

KEYWORD: Guideline F

DIGEST: Applicant further argues that the document attached to his appeal brief is not new evidence. As best we discern, he is arguing that, since the document was in existence before the Judge rendered his decision and because it would likely affect the outcome of the decision, it was not new evidence. This argument lacks merit. New evidence consists of matters that were not previously presented to the Judge for consideration. Adverse decision affirmed.

CASENO: 17-03847.a1

DATE: 10/19/2018

DATE: October 19, 2018

_____	)	
In Re:	)	
	)	
-----	)	ISCR Case No. 17-03847
	)	
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 January 3, 2018, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security 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 August 1, 2018, after considering the record, Administrative Judge John Bayard Glendon denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant’s appeal brief raises no allegation of error on the part of the Judge. Indeed, Applicant states, “it was not that the Administrative Judge was wrong with his/her decision in this case, but that I failed to submit evidence to prove that I have been trying to extinguish this debt of six years.” Appeal Brief at 1. However, he also contends the decision is wrong because it states he made no attempt to pay off his debt. In support of this contention, he attached a document to his appeal brief that is not included in the record. The Board cannot consider new evidence on appeal. Directive ¶ E3.1.29.

Applicant further argues that the document attached to his appeal brief is not new evidence. As best we discern, he is arguing that, since the document was in existence before the Judge rendered his decision and because it would likely affect the outcome of the decision, it was not new evidence. This argument lacks merit. New evidence consists of matters that were not previously presented to the Judge for consideration. *See, e.g.*, ISCR Case No. 17-03247 at 1 (App. Bd. Sep. 20, 2018). In this regard, we note that the document in question post-dates Applicant’s response to the SOR and that he did not submit a response to Department Counsel’s File of Relevant Material (FORM), which highlighted that he failed to provide documentation showing the status of his delinquent debts.

Applicant states that he did not know how to submit evidence after he had submitted his answer to the SOR. Applicant received a letter from DOHA advising him of his right to respond in writing to the FORM. This letter provided the address and the name of the DOHA official to whom Applicant was to send his response. If Applicant did not know how to respond to the FORM, it was not due to inadequate guidance by DOHA.

The Board does not review cases *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 such an allegation of error, the decision of the Judge denying Applicant a security clearance is sustainable.

**Order**

The Decision is **AFFIRMED**.

Signed: James E. Moody

James E. Moody  
Administrative Judge  
Member, Appeal Board

Signed: Charles C. Hale

Charles C. Hale  
Administrative Judge  
Member, Appeal Board

Signed: James F. Duffy

James F. Duffy  
Administrative Judge  
Member, Appeal Board