

KEYWORD: Guideline F; Guideline E

DIGEST: Applicant does not raises any issue regarding the adverse conclusions under Guideline E. Adverse decision affirmed.

CASENO: 12-12051.a1

DATE: 04/13/2016

DATE: April 13, 2016

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In Re: )  
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 ----- ) ISCR Case No. 12-12051  
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 )  
 Applicant for Security Clearance )  
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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 June 30, 2015, 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 hearing. On February 2, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Darlene D. Lokey Anderson denied Applicant's request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief makes no assertion of harmful error on the part of the Judge. He does state that he submitted a document for consideration by the Judge before the close of the record. He then asserts that the Judge never received it. Indeed, the Judge's decision indicates that no documents were offered by Applicant at any time while the record was open. Ordinarily, in such an event, the Board would consider Applicant's assertions on appeal, even though they constitute new evidence, as they raise an issue of procedural due process. *See, e.g.*, ISCR Case No. 14-06467 at 2 (App. Bd. Feb. 24, 2016). Depending on circumstances, the Board might then grant appropriate relief. However, in this case, Applicant's assertions concern evidence that relates only to the Government's case under Guideline F.<sup>1</sup> This case also included an allegation under Guideline E, and the Judge made a formal finding against Applicant under that guideline. On appeal, Applicant raises no issues under Guideline E. There is no presumption of error below. *See, e.g.*, ISCR Case No. 04-08312 at 2 (July 14, 2005). As the Judge's adverse decision is fully supported by her formal finding under Guideline E, any procedural errors involving matters relating to Guideline F are harmless. Therefore, the decision of the Judge denying Applicant a security clearance is AFFIRMED.

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

Signed: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

Signed: James F. Duffy  
James F. Duffy

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<sup>1</sup>Applicant's appeal brief references another document that relates only to Guideline F, which he does not claim was submitted for consideration. He also makes a factual representation concerning a Guideline F allegation. These matters would not be considered by the Board in any event, as they constitute new evidence. *See* Directive ¶ E3.1.29.

Administrative Judge  
Member, Appeal Board