



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



In the matter of: )  
)  
) ISCR Case No. 16-02280  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Pamela C. Benson, Department Counsel  
For Applicant: Alan V. Edmunds, Esq. and Ryan C. Nerney Esq.,  
The Edmunds Law Firm

October 25, 2017

**Decision**

LOKEY ANDERSON, Darlene D., Administrative Judge:

On November 20, 2015, Applicant submitted a security clearance application (SF-86). On September 6, 2016, the Department of Defense Consolidated Adjudications Facility (DoD CAF) 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 for Determining Eligibility for Access to Classified Information*, effective within the DoD after September 1, 2006.

Applicant answered the SOR on September 28, 2016. She requested that her case be decided by an administrative judge on the written record without a hearing. (Item 1.) On November 2, 2016, Department Counsel submitted the Government's written case. A complete copy of the File of Relevant Material (FORM), containing 5 Items, were received by Applicant on November 9, 2016. The FORM notified Applicant that she had an opportunity to file objections and submit material in refutation,

extenuation, or mitigation within 30 days of her receipt of the FORM. Applicant responded to the FORM and submitted 19 additional exhibits, referred to as Applicant's Exhibits A through S, which are admitted into evidence. DOHA assigned the case to me on October 1, 2017. Items 1 through 5 are also admitted into evidence, without objection.

The SOR in this case was issued under the adjudicative guidelines that came into effect within the DoD on September 1, 2006. Security Executive Agent Directive (SEAD) 4, *National Security Adjudicative Guidelines*, implements new adjudicative guidelines, effective June 8, 2017. All national security eligibility decisions issued on or after June 8, 2017, are to be decided using the new *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), as implemented by SEAD 4. I considered the previous adjudicative guidelines, effective September 1, 2006, as well as the new AG, effective June 8, 2017, in adjudicating Applicant's national security eligibility. My decision would be the same under either set of guidelines, although this decision is issued pursuant to the new AG.

### **Findings of Fact**

Applicant is 29 years old. She has never married and has no children. She holds an Associate's degree. She is employed with a defense contractor in Administration. She is seeking to obtain a security clearance in connection with her employment.

### **Guideline F - Financial Considerations**

The Government alleged that Applicant is ineligible for a clearance because she made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about her reliability, trustworthiness, and ability to protect classified information. The SOR identified the fact that the Applicant had five delinquent debts, totaling in excess of \$26,000. Applicant admitted and partially denied each of the allegations in the SOR with some explanations. (See Answer) She has been working for her current employer since October 2015.

At the age of sixteen, Applicant broke her back in a car accident in 2004. From then until about 2013, she experienced constant pain and her medical issues, included two major surgeries to correct problems with her spine. (Applicant's Exhibit D.) Applicant attended college from 2008 to 2012, and received a partial scholarship for softball. In February 2012, during her last year in college, she was forced to suddenly withdraw from college due to medical reasons. Applicant tried to work, but was in pain most of the time and unable to perform the required tasks of her job. She had to stop working. In February 2014, when she was able to go back to work, she worked security, and only earned minimum wage. Since October 2015, when she began working for a defense contractor, she has been earning sufficient monies to pay her bills, and has been satisfying her debt.

1.a. The SOR alleges that Applicant became indebted to a college for an account that was placed for collection in the approximate amount of \$25,685. Applicant understood the bill to be \$8,792.33 which was the amount reflected on her student statement account dated April 15, 2013. (Applicant's Exhibit C.) Applicant explained that after making efforts to pay the debt, only later to find out that the payment was never processed, the debt sent to a collection agency, and then at some point the debt was returned to the college, the confusion delayed the payment process. (Applicant's Exhibits E, F and G.) On January 3, 2017, Applicant received a letter from the college with payments arrangements. The total balance at that time was \$19,301.29 and the principal balance was \$8,792.33. Applicant's agreement with the college stated that once she made payments of \$100 monthly for one year, the college would entertain a discussion with her to remove the interest on the debt. (Applicant's Exhibits H and I.) Applicant is currently making the payments and is also disputing the debt through her attorney. (Applicant's Exhibit J.)

1.b. Applicant was indebted to a college for an account that was sent to collection in the approximate amount of \$936. Applicant contends that this debt was consolidated with her current student loan debt and is being resolved through a payment plan. The Navient loan status summary, which includes this debt, shows that Applicant is making monthly payments as required and all accounts are current. (Applicant's Exhibit K.)

1.c. Applicant was indebted to a creditor for a medical account that was placed for collection in the approximate amount of \$163. Applicant states that she paid the debt in full on December 2, 2016. (Applicant's Exhibit L.)

1.d. Applicant was indebted to a creditor for a medical account that was placed for collection in the approximate amount of \$150. Applicant states that she paid the debt in full on September 27, 2016. (Applicant's Exhibit M.)

1.e. Applicant was indebted to a creditor for an account that was placed for collection the approximate amount of \$76. Applicant states that she paid the debt in full on March 25, 2016. (Applicant's Exhibit N.)

Letters of recommendation from professional colleagues, coworkers and friends of the Applicant have all developed a very high opinion of her and describe her excellence. They know that she is working to resolve delinquent debt and is seeking self-improvement. They indicate that she exemplifies professionalism a committed work ethic. Her honesty and hard-working nature is consistent, and shows great potential. They have witnesses her integrity, loyalty and dedication to the job. They strongly recommend her for a security clearance. (Applicant's Exhibit Q.)

Applicant has received several Certifications of Appreciation for her outstanding support to the mission. Her professionalism and steadfast dedication was noted. (Applicant's Exhibit R.)

## Policies

When evaluating an applicant's suitability for a security clearance, 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 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 AG ¶ 2 describing 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 access to classified information will be resolved in favor of 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.

Directive ¶ E3.1.14 requires the Government to 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person who applies for access to classified information seeks to enter 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 protect or 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 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 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.

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

- (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.

Due to her medical problems, Applicant became delinquently indebted to her creditors. This evidence is sufficient to raise the above disqualifying conditions.

AG ¶ 20 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 20 including:

(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;

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

Applicant's medical situation which caused severe back pain and periods of unemployment contributed to her negative financial situation. Following her long and difficult recovery, she has taken steps to remedy her financial problem and her debts are currently under control. She has paid off all of her debts except her student loans and they are being paid on a regular monthly basis. Applicant has since demonstrated that she understands her responsibility to be financially responsible in order to be eligible for a security clearance. She has addressing her financial problems. There is sufficient evidence in the record to show that she has been and continues to act in a reasonable and responsible manner.

### **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 national security eligibility 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 facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Applicant has been most diligent about resolving her debts and continues to pay her student loans on a regular monthly basis to get them completely resolved. She has provided this court with documentation to substantiate her payments. Applicant has acted responsibly under the circumstances. There are clear indications that the problem is being resolve and under control. She has initiated a good faith effort to repay these overdue creditors, and she has shown reliability, trustworthiness, and good judgment.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the Financial Considerations security concerns.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson  
Administrative Judge