

KEYWORD: Guideline E; Guideline F

DIGEST: While Applicant responded “No” to the questions that asked whether she experienced certain financial problems, she submitted in the Additional Comments of that document the following remarks:

Financial Records: In process of working payment arrangements with Student Loans and other miscellaneous accounts due to hardship: due to delay in wage checks occurring between November-December 2014. Replacement/ delayed checks arrived same day 1/3/15.

From our reading of the above quote, Applicant put the Government on notice that she had some delinquent debts. The Judge made no findings of fact about that quote. Adverse decision remanded.

CASENO: 16-01749.a1

DATE: 08/21/2018

DATE: August 21, 2018

In Re:	)	
	)	
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	)	
Applicant for Security Clearance	)	

**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 security clearance. On October 29, 2016, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations), and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On April 30, 2018, after considering the record, Administrative Judge Darlene D. Lokey Anderson denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge’s adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we remand.

### **The Judge’s Findings of Fact**

Applicant is a 55-year-old employee of a defense contractor. She is divorced with five children. She earned a bachelor’s degree in 2004 and a master’s degree in 2009.

The SOR alleged that Applicant had 18 delinquent debts. Her debts include nine student loans totaling about \$77,000 and nine other charged-off or collection accounts totaling about \$8,600. She admitted some debts and denied others. Credit reports confirm the alleged debts. Applicant’s financial problems were incurred while attending college and helping her children with their finances. In responding to the Department Counsel’s File of Relevant Material (FORM), she noted that she is recovering from a history of domestic violence. She receives no child support. She also experienced periods of unemployment between 2006 and 2008, unexpected vehicle expenses, and suffered a work injury. All of these factors contributed to her financial problems.

Applicant’s student loans were opened between 2004 and 2007, became delinquent because of a delay in renewing a forbearance period, and were again placed in forbearance until March 2018. In responding to the FORM, she stated that she will set up automatic monthly payments for the student loans. Since receiving the SOR, she stated that she paid off most of the other delinquent debts by obtaining a loan to pay them. A concern exists about whether she will be able to pay that loan when it becomes due.

Applicant completed an Electronic Questionnaire for Investigations Processing (e-QIP) in 2015. In doing so, she responded “No” to questions that asked whether, in the past seven years, she had bills or debts turned over to a collection agency or had an account or credit card suspended, charged off, or cancelled for failing to pay as agreed. “These were false answers. Applicant failed to list any of the delinquent debts set forth in . . . the SOR.” Decision at 5.

### **The Judge’s Analysis**

While Applicant has experienced some circumstances beyond her control that contributed to her financial problems, insufficient information exists to conclude that she is financially stable or that she has the resources to meet her financial obligations now that her student loans are no

longer in forbearance. She has not established that she made a good-faith effort to resolve her indebtedness.

Applicant provided for her children instead of paying bills. She knew about her delinquent debt and deliberately failed to disclose them in her e-QIP. No mitigating conditions apply to that falsification.

### **Discussion**

Applicant challenges the Judge's finding that she falsified her e-QIP. In deciding whether the Judge's rulings or conclusions are arbitrary or capricious, the Board will review the Judge's decision to determine whether: it does not examine relevant evidence; it fails to articulate a satisfactory explanation for its conclusions, including a rational connection between the facts found and the choice made; it does not consider relevant factors; it reflects a clear error of judgment; it fails to consider an important aspect of the case; it offers an explanation for the decision that runs contrary to the record evidence; or it is so implausible that it cannot be ascribed to a mere difference of opinion. *See, e.g.*, ISCR Case No. 03-022861 at 2-3 (App. Bd. Jun. 2, 2006).

While Applicant responded "No" to the questions in Section 26 of the e-QIP that asked whether she experienced certain financial problems, she submitted in the Additional Comments of that document the following remarks:

SF 86 -Section 26 Financial Records: In process of working payment arrangements with Student Loans and other miscellaneous accounts due to hardship: due to delay in wage checks occurring between November-December 2014. Replacement/ delayed checks arrived same day 1/3/15.<sup>1</sup>

From our reading of the above quote, Applicant put the Government on notice that she had some delinquent debts. The Judge made no findings of fact about that quote. Consequently, the decision does not reflect that the Judge considered an important aspect of the case. This is harmful error that warrants correction.

Based on the above, we remand the case to the Judge for processing consistent with the Directive. In her appeal brief, Applicant also raised other issues that are not ripe for consideration at this time and presented documents that were not previously submitted to the Judge for consideration. Those documents constitute new evidence that the Appeal Board is prohibited from considering. Directive ¶ E3.1.29.

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<sup>1</sup> FORM Item 4 at 30.

**Order**

The Decision is **REMANDED**.

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

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

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