



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



In the matter of:

[NAME REDACTED]

Applicant for Security Clearance

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ISCR Case No. 17-03917

**Appearances**

For Government: Julie R. Mendez, Esq., Deputy Chief Department Counsel

For Applicant: *Pro se*

03/29/2018

**Decision**

MALONE, Matthew E., Administrative Judge:

Applicant has not acted to resolve the delinquent status of his student loans. Available information is not sufficient to overcome the security concerns raised by the Government's adverse information about Applicant's financial problems. Applicant's request for eligibility for access to classified information is denied.

**Statement of the Case**

On October 14, 2016, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain or renew eligibility for access to classified information as part of his job with a defense contractor. After reviewing the completed background investigation, adjudicators at the Department of Defense Consolidated

Adjudications Facility (DOD CAF) could not determine that it was clearly consistent with the interests of national security for Applicant to have access to classified information.<sup>1</sup>

On November 29, 2017, the DOD CAF issued a Statement of Reasons (SOR) alleging facts that raise security concerns addressed under Guideline F (Financial Considerations).<sup>2</sup> Adjudicators applied the adjudicative guidelines (AG) implemented on December 10, 2016 by the Director of National Intelligence (DNI), effective for all security clearance adjudications conducted on or after June 8, 2017.

Applicant timely responded to the SOR (Answer) and requested a decision without a hearing. On December 28, 2017, Department Counsel for the Defense Office of Hearings and Appeals (DOHA) issued a File of Relevant Material (FORM)<sup>3</sup> in support of the SOR. Applicant received the FORM on January 12, 2018, and had 30 days from the date of receipt to object to the use of the information included in the FORM and to submit additional information in response to the FORM.<sup>4</sup> Applicant timely responded to the FORM and the record closed on January 23, 2018. I received this case for decision on March 1, 2018.

### **Findings of Fact**

Under Guideline F, the Government alleged in the SOR that Applicant owes \$15,958 for three delinquent student loans that are in collection (SOR 1.a – 1.c). Applicant admitted all three allegations. In a one-page statement attached with his Answer, Applicant cited unemployment as the chief cause of his failure to pay his student loans as required. Applicant also averred that he has met all of his other financial obligations while trying to find employment and while waiting for his security clearance. (Answer)

The SOR allegations are supported by Applicant's admissions in his Answer, and by the credit report presented in the FORM (Item 4). In addition to the facts thus established, I make the following findings of fact.

Applicant is a 25-year-old employee of a defense contractor, for whom he has worked since September 2016. From August 2011 until December 2014, he attended three different colleges and financed the costs of tuition and fees through the student loans at issue in the SOR. Since graduating from high school in May 2011, Applicant has worked at various jobs with brief periods of unemployment while in school. Between June and September 2014, he worked as an intern at a federal agency. (FORM, Item 3)

Applicant has not made any payments on his student loans since starting his current job. Although he claims he is trying to establish a repayment plan, he did not

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<sup>1</sup> Required by Executive Order 10865, as amended, and by DOD Directive 5220.6 (Directive).

<sup>2</sup> See Directive, Enclosure 2.

<sup>3</sup> See Directive, Section E3.1.7. In the FORM, Department Counsel relies on four enclosed exhibits (Items 1 – 4).

<sup>4</sup> See Directive, Section E3.1.7.

produce any information that corroborates his efforts. He did not present any information about his current income and expenses, or about any financial counseling or other professional assistance he may have sought to resolve his financial problems.

## **Policies**

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information,<sup>5</sup> and consideration of the pertinent criteria and adjudication policy in the adjudicative guidelines. Decisions must also reflect consideration of the factors listed in ¶ 2(d) of the new guidelines. Commonly referred to as the “whole-person” concept, those factors are:

(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.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest<sup>6</sup> for an applicant to either receive or continue to have access to classified information. Department Counsel must produce sufficient reliable information on which DOD based its preliminary decision to deny or revoke a security clearance for an applicant. Additionally, Department Counsel must prove controverted facts alleged in the SOR.<sup>7</sup> If the Government meets its burden, it then falls to the applicant to refute, extenuate, or mitigate the case for disqualification.<sup>8</sup>

Because no one is entitled to a security clearance, applicants bear a heavy burden of persuasion to establish that it is clearly consistent with the national interest for them to have access to protected information. A person who has access to such information enters into a fiduciary relationship with the Government based on trust and confidence. Thus, there is a compelling need to ensure each applicant possesses the requisite judgment, reliability, and trustworthiness of one who will protect the nation's interests as his or her own. The “clearly consistent with the national interest” standard compels

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<sup>5</sup> See Directive, 6.3.

<sup>6</sup> See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>7</sup> See Directive, E3.1.14.

<sup>8</sup> See Directive, E3.1.15.

resolution of any reasonable doubt about an applicant's suitability for access to classified information in favor of the Government.<sup>9</sup>

## Analysis

### Financial Considerations

Available information shows Applicant still owes more than \$15,000 in delinquent student loans. This record reasonably raises the security concern expressed at 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.

Applicant obtained student loans to finance his college costs between 2011 and 2014. They appear to have been delinquent for about two years. Despite being steadily employed for most of those two years, Applicant has not taken any identifiable steps to pay or otherwise resolve his debts. This information requires application of the disqualifying condition at AG ¶¶ 19(a) (*inability to satisfy debts*); 19(b) (*unwillingness to satisfy debts regardless of the ability to do so*); and 19(c) (*a history of not meeting financial obligations*).

By contrast, Applicant did not produce any information that warrants consideration of any of the AG ¶ 20 mitigating conditions. His financial problems are recent and ongoing. Although Applicant reasonably cites loss of employment and insufficient income as a circumstances beyond his control underlying his debts, he did not show that he has acted responsibly in the face of those circumstances. To the contrary, he has not acted to resolve his debts despite ostensibly having steady income through his current employment. Applicant has not sought help through financial counseling or other professional assistance, and he has not provided any information about his current finances that would support a positive, predictive conclusion that his finances will not continue to pose a security concern in the future. Applicant did not mitigate the security concerns under this guideline raised by the Government's information.

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<sup>9</sup> See *Egan*, 484 U.S. at 528, 531.

In addition to my evaluation of the facts and application of the appropriate adjudicative factors under Guideline F, I have reviewed the record before me in the context of the whole-person factors listed in AG ¶ 2(d). Applicant's information did not resolve the doubts about his suitability for access to classified information that were raised by his financial problems. Because protection of the national interest is the principal focus of these adjudications, any remaining doubts must be resolved against the individual.

### **Formal Findings**

Formal findings 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.c:               Against Applicant

### **Conclusion**

In light of all available information, it is not clearly consistent with the interests of national security for Applicant to have access to classified information. Applicant's request for security clearance eligibility is denied.

MATTHEW E. MALONE  
Administrative Judge