

KEYWORD: Guideline F

DIGEST: On appeal Applicant asserts that after the hearing he mistakenly sent evidence to the wrong e-mail address which is why the Judge never received it. The Board cannot consider Applicant's new evidence on appeal. Applicant has not asserted that there was a harmful resulting from actions taken by DOHA personnel. Adverse decision affirmed

CASENO: 09-06930.a1

DATE: 01/21/2011

DATE: January 24, 2011

In Re:)	
)	
-----)	ISCR Case No. 09-06930
)	
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 May 17, 2010, DOHA 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 hearing. On October 29, 2010, after the hearing, Administrative Judge Claude R. Heiny denied Applicant’s request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

At the conclusion of the hearing, the Judge held the record open to give Applicant time to submit additional documentary evidence concerning his financial situation. Tr. at 61. No additional evidence was received before the record was closed and the decision issued. Decision at 2. On appeal, Applicant asserts that he mistakenly e-mailed his additional evidence to the wrong address, and encloses copies of the misaddressed e-mail and the additional evidence. He argues that the Judge’s decision is in error because the Judge’s failure to receive the additional evidence would be viewed as a lack of interest or dedication on Applicant’s part to follow directions.

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. It does not review cases *de novo*. Although he uses the term “error,” Applicant has not made an allegation of harmful error resulting from actions taken by the Judge or Department Counsel. Therefore, the decision of the Judge denying Applicant a security clearance is AFFIRMED.

Signed: Michael Y. Ra’anan
Michael Y. Ra’anan
Administrative Judge
Chairperson, Appeal Board

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

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