

KEYWORD: Guideline E; Guideline F

DIGEST: Applicant’s brief raises no allegation of error on the part of the Judge. Rather, her brief merely forwards documents that are not in the record. The Appeal Board cannot consider new evidence. Directive ¶ E3.1.29. Adverse decision affirmed.

CASENO: 18-01967.a1

DATE: 06/04/2019

DATE: June 4, 2019

In Re:)	
)	
-----)	ADP Case No. 18-01967
)	
Applicant for Public Trust Position)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a trustworthiness designation. On August 15, 2018, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—trustworthiness concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On March 4, 2019, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Carol G. Ricciardello denied Applicant’s request for a trustworthiness designation. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's brief raises no allegation of error on the part of the Judge.¹ Rather, her brief merely forwards documents that are not in the record. The Appeal Board cannot consider new evidence. Directive ¶ E3.1.29.

The Board does not review a case *de novo*. The Appeal Board's authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. Applicant has not made an allegation of harmful error on the part of the Judge. Therefore, the decision of the Judge is **AFFIRMED**.

Signed: Michael Ra'anan

Michael Ra'anan
Administrative Judge
Chairperson, Appeal Board

Signed: James E. Moody

James E. Moody
Administrative Judge
Member, Appeal Board

Signed: James F. Duffy

James F. Duffy
Administrative Judge
Member, Appeal Board

¹ Applicant submitted two appeal briefs. We received her second brief about 11 days past the submission deadline. The Directive permits a party to submit only one appeal brief. *See, e.g.*, ISCR Case No. 16-03393 at 2 (App. Bd. Aug. 6, 2018). In her second appeal brief, Applicant indicated that she submitted matters in response to Department Counsel's File of Relevant Material that did not make it into the record. Her second brief also reflects that she mailed those matters to her company, instead of to Department Counsel or DOHA. We note those matters pertain only to the alleged debts and do not address the falsification allegation that the Judge found against her. Even if we were to consider the matters contained in her second appeal brief, they are not enough to change the outcome of the case because the adverse falsification finding is a sufficient independent basis for sustaining the Judge's unfavorable trustworthiness decision.