

KEYWORD: Guideline F; Guideline E

DIGEST: Applicant states that he did not believe that he was allowed to submit letters of recommendation. The cover letter that accompanied the FORM advised that, before the Judge considered the record, Applicant would have “an opportunity to review [the FORM], make any objections, submit any additional material [he] would like the Administrative Judge to consider.” DOHA Letter, dated March 3, 2020. We conclude that there is nothing in the material that DOHA sent to Applicant that was misleading concerning his right to respond to the FORM. Adverse decision affirmed.

CASE NO: 19-02763.a1

DATE: 09/30/2020

DATE: September 30, 2020

In Re:)	
)	
-----)	ISCR Case No. 19-02763
)	
Applicant for Security Clearance)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Julie R. Mendez, Esq., Deputy Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On December 13, 2019, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security 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 June 30, 2020, after considering the record, Administrative Judge Elizabeth M. Matchinski denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged that Applicant had eight delinquent debts totaling about \$24,600 and that he deliberately falsified his security clearance application (SCA) by responding negatively to inquiries about his financial problems. In responding to the SOR, he admitted all of the SOR allegations but indicated he had paid two of the alleged debts and described his responses to the SCA inquiries as “simply a mistake on [his] part” and he “was not trying to hide anything.” Decision at 3, quoting from Government Exhibit (GE) 2. The Judge found against Applicant on one alleged debt and on the sole falsification allegation.

In his appeal brief, Applicant contends the Judge erred in finding he was 13 years old when his oldest son was born and also notes this son was adopted. Regarding this issue, the Judge found:

It is unclear whether Applicant’s oldest son, who does not bear his surname, is his biological son, adopted, a stepson, or a foster child. If the birthdates listed on the SCA for Applicant and this son are correct, Applicant was only 13 years old at the time of his son’s birth. [Decision at 4.]

The birthdates listed in Applicant’s SCA support the Judge’s challenged finding. GE 3 at 7 and 23. Since Applicant noted in his brief that his oldest son is eight years old, the birthdate listed for him in the SCA is apparently not accurate.

Applicant’s appeal brief contains assertions from outside the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. For example, Applicant contends the debt to which the Judge found against him no longer appears on any of his credit reports. We note, however, that debt is listed on the only two credit reports contained in the record. GE 5 and Applicant’s Response to the File of Relevant Material (FORM) at p. 6 of a 30-page credit report prepared March 10, 2020. We also note that Applicant has not challenged in his brief the Judge’s conclusion that he falsified responses in his SCA. Applicant states that he did not believe that he was allowed to submit letters of recommendation. The cover letter that accompanied the FORM advised that, before the Judge considered the record, Applicant would have “an opportunity to review [the FORM], make any objections, submit any additional material [he] would like the Administrative Judge to consider.” DOHA Letter, dated March 3, 2020. We conclude that there is nothing in the material that DOHA sent to Applicant that was misleading concerning his right to respond to the FORM.

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. “The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security.’” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also* Directive, Encl. 2, App. A ¶ 2(b): “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

Order

The Decision 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