



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



In the matter of:

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ISCR Case No. 24-00517

Applicant for Security Clearance

**Appearances**

For Government :George Hawkins, Esq., Department Counsel  
For Applicant: *Pro se*

04/07/2025

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**Decision**

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GOLDSTEIN, Jennifer, Administrative Judge:

Guideline F (financial considerations) security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On January 31, 2023, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). (Government Exhibit (GE) 1) On April 2, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and Security Executive Agent Directive 4, establishing in Appendix A, the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017.

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline F. Applicant provided a response to the SOR on April 29, 2024 (Answer). On February 5, 2025, the

case was assigned to me. On February 5, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing on March 10, 2025. The hearing was held as scheduled, using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered nine exhibits (GE 1-9) into evidence, and Applicant did not offer any documents into evidence. (Tr. 13-20) Applicant objected to GE 8 but had no objections to GE 1-7 and 9. Applicant's objection to GE 8 was overruled. All proffered exhibits were admitted into evidence. (Tr. 13-20) On March 21, 2025, DOHA received a copy of the transcript.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

### **Findings of Fact**

In Applicant's SOR response, she admitted all of the allegations in SOR ¶¶ 1.a through 1.f, with clarifications. The SOR alleged that Applicant was indebted to six creditors in the total amount of \$18,861. Her admissions are accepted as findings of fact. (Answer)

Applicant is 45 years old. She worked for a government contractor as a test coordinator from 2023 until February 27, 2025, when she was terminated due to her lack of a security clearance. She is subject to rehire and was still sponsored at the close of the record. She has a master's degree in business administration. She married in September 2013, separated in about October 2016, and divorced in August 2018. She has no children. She provides care for her elderly father after he suffered a stroke in September 2023. (GE 1, GE 2, GE 4; Tr. 23-31, 33-39)

From March 2015 to December 2017, Applicant owned a franchise of a frozen yogurt business with her now ex-husband. During her marriage, she did not draw a paycheck from the business and her husband was her sole provider. He oversaw the business's financial paperwork. During their marriage, he became abusive. He also developed a relationship with another woman. He decided to file for divorce and "wiped and extinguished everything that was in any account available to us both." (Tr. 43) In the divorce decree, Applicant was assigned the business debt. Her ex-husband was assigned to pay her \$2,500 per month as rehabilitative alimony for 24 months but has not abided by that order. She cannot afford an attorney to represent her in a claim against her ex-husband. (Answer; GE 1, GE 2, GE 4; Tr. 39-64)

Applicant has experienced multiple periods of unemployment including December 2017 to March 2018, September 2019 to March 2020, January 2021 to April 2021, and November 2022 through January 2023. She did not address her delinquent accounts other than to make a few phone calls and access her credit reports. She did not make any payments. She chose to "take care of the daily things that [she] needed to keep [her] life going." (GE 1; GE 2; Tr. 44-51)

Applicant hired a credit repair company on September 5, 2023. She worked with that company for approximately five months and paid them \$400 per month. She felt she finally had money to address her debts. They disputed each debt whether she owed them or not. The company was able to have debts removed from her credit report, but she never made any payments to the creditors listed on the SOR after they became delinquent. After the five months of assistance from the credit repair company, she decided to negotiate with the creditors herself. But “life happens . . . I’ve had to use my money for other things.” (GE 4 at 24, 48-56, 59, 76-78)

Applicant’s personal financial statement dated November 9, 2023, reflected a monthly net remainder of \$1,242, after her monthly expenses of \$2,150 were paid. Applicant testified that in reality, she only had \$300 to \$500 left after paying her expenses because she was helping her father with medications and is paying a car loan for a vehicle that was a “lemon” and no longer operates. She does not utilize a budget and has not participated in credit counseling. (GE 4; Tr. 52-55)

The status of the SOR debts is as follows:

SOR ¶ 1.a alleges a charged-off credit-card debt in the amount of \$6,827 remains delinquent. This debt was a credit card that she used for her yogurt business. It was assigned for collections in August 2016. As of November 2023, it was “charged to profit and loss.” Applicant disputed this debt through the credit-repair company, and it was deleted. It is no longer on her 2025 credit report. However, she recognized that she still owes the amount. But she cannot pay this debt at this time. (GE 4 at 31, 58, 61 GE 7, GE 9)

SOR ¶ 1.b alleges an account placed for collection in the amount of \$5,596 remains delinquent. This debt related to Applicant’s potential employment with a government contractor between 2018 and 2019. The employer submitted her for a security clearance and then billed her for her background check after she failed to complete the investigative process. She claims she was never contacted by the investigator and would have happily accepted the job. This debt was assigned for collections in June 2019. Applicant disputed this debt through the credit-repair company because she was never hired by this company. It was deleted after dispute. It is no longer on her 2025 credit report. (Answer; GE 4, GE 6, GE 7, GE 9; Tr. 65-71)

SOR ¶¶ 1.c and 1.d allege two delinquent debts held by the same creditor. They are both charged-off credit cards in the amounts of \$3,198 and \$1,543, respectively. Applicant disputed both accounts even though she acknowledges they were her debts. Neither debt appears on her 2025 credit report. She plans to address these debts when she receives her alimony payments. (GE 4 at 31, 58, GE 5, GE 7 at 3, GE 9; Tr. 71-72)

SOR ¶ 1.e alleges an account placed for collection in the amount of \$459 remains delinquent. Applicant disputed this debt through the credit repair company, and it is no longer reporting on Applicant’s credit file. However, she admits that she still owes this debt and plans to repay it when she receives alimony. (GE 4 at 30; Tr. 72-73)

SOR ¶ 1.f alleges a judgment in the amount of \$1,238 remains delinquent. Applicant claims this was a marital debt. A district judge entered a default judgment for \$1,238 against Applicant in favor of this creditor on December 27, 2021. Applicant testified she was unaware of the judgment. (GE 8: Tr. 74)

Applicant testified she watched a financial series on YouTube that was offered by her credit-repair company. (Tr. 55) Her 2025 credit report identifies one new collection in the amount of \$510. (GE 9)

## Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable, and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of

establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## Analysis

### Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

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 Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant’s financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant’s self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant’s security eligibility.

AG ¶ 19 includes two disqualifying conditions that could raise a security concern and may be disqualifying in this case, "(a) inability to satisfy debts"; and "(c) a history of not meeting financial obligations."

"[A] single debt can be sufficient to raise Guideline F security concerns." ISCR Case No. 19-02667 at 3 (App. Bd. Nov. 3, 2021) (citing ISCR Case No. 14-05366 at 3 (App. Bd. Feb. 5, 2016)). "Additionally, a single debt that remains unpaid over a period of years can properly be characterized as a history of not meeting financial obligations." *Id.*

The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c). A district court issued a 2021 judgment against her that remains unresolved, and her business debts have been delinquent since at least 2018. Additional inquiry about the possible applicability of mitigating conditions is required. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*.

The financial considerations mitigating conditions under AG ¶ 20, which may be applicable in this case are as follows:

- (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; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), cert. denied, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

Applicant separated from her ex-husband in 2016 and divorced in 2018. The divorce and the financial collapse of their yogurt business were circumstances largely beyond her control and affected her ability to resolve her debts. Her finances were further complicated by her ex-husband's refusal to pay her alimony as ordered in the divorce decree. She also has experienced significant periods of unemployment. From 2023 until February 27, 2025, she was fully employed. On November 9, 2023, she reflected a monthly net remainder of \$1,242 but did not use her remainder to pay her debts. Even if her net remainder fell to between \$300 and \$500 per month because she was helping her father afford medications, she still had funds available to make some payments. Yet, she did not do so. Additionally, her debt is ongoing, as the judgment remains unresolved and she has a new collection account on her 2025 credit report.

Applicant did not establish that she acted reasonably under the circumstances nor has she established that financial problems are unlikely in the future. The Appeal Board has noted that applicants are not required to be debt-free, nor are they required to have a plan for immediate or simultaneous repayment of debts. All that is required is that an applicant act responsibly given her circumstances and develop a reasonable plan for repayment of debts, accompanied by concomitant conduct that evidences a serious intent to effectuate the plan. See ISCR Case No. 08-06567 (App. Bd. Oct. 29, 2009). Her only action on the debts she acknowledges as valid (SOR ¶¶ 1.a, and 1.c-1.f) was to hire a company to dispute them and get them removed from her credit report. However, she acknowledged that they were legitimate debts (with the exception of SOR ¶ 1.b, as discussed below), and they remain unpaid. "It is also well established that an applicant's ongoing, unpaid debts demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017)). AG ¶ 20(a) and 20(b) do not fully mitigate the SOR debts.

AG ¶ 20(c) provides mitigation in cases where the Applicant has participated in financial counseling and there are clear indications that the problem is being resolved or is under control. She testified that she did not participate in financial counseling, though she did watch some financial videos on YouTube. She did not meet her burden to establish AG ¶ 20(c).

AG ¶ 20(d) requires a good-faith effort to repay overdue creditors or otherwise resolve debts. While she was successful in removing all her SOR alleged debts from her

credit report, the Appeal Board has held “[T]hat some debts have dropped off his [or her] credit report is not meaningful evidence of debt resolution.” ISCR Case No. 14-05803 at 3 (App. Bd. July 7, 2016) (citing ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015)). Here, she has not established the requisite good-faith effort or a meaningful track record toward the resolution of her debts. She does not have a payment plan to address her delinquent debts, and she has not made any payments on them. She did not meet her burden to present evidence to support full application of AG ¶ 20(d).

AG ¶ 20(e) provides mitigation for SOR ¶ 1.b. She has a reasonable basis to dispute the legitimacy of the debt related to her application of a security clearance for a job that she never was offered. In her Answer, she provided documentation of the dispute. She did not provide a reasonable basis or documentation to dispute SOR ¶¶ 1.a, and 1.c-1.f.

### **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 the 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), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall common-sense judgment based upon careful consideration of the guidelines” and the whole-person concept. My comments under Guideline F are incorporated in my whole-person analysis.

This decision should not be construed as a determination that Applicant cannot obtain a security clearance in the future. With more effort towards resolution of her debts and maintenance of her financial responsibility, she may well be able to demonstrate persuasive evidence of her security clearance worthiness.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board’s jurisprudence to the facts and circumstances in the context of the whole person. Applicant failed to mitigate financial considerations security concerns.

## **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**

Subparagraph 1.a:                                   Against Applicant  
Subparagraph 1.b:                                   For Applicant  
Subparagraphs 1.c through 1.f:                   Against Applicant

## **Conclusion**

I conclude that it is not clearly consistent with the interests of national security of the United States to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is denied.

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Jennifer Goldstein  
Administrative Judge