

KEYWORD: Guideline F; Guideline E

DIGEST: The Board cannot consider new evidence on appeal. Adverse decision affirmed.

CASENO: 06-11376.a1

DATE: 08/24/2007

DATE: August 24, 2007

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| In Re: |) | |
| |) | |
| ----- |) | ADP Case No. 06-11376 |
| |) | |
| Applicant for Trustworthiness Determination |) | |

APPEAL BOARD SUMMARY DISPOSITION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) proposed to deny or revoke access to automated information systems in ADP-I/II/III sensitivity positions for Applicant. On July 6, 2006, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—trustworthiness 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 the case be decided on the written record. On February 7, 2007, after considering the record, Administrative Judge Martin H. Mogul denied Applicant's request for a trustworthiness designation. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief contains no assertion of harmful error on the part of the Judge. Rather, it contains a statement by the Applicant explaining her ongoing efforts to resolve her financial problems, and a request that the Board make a favorable trustworthiness determination in Applicant's case based upon her good character and job performance.¹ The Board cannot consider this new evidence on appeal. *See* Directive ¶ E3.1.29.

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. Directive ¶ E3.1.32. It does not review cases *de novo*. Applicant has not made an allegation of harmful error. Therefore, the decision of the Judge denying Applicant a trustworthiness designation is AFFIRMED.

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

Signed: Michael D. Hipple
Michael D. Hipple
Administrative Judge
Member, Appeal Board

Signed: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board

¹Applicant asked that her case be decided upon the written record, and then did not respond to the government's file of relevant material (FORM). In his decision, the Judge noted: ". . . my evaluation is necessarily limited to the contents of the various documents that are found in the case file." Decision at 2.