

KEYWORD: Guideline F

DIGEST: The Judge’s conclusion that Applicant failed to mitigate the Guideline F security concerns in her case is sustainable. Applicant submitted new matters on appeal, which the Board cannot consider. Adverse decision affirmed.

CASENO: 08-03418.a1

DATE: 05/13/2009

DATE: May 13, 2009

In Re:)	
)	
-----)	ADP Case No. 08-03418
)	
Applicant for Trustworthiness Designation)	

APPEAL BOARD DECISION

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 September 24, 2008, DOHA 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 decision on the written record. On March 10, 2009, after considering the record, Administrative Judge Robert J. Tuider denied Applicant’s request for a trustworthiness designation. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The Board construes Applicant's appeal as contending that the Judge's adverse decision is arbitrary, capricious, and contrary to law. Finding no error, we affirm.

The Judge made the following pertinent findings of fact: Applicant is a service representative. she has been separated from her husband for many years, currently receiving "intermittent" child support from him. Decision at 2. Applicant has numerous delinquent debts, including a \$9,354 student loan that had been placed in collection in 1992. The total amount of the delinquent debts alleged in the SOR is \$30,964. In ruling against her, the Judge noted that she provided little or no information in response to the File of Relevant Material regarding her indebtedness and financial circumstances. Applicant enjoys a good reputation for character, work ethic, and trustworthiness, as evidenced by letters of reference which she submitted in response to the SOR.

In support of her appeal, Applicant has submitted new matters not contained in the record, which the Board cannot consider. See Directive ¶ E3.1.29. ("No new evidence shall be received or considered by the Appeal Board"). After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for the decision, "including a 'rational connection between the facts found and the choice made.'" *Motor Vehicle Mfrs. Ass'n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). In light of the entirety of the record evidence, the Judge's adverse trustworthiness determination is sustainable.

Order

The Judge's adverse trustworthiness determination is AFFIRMED.

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan
Administrative Judge
Chairman, Appeal Board

Signed: Jean E. Smallin

Jean E. Smallin
Administrative Judge
Member, Appeal Board

Signed: James E. Moody

James E. Moody
Administrative Judge
Member, Appeal Board

