

KEYWORD: CAC Criminal and Dishonest Conduct

DIGEST: Applicant’s appeal brief contains no assertion of harmful error on the part of the Judge. Rather, it contains new evidence, i.e., a document about Applicant’s probation that he had not submitted to the Judge. Under ¶ E3.1.29 of Department of Defense Directive 5220.6, the Appeal Board may not receive or consider new evidence. The Board does not review a case de novo. 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. Because Applicant has not made an allegation of harmful error on the part of the Judge, the decision of the Judge is AFFIRMED. Adverse decision affirmed.

CASENO: 15-06228.a1

DATE: 12/22/2016

DATE: December 22, 2016

In Re:	)	
	)	
-----	)	CAC Case No. 15-06228
	)	
Applicant for CAC Eligibility	)	
	)	

**APPEAL BOARD SUMMARY DISPOSITION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro se*

The Department of Defense (DoD) declined to grant Applicant eligibility for Common Access Card (CAC) credentialing. On November 17, 2015, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—criminal and dishonest conduct concerns raised under the adjudicative standards in the appendices of DoD Instruction 5200.46 (Sep. 9, 2014) (Instruction). Applicant requested a decision on the written record. On September 27, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Claude R. Heiny denied Applicant’s request for CAC eligibility. Applicant appealed pursuant to Instruction, Enclosure 4 ¶ 6.

Applicant’s appeal brief contains no assertion of harmful error on the part of the Judge. Rather, it contains new evidence, *i.e.*, a document about Applicant’s probation that he had not submitted to the Judge. Under ¶ E3.1.29 of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended), the Appeal Board may not receive or consider new evidence.

The Board does not review a case *de novo*. 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. Because Applicant has not made an allegation of harmful error on the part of the Judge, the decision of the Judge is AFFIRMED.

Signed: Michael Ra’anan  
Michael Ra’anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: Catherine M. Engstrom  
Catherine M. Engstrom  
Administrative Judge  
Member, Appeal Board

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