

DATE: December 27, 1999

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 98-0619

**APPEAL BOARD DECISION
ON APPLICANT'S REQUEST
FOR RECONSIDERATION**

APPEARANCES

FOR GOVERNMENT

Matthew E. Malone, Esq., Department Counsel

FOR APPLICANT

David A. Barnhorst, Esq.

On September 10, 1999, the Board issued an Appeal Board Decision (hereinafter "Decision") in this case. Applicant submitted a Request for Reconsideration dated November 3, 1999 (hereinafter "Applicant's Request"). Department Counsel submitted a response to Applicant's Request. For the reasons that follow, the Board's September 10, 1999 Decision stands as issued.

The Board has the inherent authority to entertain a request to reconsider its decisions. However, there is no right to reconsideration; rather, the Board has the sole discretion to decide whether to exercise its inherent authority to reconsider one of its decisions. *See* ISCR Case No. 98-0621 (November 23, 1999) at pp. 1-2.

Applicant's claim that the Administrative Procedure Act (APA) applies to these proceedings is being raised for the first time in Applicant's Request. If Applicant wanted to raise an APA claim, he could have done so in his appeal brief. As a general rule, a party is not entitled to raise new claims in a motion for reconsideration. Allowing a party to raise such new claims in a motion for reconsideration could result in multiple, piecemeal appeals before the Board. *But see* DISCR Case No. 86-1802 (September 23, 1988)(Board accepted petition for reconsideration where party raised new legal issue -- legality of two-member Board decisions -- that the party could not be expected to anticipate in its appeal from decision below).

Apart from the APA issue, Applicant's Request merely seeks to reargue essentially the same issues addressed in the first appeal. The Board's September 10, 1999 Decision and the separate opinion stand as issued.

Signed: Emilio Jaksetic

Emilio Jaksetic

Administrative Judge

Chairman, Appeal Board

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan

Administrative Judge

Member, Appeal Board

Signed: Jeffrey D. Billett

Jeffrey D. Billett

Administrative Judge

Member, Appeal Board