

KEYWORD: Guideline F; Guideline J

DIGEST: The record shows, that Applicant received guidance in the File of Relevant Material (FORM) regarding his right to make a written response to the matters set forth therein. DOHA provided similar guidance in the cover letter that accompanied the FORM, and Applicant received a copy of the Directive, which also explained these rights. Moreover, the cover letter and the Directive notified Applicant of his right to assistance of counsel or of some other representative in preparing his response. If Applicant did not understand his rights and obligations in responding to the FORM, it was not due to any insufficiency in the guidance that he received. As it stands, we find no reason to conclude that Applicant was denied the due process afforded him by the Directive. Adverse decision affirmed.

CASENO: 17-04123.a1

DATE: 11/19/2018

DATE: November 19, 2018

In Re: ----- Applicant for Security Clearance))))))))	ISCR Case No. 17-04123
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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 December 28, 2017, 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 J (Criminal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On September 10, 2018, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Pamela C. Benson denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.¹

Applicant begins his brief by stating that the Judge did not do anything wrong. He argues, however, that he himself did not understand what kind of proof was required to demonstrate mitigation of his debts. The record shows, however, that Applicant received guidance in the File of Relevant Material (FORM) regarding his right to make a written response to the matters set forth therein. DOHA provided similar guidance in the cover letter that accompanied the FORM, and Applicant received a copy of the Directive, which also explained these rights. Moreover, the cover letter and the Directive notified Applicant of his right to assistance of counsel or of some other representative in preparing his response.² If Applicant did not understand his rights and obligations in responding to the FORM, it was not due to any insufficiency in the guidance that he received. As it stands, we find no reason to conclude that Applicant was denied the due process afforded him by the Directive.

Applicant requests that we give him instruction on what kind of proof would be sufficient to mitigate the concerns raised in his SOR. It is well-settled that it is reasonable for Judge to expect applicants to present documentation about the resolution of their debts. *See, e.g.*, ISCR Case No. 17-00378 at 3 (App. Bd. Nov 2, 2018). However, we have no authority to provide an applicant with advice regarding the best way in which to present his or her case for mitigation. *See, e.g.*, ISCR Case No. 16-03387 at 2 (App. Bd. Apr. 26, 2018). For us to do so would be inconsistent with our obligation to remain impartial. As stated above, Applicant has not alleged that the Judge committed harmful error. We do not review cases *de novo*. Our authority is limited to cases in which the appealing party alleges harmful error. *See, e.g.*, ISCR Case No. 12-08300 at 2 (App. Bd. Sep. 13, 2018).

¹The Judge’s favorable findings under Guideline J are not at issue in this appeal.

²Applicant did in fact make a written response to the FORM, though the Judge concluded that he had not provided documentary evidence in corroboration of his claims of debt resolution. This conclusion is consistent with the record that was before the Judge. Although *pro se* applicants cannot be expected to act like lawyers, they are expected to take timely, reasonable steps to protect their rights under the Directive. *See, e.g.*, ISCR Case No. 17-02196 at 2-3 (App. Bd. Apr. 27, 2018).

Order

The Decision is **AFFIRMED**.

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: Charles C. Hale
Charles C. Hale
Administrative Judge
Member, Appeal Board