



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



In the matter of: )  
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 [NAME REDACTED] ) ISCR Case No. 14-06671  
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 Applicant for Security Clearance )

**Appearances**

For Government: Andrea M. Corrales, Esq., Department Counsel  
For Applicant: *Pro se*

12/10/2015

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**Decision**

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MALONE, Matthew E., Administrative Judge:

Applicant mitigated the security concerns about his past-due or delinquent student loans. His request for access to classified information is granted.

**Statement of the Case**

On May 23, 2013, Applicant submitted an Electronic Questionnaire for Investigations Processing (EQIP) to renew his eligibility for access to classified information as required for his job with a defense contractor. After reviewing the completed background investigation, Department of Defense (DOD) adjudicators could not determine that it is clearly consistent with the national interest for Applicant to have access to classified information.<sup>1</sup>

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<sup>1</sup> Required by Executive Order 10865, as amended, and by the Directive.

On May 20, 2015, DOD issued a Statement of Reasons (SOR) alleging facts that raise security concerns addressed under Guideline F (Financial Considerations).<sup>2</sup> Applicant timely responded to the SOR and requested a decision without a hearing. On August 5, 2015, 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 August 11, 2015, and was advised he had 30 days from the date of receipt to submit additional information in response to the FORM. On August 25, 2015, DOHA received additional information from Applicant. Department Counsel did not object to Applicant's submission and the record closed on August 26, 2015. The case was assigned to me on September 1, 2015.

### **Findings of Fact**

Under Guideline F, the Government alleged that Applicant owes \$70,623 for seven delinquent or past-due student loan accounts (SOR 1.a - 1.g). The debts at SOR 1.a and 1.b total \$39,621 and comprise 56 percent of the total debt at issue. Applicant denied all of the allegations and averred that he was paying each of the loans. (FORM, Items 1 and 2) I make the following findings of fact.

Applicant is a 30-year-old employee of a defense contractor, where he has worked as an information technology (IT) field services representative since May 2013. Applicant has worked in the IT field in the defense industry since 2011. He received an associate's degree in computer network systems in 2009, and a bachelor's degree in information systems security in 2011. Applicant financed his education through a series of federally-subsidized and private student loans. (FORM, Items 3 and 6)

When Applicant completed his EQIP, he disclosed that he was past-due for about \$30,000 in student loans. Credit reports obtained during his background investigation documented the student loans in collection status as alleged in the SOR. On June 18, 2013, Applicant was interviewed by a Government investigator about his student loans. At that time, Applicant stated that, although he had stopped paying his student loans for a time, he was, at the time of his interview, making \$200 monthly payments on his loans. In response to the FORM, Applicant provided information showing that, since at least September 2014, he has been making regular monthly payments to a collection agency for all of his loans. (FORM, Items 3 - 6)

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<sup>2</sup> See Directive, Enclosure 2. See also 32 C.F.R. § 154, Appendix H (2006).

<sup>3</sup> See Directive, Enclosure 3, Section E3.1.7. The FORM included five exhibits (Items 1 - 5) proffered in support of the Government's case.

## Policies

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information,<sup>4</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(a) 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>5</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>6</sup> If the Government meets its burden, it then falls to the applicant to refute, extenuate, or mitigate the case for disqualification.<sup>7</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.<sup>8</sup> 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

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<sup>4</sup> Directive. 6.3.

<sup>5</sup> See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>6</sup> Directive, E3.1.14.

<sup>7</sup> Directive, E3.1.15.

<sup>8</sup> See *Egan*, 484 U.S. at 528, 531.

compels 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

The Government met its burden of production in support of the allegations in the SOR. The facts established herein raise a security concern addressed, in relevant part, at AG ¶ 18 as follows:

Failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

More specifically, available information requires application of the disqualifying conditions at AG ¶¶ 19(a) (*inability or unwillingness to satisfy debts*) and 19(c) (*a history of not meeting financial obligations*). For reasons not entirely clear from this record, Applicant fell behind in his student loan obligations between 2011 and 2014. By contrast, the record supports application of the mitigating condition at AG ¶ 20(c) (*the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control*). Available information shows that Applicant has been making regular payments on his loan accounts for more than a year. There is no other indication of financial difficulty or irresponsibility. On balance, Applicant has mitigated the security concerns about his finances.

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(a). A fair and commonsense assessment of the available information in this case shows that Applicant's past-due student loans no longer present a security concern.

### 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: FOR APPLICANT

Subparagraphs 1.a - 1.g: For Applicant

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<sup>9</sup> See *Egan*; Adjudicative Guidelines, ¶ 2(b).

## **Conclusion**

In light of all available information, it is clearly consistent with the national interest for Applicant to have access to classified information. Applicant's request for a security clearance is granted.

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MATTHEW E. MALONE  
Administrative Judge