



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



Appearances

For Government: Mark D. Lawton, Esq., Department Counsel
For Applicant: *Pro se*

07/16/2025

Decision

KATAUSKAS, Philip J., Administrative Judge:

Applicant provided sufficient evidence to mitigate the national security concerns arising from his problematic financial history. His eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted his security clearance application (SCA) on May 11, 2022. On May 15, 2023, the Department of Defense (DOD) sent Applicant a Statement of Reasons (SOR) alleging that his circumstances raised security concerns under Guideline F (financial considerations). This action was taken under Executive Order (E.O.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended, as well as DOD 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive). The *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the DOD on June 8, 2017, apply here.

Applicant answered the SOR on June 30, 2023 (Answer) and requested a hearing before an administrative judge. The case was assigned to me on February 2, 2024. On January 24, 2025, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted in person on February 28, 2025. I convened the hearing as scheduled. Government Exhibits (GE) 1 through 6 were admitted without objection. Applicant testified and submitted Applicant's Exhibits (AE) A (1 through 5) through AE D, which were admitted without objection. One witness also testified on his behalf. DOHA received the transcript (Tr.) on March 10, 2025.

Findings of Fact

Applicant is 34 years old, has never married, and has no children. He has lived with his mother and brother since August 2017. Since January 2022, he has been employed full time as a technician by a defense contractor. He has been investigated before in about June 2015 but does not know by which government entity or when a clearance eligibility or access was granted. (GE 1; Tr. 66.)

Under Guideline F, the SOR alleged that Applicant has four charged off private student loans totaling \$136,693, and two federal student loans in collection totaling \$14,179. (SOR ¶ 1.) He denied those allegations. More specifically, he claimed the private loans have been written off for a loss or are time-barred. The federal loans were taken out after his graduation, and he can find no documents showing he signed for or approved those loans. In addition, he asserted that any federal loans had been forgiven. (Answer.) The SOR allegations are supported by the Government's evidence. (GE 3, 4, and 6.)

Applicant's current annual salary is a little over \$81,000. He does not currently have access to classified information. (Tr. 22-25.) He attended Alpha University from June 2009 to December 2010 and received his associate's degree. He graduated from Bravo State University in August 2017. His higher education was financed with student loans. (Tr. 25-27.)

Applicant was directed to SOR ¶¶ 1.a through 1.d, private student loan debts totaling \$136,692. In his May 29, 2023 Answer, he denied that he was indebted on the loans. He admits that he obtained those four loans. (Tr. 27.)

SOR ¶ 1.a is a private student loan for \$51,086 Applicant obtained in August 2012. He agreed that his last payment on that loan was on August 26, 2019. **SOR ¶ 1.b** is a private student loan for \$31,467 he obtained in August 2011. He agreed his last payment on that loan was on January 31, 2020. **SOR ¶ 1.c** is a private student loan for \$28,305 he obtained in August 2013. He agreed his last payment on that loan was on January 31, 2020. **SOR ¶ 1.d** is a private student loan for \$25,834 he obtained in April 2013. He agreed his last payment on that loan was on January 31, 2020. (Tr. 27-31.)

Applicant agreed that from August 2012 to August 2013, he took out private student loans totaling \$136,693. He used that money to fund anything related to his education. He was required to start making payments after he graduated in August 2017.

Her started making payments about six months after that (January 2018). In November 2018, he entered into a hardship agreement with the lender. That agreement required him to pay \$100 per month. He made those payments, even though he had only a part-time job at the time. (Tr. 31-32; GE 1.)

In about November 2019, the private lender told Applicant he needed to start making larger payments. He tried to consolidate his loans, but the lender said it would not allow that, even though the lender owned all four loans. He said, "there was just no way" he could financially pay more per month at that time without a consolidation. The last time he made any payments on those loans was in January 2020. (Tr. 32-33.) In December 2019, he had taken a full-time job but resigned in January 2020, because he no longer felt safe or comfortable. He went on unemployment until he took his current job in January 2022. (GE 1.)

In the summary of Applicant's June 27, 2022 personal subject interview (PSI), he is reported to have said that he intended to establish a new payment plan but was never contacted by the creditor. He was then notified that COVID-19 had paused federal student loan payments. He mistakenly believed then that *all* of his student loan (federal and private) payments were paused. (GE 5.) The Department of Education (DOE) automatically paused *federal student loan payments* from March 13, 2020, until Sept. 1, 2023, COVID-19 Emergency Relief and Federal Student Aid Act. [Federal Student Aid \(.gov\) https://studentaid.gov/announcements-events/covid-19.\)](https://studentaid.gov/announcements-events/covid-19)

Applicant was directed to GE 1, his May 11, 2022 SCA at 19, where he did not identify any account charged off or canceled in the past seven years. When he was filling out that form, he said he was unaware that his four private student loans had been charged off. He first learned this during his PSI (6/27/22). An OPM (Office of Personnel Management) investigator showed him a credit report, and Applicant looked at it and thought "what does 'charged off' mean?" After making his last payment in January 2020, there had been "radio silence" from the lender. (Tr. 33-38; GE 5.)

Applicant did not reach out to the original lender, because the loans were no longer with the original lender; they were with a collection agency. His understanding of "charged off" at the time was that the original lender had sold his loan, and he was no longer obligated on them. He did not resume paying, because his understanding was that if he started paying the loans again, he would not be paying the original lender but would be paying someone who bought them "for pennies on the dollar." (Tr. 35-40; GE 5.)

Applicant was directed to GE 2, his Responses to DOD's Interrogatories signed on February 15, 2023. In his responses, he acknowledged that the private loans remained unpaid, and there were no payment plans in place to address them. He was asked if at that point, he reached out to the original lender to negotiate a payment plan or to resume payments. He reiterated that at that time [of responding to interrogatories] he did not see why he would need to do that if the original lender charged off the debt and sold it to another company. (Tr. 42-43.)

When Applicant received the SOR and saw that the loans were why he was being denied a security clearance, he did some research. He knew the original lender had not sued him, and he was uncertain about paying the collection agency. He understands now that even though a lender has charged off a debt, he remains legally responsible for paying the obligation. (Tr. 43-45.)

Applicant agreed that waiting for a creditor to charge off a debt is not a responsible way to manage finances, but that was not his intention in the beginning. He intended “to pay them off but then there was “radio silence” from the original creditor for three years. Even after making his December [2019] and January [2020] payments, he would normally get a bill the following month, but the lender just sent the loans to collection, (Tr. 44-45)

In September 2024, his private lender sent Applicant IRS Forms 1099-C cancelling each of his four student loans. (AE A.) At the close of the record, he has not yet filed his federal income tax return for 2024. He understands that he will have to claim the amount forgiven as ordinary income. But at the time the loans were forgiven, he was insolvent, citing AE B, an insolvency worksheet dated September 9, 2024. The insolvency has not been resolved, because he needs to figure out how the insolvency affects his co-signers. (Tr. 45-47.)

Applicant was asked if he obtained the two federal student loans alleged in SOR ¶¶ 1.e and 1.f. He replied that he did not sign for those loans and has no recollection of them. Those loans were signed for two years after he graduated. He was directed to GE 5 at 6, the summary of his June 27, 2022 personal subject interview (PSI). He has disputed those loans and just recently sent another dispute to Experian. Although the PSI summary reports he did not dispute the balances, he was misquoted, or something was left out. At the time of his interview, all his federal loans had been forgiven. Because his mother was the co-signor and was disabled, the federal loans “were gone.” (Tr. 47- 51.)

Applicant was directed to his Answer where he wrote “all of these loans have been forgiven.” By that, he meant his federal loans with Alpha University or Bravo State University. He does not know if he has any documentation to support that. He was directed to GE 6, which reported that the last payments made on SOR ¶¶ 1.e and 1.f were in February 2020. He said he did not make any payments on them. He did not incur any new debts within six months after finishing school in August 2017. (Tr. 59-60.)

Applicant testified about his current financial situation. His current salary goes up twice a year. The current balance in his checking account between \$500 and \$600. His savings account balance is about \$2,000. He does not own a home and lives with his mother. He does not pay any rent, as the mortgage is paid off. He has one car, a 2020 model he bought in 2022. He paid \$32,000 and pays \$560 per month. He pays his mother for his car insurance, and his phone bill, it varies. After expenses, he has about \$1,000. He puts some of that in savings. He owns no real estate. He has no other sources of income. He has no unfiled state or federal income tax returns. (Tr. 65-69.)

Applicant has made no large purchases in the past three years. Between May and June last year, he traveled abroad as part of an alumni choir that sings at festivals. There

was another trip about the same time the year before. One trip was to Argentina, and the other was to Paris. He paid for those trips. He has had no difficulty staying current on his debts in the past year. (Tr.68-70.)

In Applicant's February 15, 2023 responses to interrogatories, he completed a Personal Financial Statement (PFS). The PFS asked for monthly income, expenses, and debts. Because his federal student loans at that time had been paused, he did not list them as a monthly expense. The PFS showed a \$2,819 net monthly remainder. (GE 2.)

AE B is a September 9, 2024 lender's Insolvency Worksheet that only asked Applicant to list his total liabilities and assets. Because at that time his federal student loans were no longer paused, he listed their totals as liabilities as well as his private loans.. That made him \$58,245 insolvent. (Tr.17-18.) On September 9, 2024, his private lender issued four Forms 1099-C cancelling his student loans. (AE A-1 through A-4.)

Applicant's mother testified that her son has shown for quite some time that he is very responsible and diligent about paying his bills on time. He has a good idea of what it means to save money and how to spend money. He has done that very well. (Tr. 72.)

Applicant's mother testified as follows about the federal student loans in question:

I was injured on my government job in 2013, and it was determined that I would be off work until they could do proper surgery, which still has not happened. During that time, I put in for Social Security. I received a letter saying that all federal loans that I signed for on [Applicant's] behalf, or . . . on anybody's behalf, that they were . . . I no longer had to pay those back. And I did get that in writing saying that all those loans were no longer my responsibility. (Tr. 72-73.)

The witness received the letter in about 2015, and she still has it. It gave her a list of every federal loan she had ever signed for, and that it was forgiven. It did not say that any loans she cosigned in the future would be forgiven, She did not recall her son taking out federal education loans after 2015. All federal loans were done in her name. She definitely did not recall her son taking out any loans in 2019. He did not take out any federal or private student loans after graduation from Bravo State University [in 2017]. (Tr. 73-74.)

AE A-5 is an August 9, 2019 letter from the DOE student loan servicer to Applicant's mother. The letter lists six student loans taken out between July 2006 and July 2015 and states that they had been discharged as of June 22, 2016.

Law and Policies

It is well established that no one has a right to a security clearance. As the Supreme Court held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant's suitability for a security clearance, an administrative judge must consider the adjudicative guidelines. These guidelines are flexible rules of law that apply together with common sense and the general factors of the whole-person concept. An administrative judge must consider all available and 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 ¶ 12(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, then 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 in seeking a favorable security decision.

Analysis

Guideline F - Financial Considerations

The security concern relating to Guideline F 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.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Guideline F notes conditions that could raise security concerns under AG ¶ 19. The followings conditions are applicable in this case:

- (a) Inability to satisfy debts; and

(c) a history of not meeting financial obligations.

The SOR debts are established by Applicant's admissions and the credit reports. The Government established a *prima facie* case, and AG ¶¶ 19(a) and (c) apply. Therefore, Applicant had the burden to rebut that case.

Applicant's private student loans were taken out while he was in school, between August 2011 and August 2013. As required, he started making payments six months after he graduated (August 2017), or about January 2018. His last payment on those loans was in January 2020. In December 2019, he had taken a full time job but resigned in January 2020, because he no longer felt safe or comfortable. He went on unemployment until he took his current full time job in January 2022.

Once fully employed, Applicant submitted an insolvency worksheet to his student loan lender. Apparently his insolvency which was just over 70% of his annual salary plus other factors were commercially sufficient to prompt the lender to cancel his student loans. It did so, and provided him the appropriate forms documenting those cancellations. (AE A 1 through 4.) I find in favor of Applicant on SOR ¶¶ 1.a through 1.d.

Applicant's two federal student loans present a similar issue. The Government established a *prima facie* case. Therefore, Applicant had the burden to rebut that case. He did so. First, he testified credibly that the two alleged loans were taken out after he graduated from college and that he took out no such loans after that event. Second, his mother's testimony corroborated his testimony. In addition, she testified that she cosigned for his federal student loans and that they were discharged as of June 22, 2016. AE A-5 documented her testimony. I find in favor of Applicant on SOR ¶¶ 1.d and 1.e.

Whole-Person Concept

Under AG ¶ 2(a), 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. AG ¶¶ 2(a) and (d)(1)-(9) (explaining the "whole-person" concept and factors). In my analysis above, I considered the potentially disqualifying and mitigating conditions and the whole-person concept in light of all the facts and circumstances surrounding this case.

Applicant leaves me with no questions or doubts about his eligibility and suitability for a security clearance. Therefore, I conclude that he provided sufficient evidence to mitigate the security concerns arising under Guideline F, financial considerations.

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

FOR APPLICANT

Subparagraphs 1.a-1.f:

For Applicant

Conclusion

I conclude that it is clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Clearance is granted.

Philip J. Katauskas
Administrative Judge