



**DEPARTMENT OF WAR
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD**



Date: April 8, 2026

In the matter of:)
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Applicant for Security Clearance)
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ISCR Case No. 25-00298

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Andrea M. Corrales, Esq., Deputy Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On April 16, 2025, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of 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 January 20, 2026, Defense Office of Hearings and Appeals Administrative Judge Eric H. Borgstrom denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Findings of Fact

Applicant, in his mid-20s, earned his bachelor’s degree in December 2021. He was granted eligibility for a position of public trust in about October 2022 and has been employed by a defense contractor since December 2022.

In a February 2024 security clearance application, Applicant disclosed that he had used marijuana since August 2017, including monthly during college and monthly-to-weekly more

recently, and that he intended to use marijuana recreationally in the future. During his national security interview in September 2024, Applicant confirmed his recreational marijuana use from August 2017 through the present, except for a period of abstinence during the hiring process with his current employer from August 2022 to June 2023, and he reiterated his intent to continue using marijuana in the future unless his employment required him to abstain.

In his February 2025 response to interrogatories, Applicant disclosed that he used marijuana approximately every month or two, most recently on December 31, 2024, and again acknowledged his intent to continue using it occasionally and recreationally in the future unless instructed otherwise. Applicant further acknowledged that he held a position of public trust with his current employer and that his marijuana use occurred while holding said position. He averred that his marijuana use complied with his residential state law. While he acknowledged that marijuana use remains illegal under federal law, he asserted that he had “not been informed of any specific restrictions on recreational use in [his] role” and that he would “immediately comply and discontinue use as required” if “officially instructed that such use is not permitted.” Government Exhibit 5 at 10.

Based on the foregoing, the SOR alleged that Applicant used marijuana from about August 2017 to at least December 2024, that his use continued while occupying a position of public trust and holding a sensitive position, and that he intended to use marijuana in the future. In response to the SOR, Applicant admitted the overall period of marijuana use and that he used marijuana while holding a position of public trust. He explained that he believed his conduct was consistent with relevant state laws but now understands the expectations of holding a sensitive position, reiterated that he last used marijuana in December 2024, and denied that he intended to use marijuana in the future. Applicant requested that his case be decided based on the written record. He was provided a complete copy of the Government’s File of Relevant Material on July 17, 2025, in which he was notified of his ability to respond with objections or additional information for the Judge to consider. Applicant did not respond to the FORM.

The Judge concluded that Applicant successfully mitigated the allegation about his future intent, having “unequivocally expressed his intent to abstain from marijuana use in the future.” Decision at 7. Citing Applicant’s use of marijuana while occupying a position of public trust and his continued use after multiple stages of his current national security investigation, however, the Judge went on to conclude that Applicant’s past use of marijuana was unmitigated.

Discussion

On appeal, Applicant challenges the Judge’s application of AG ¶ 26(b)¹ to find the concern about his future use mitigated but subsequent determination that the same condition did not mitigate the concern about his past use. His argument in this regard is unpersuasive.

The Judge’s adverse finding regarding Applicant’s past marijuana use relied largely on the security concern created by his use while holding a position of public trust and his continued use after multiple stages of his current national security investigation. Although Applicant alluded to

¹ AG ¶ 26(b): the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence.

not being fully aware of the prohibition of using marijuana while employed in his position of trust, he also acknowledged that marijuana use is illegal under federal law and explained that he “abstained from marijuana use from August 2022 to June 2023 while in the pre-employment process for his employer,” which factors the Judge reasonably assessed were reflective of Applicant’s awareness “that marijuana use was incompatible with his position of public trust.” Decision at 7. Citing long-held Appeal Board precedent, the Judge correctly opined that “applicants who use marijuana after having been placed on notice of the security significance of such conduct may be lacking in the judgment and reliability expected of those with access to classified information.” ISCR Case No. 20-01772 at 3 (App. Bd. Sep. 14, 2021). The Judge’s conclusion that AG ¶ 20(b) was inapplicable to the past use concern was reasonable in light of the record.

Our review of the record reflects that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, which is sustainable on this record. “The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security.’” *Dep’t 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. 25-00298 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