

KEYWORD: Guideline F; Guideline E

DIGEST: Applicant made no assertion of harmful error. The Board cannot consider new evidence in resolving an appeal. Adverse decision affirmed.

CASE NO: 08-11509.a1

DATE: 11/07/2011

DATE: November 7, 2011

In Re:)	
)	
-----)	ISCR Case No. 08-11509
)	
Applicant for Security Clearance)	
)	

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) declined to grant Applicant a security clearance. On April 19, 2011, DOHA 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 August 31, 2011, after the hearing, Administrative Judge Paul J. Mason denied Applicant’s request for a security clearance.¹ Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

¹The Judge found in favor of Applicant as to the Guideline E allegations.

Applicant's appeal brief contains no assertion of harmful error on the part of the Judge. Rather, it contains new evidence, in the form of documents showing Applicant's payment history on his outstanding student loans. These documents are dated subsequent to the Judge's decision, and Applicant states without further explanation that "[he] did not have them in time for the hearing."

The Board cannot consider Applicant's 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. Applicant has not made an allegation of harmful error on the part of the Judge. Therefore, the decision of the Judge denying Applicant a security clearance is AFFIRMED.

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

Signed: Jean E. Smallin
Jean E. Smallin
Administrative Judge
Member, Appeal Board

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