

## IMPACT OF DEBT AND FINANCES ON THE SECURITY CLEARANCES

### *NACA Defending Servicemembers by Building an Army of Informed Consumers*

The National Association of Consumer Advocates (NACA) is a non-profit association of attorneys and consumer advocates committed to representing consumers' interests. This Handout addresses challenges to security clearances from consumer debt. If the debt is due to a consumer law issue there may be a defense.

In the military most jobs require a security clearance. The servicemember's personal finances can have a detrimental impact on his or her security clearance and continued service. 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. This conduct can raise questions about the servicemembers 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. If the security clearance is removed the servicemember can be separated from military service.

If there is a problem the security review looks at three aspects of the servicemember's life: status, behavior and integrity. A typical status case involves having close ties of affection to a citizen of another country (e.g., foreign born spouse). Behavior can cover almost any of life's decisions or actions. Financial situations are often considered to be "behavior". Integrity deals with the service member's honesty and trustworthiness. It is important that the servicemember provide full, frank, complete, candid, and honest disclosures at every stage of the investigation, or adjudication.

Financial conditions that **could raise a security concern** and may be disqualifying include:

1. inability or unwillingness to satisfy debts;
2. a history of not meeting financial obligations;
3. indebtedness caused by irresponsible spending and unwillingness to establish a realistic plan to pay the debt; and
4. consistent spending beyond one's means, (excessive indebtedness, significant negative cash flow, and/or high debt-to-income ratio).

Many of these issues can result from situational borrowing for emergencies (payday loans – high interest, short term loans) or one bad transaction that overwhelmed the servicemembers budget (consumer fraud -purchases dependent upon fraudulent and misleading information for overpriced or dysfunctional goods).

Conditions that **could mitigate security concerns** include:

1. the behavior was long ago, was infrequent, and/or is unlikely to recur and does not cast doubt on reliability, trustworthiness, or good judgment;
2. the conditions that caused the financial problem were beyond the person's control and the individual acted responsibly under the circumstances;
3. the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved;
4. the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and
5. **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.**

Consumer law interplays with many of the mitigation factors for security clearance challenges; documenting situations beyond control, counseling and developing a plan for action, documenting good faith efforts to pay debt, and analyzing indebtedness for violations of the law all issues that fall under consumer law. The most important step for the servicemember to make when facing financial problems that may challenge his or her security clearance is to get help. Contact a consumer lawyer or support service to identify the specific source of the challenge and immediately begin developing a plan of action to address and if possible resolve the debt issue.

**This handout is for information purposes only and is not intended to be legal advice. If you need legal advice and assistance you may see legal advice from your Legal Assistance Office. Legal Assistance Offices can be located at <http://legalassistance.law.af.mil/content/locator.php>. You may also locate and contact a NACA attorney in your area logging on to <http://naca.net/find-attorney>.**