



Date: August 8, 2025

In the matter of:

Applicant for Security Clearance

ISCR Case No. 24-01854

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Andrea M. Corrales, Deputy Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On December 26, 2024, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision — security concerns raised under Guideline H (Drug Involvement and Substance Misuse) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On June 16, 2025, Defense Office of Hearings and Appeals Administrative Judge Mark Harvey denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The Judge found against Applicant on two of the three Guideline H allegations. These alleged that Applicant purchased and used marijuana with varying frequency from about March 2023 to about November 2024 while occupying a sensitive position. The third allegation — that Applicant intended to continue to use marijuana — was found in Applicant’s favor.

In his appeal brief, Applicant asserts that the Judge erred in the adverse finding. For reasons stated below, we affirm the Judge's decision.

Findings of Fact

Applicant is in his mid-30s and works as a data engineer for a DoD contractor. In 2010, he graduated from high school. He served in the military from 2013 to 2017 and earned numerous awards and medals. In 2017, Applicant earned an associate's degree in general studies. In 2021, he graduated magna cum laude with departmental honors and received a bachelor's degree in chemistry. In 2022, he received a master's degree in biomedical science. He received a prestigious award in his professional specialty and published five professional scientific articles. He is engaged to be married, and he does not have any children. He received an award for being employee of the month in fall 2024.

Applicant first used marijuana in high school. He did not resume his marijuana use until he was in graduate school around March 2023, when it was legalized in his state under state law. Since marijuana possession and use were not prohibited under state law, he believed his use was legally permissible. He did not investigate the applicability of federal laws concerning marijuana. Applicant usually used marijuana on weekends and rarely used marijuana during the week. He purchased marijuana about twice a month and used at his residence. Once his fiancée obtained employment, she ended her marijuana use. On December 1, 2023, Applicant received a security clearance and signed a nondisclosure agreement. He most recently used marijuana in December 2024 or early January 2025. He was unsure if he used marijuana shortly before or after he received the SOR.

Applicant described his past marijuana use as limited and aligned with state law. He did not believe it posed a risk to national security or his ability to safeguard classified information. Applicant acknowledged the seriousness of the concerns raised in the SOR and asked that the security concerns be mitigated. He indicated that he strives to uphold the highest standards of integrity and responsibility and that he is committed to adhering to all federal, departmental, and contractual requirements related to his security clearance.

Discussion

There is no presumption of error below and the appealing party has the burden of raising claims of error with specificity. Directive ¶ E3.1.30. To the extent that the Applicant's appeal included new evidence, the Appeal Board is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

Applicant's brief advocates for an alternative weighing of the evidence under the applicable mitigating conditions and the Whole-Person Concept, but he fails to demonstrate error. An applicant's "disagreement with the Judge's weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate that the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law." ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007). Moreover, Applicant's arguments fail to rebut the presumption that the Judge considered all of the record evidence.

Conclusion

Based on our review of the record, the Judge's conclusions regarding Applicant's marijuana purchase and use from March 2023 to November 2024 are sustainable and sufficient to support denial of his national security eligibility. Applicant failed to establish the Judge committed any harmful error. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." AG ¶ 2(b).

Order

The decision in ISCR Case No. 24-01854 is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Allison Marie

Allison Marie
Administrative Judge
Member, Appeal Board

Signed: Jennifer I. Goldstein

Jennifer I. Goldstein
Administrative Judge
Member, Appeal Board