but there are no clear indications that the problem is under control. Further, there is not enough proof to establish that Applicant has been adhering to a payment for AG ¶ 20(d) to apply.

In sum, I conclude Applicant has not mitigated financial considerations security concerns.

Whole-Person Concept

I considered the whole-person concept factors in my analysis of the disqualifying and mitigating conditions, discussed above, and they do not warrant a favorable conclusion.

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 E:	FOR APPLICANT
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Subparagraphs 1.a – 1.b:	For Applicant
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Paragraph 2, Guideline F:	AGAINST APPLICANT
Subparagraphs 2.a – 2.f:	Against Applicant
Subparagraph 2.g:	For Applicant
Subparagraphs 2.h – 2.k:	Against Applicant
Subparagraph 2.l - 2.m:	For Applicant

Conclusion

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

Marc E. Curry
Administrative Judge