

KEYWORD: Guideline F

DIGEST: Information submitted after the Judge has reached a decision is not a basis for error. Adverse decision affirmed.

CASENO: 06-11767.a1

DATE: 10/01/2007

DATE: October 1, 2007

In Re: ----- Applicant for Trustworthiness Designation)))))))	ADP Case No. 06-11767
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APPEAL BOARD SUMMARY DISPOSITION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a trustworthiness designation. On August 31, 2006, DOHA issued a statement of reasons 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 the case be decided upon the written record. On March 30, 2007, after considering the record, Administrative Judge John Grattan Metz, Jr. denied Applicant's request for a trustworthiness designation. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's brief contains no assertion of harmful error on the part of the Judge. Rather, the brief consists of a more detailed account of the accrual of Applicant's debts—along with extensive attachments about her bankruptcy, as well as training certificates and letters of recommendation from her employer. Almost all the information Applicant provided in her brief is new information which she did not provide earlier. The Board cannot consider this new evidence on appeal. *See* Directive E3.1.29.

In her brief, Applicant states that she did not understand the depth of information requested from her earlier in the trustworthiness determination process. Applicant had opportunities to present all the information she wished the Judge to consider in her trustworthiness determination. She answered DOHA Interrogatories and submitted an affidavit about her financial situation. She responded to the SOR which she received. After the File of Relevant Material was completed in her case, she submitted additional information for consideration. That information was added to the record for the Judge's consideration. Applicant does not contend that she did not receive adequate instruction on what materials to submit or that the Judge did not consider all the information she submitted before the record was closed. Information submitted by an applicant after the Judge has reached a decision is not a basis for error.¹

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's appeal brief contains no assertion of error on the part of the Judge. Therefore, the decision of the Judge denying Applicant access to automated information systems in ADP I/II/III sensitivity positions is AFFIRMED.

Signed: Michael Y. Ra'anan
Michael Y. Ra'anan
Administrative Judge
Member, Appeal Board

Signed: Jean E. Smallin
Jean E. Smallin
Administrative Judge
Member, Appeal Board

¹Applicant points out that the Judge's decision states that she is an unsuitable candidate for an Information Systems position, while she is a Senior TRICARE Network Field Representative. This does not constitute harmful error, since Applicant's job requires the same trustworthiness determination as an Information Systems position.

Signed: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board