

DEPARTMENT OF DEFENSE

DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
POST OFFICE BOX 3656
ARLINGTON, VIRGINIA 22203
(703) 696-4759

		Date: February 9, 2022
In the matter of:)	
)	
)))	ADP Case No. 20-03823
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 February 15, 2020, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—trustworthiness concerns raised under Guideline F (Financial Considerations) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On December 2, 2021, after the close of the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Roger C. Wesley denied Applicant's request for a trustworthiness designation. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief makes no assertion of harmful error on the part of the Judge, but does refer to payments Applicant has made to creditors after the hearing decision was issued. The Appeal Board is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29. Applicant also indicates that denial of a trustworthiness designation will create a financial

hardship. The Directive, however, does not permit us to consider the impact of an unfavorable decision. *See*, *e.g.*, ISCR Case No. 19-01206 at 2 (App. Bd. May 13, 2020).

The Appeal Board does not review cases *de novo*. The Board's authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. Because Applicant has not made such an allegation of error, the decision of the Judge denying Applicant a trustworthiness designation is sustainable.

Order

The decision is **AFFIRMED**.

Signed: James F. Duffy
James F. Duffy
Administrative Judge
Chairperson, Appeal Board

Signed: James E. Moody James E. Moody Administrative Judge Member, Appeal Board

Signed: Moira Modzelewski Moira Modzelewski Administrative Judge Member, Appeal Board