



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



Date: June 16, 2026

In the matter of:

Applicant for Security Clearance

ISCR Case No. 25-00906

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 September 9, 2025, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline E (Personal Conduct) and 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 April 9, 2026, Defense Office of Hearings and Appeals Administrative Judge Jeff A. Nagel denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Discussion

Under Guideline H, the SOR alleged that Applicant used marijuana from about 2012 to March 2024, and his deliberate failure to disclose that use on his April 2024 security clearance application (SCA) was alleged under Guideline E. In response to the SOR, Applicant admitted his marijuana use but denied deliberately falsifying his SCA. The Judge resolved the allegation of using marijuana in Applicant's favor. However, he found that Applicant intentionally falsified his SCA and that Applicant failed to establish mitigation under Guideline E.

On appeal, Applicant challenges the Judge's finding that he failed to mitigate the security concerns raised by his personal conduct. He claims that his differing statements about why he did not list his marijuana use on his SCA were consistent. The record reflects that, during his August 2024 background interview, Applicant told the investigator that he did not list his marijuana use on his SCA because he "feared that by doing so, he would not be given a job offer." Government Exhibit 2 at 5. Applicant later reviewed and adopted the statement as accurate in his August 12, 2025 response to interrogatories. Despite that admission, he contended in his Answer and in his testimony that his marijuana use "was legal in accordance with state law." Answer at 2. He claimed he thought that "recreational use of Marijuana purchased from a state licensed dispensary that is designated for recreational use has been legally approved" and that is why he answered "No." *Id.* In an attempt to reconcile his statements on appeal, he asserts:

This was the first time I have filled out such a form, and without a place on the form to list that my use of Marijuana in the last seven years was used IAW state law I reasoned to myself that my use was legal. Rather than reaching out to [redacted] security personnel who I did not know or to the hiring manager who I had just met during the interview process for clarification on how to correctly answer the question based on my use, I chose to fall back on state laws for legality and answered "No".

Appeal Brief at 4. As a result, he claims that AG ¶¶ 17(c)¹ and 17(d)² should fully mitigate the Government's concern. AG ¶ 17(c) has two parts that must be satisfied. First, Applicant argues that the falsification occurred under unique circumstances. However, lying to protect oneself is hardly a unique circumstance. Further, Applicant did not establish the second part of AG ¶ 17(c), which requires a finding that his past falsification does not cast doubt on his reliability, trustworthiness, and judgment. To support this analysis, the Judge noted, "Applicant lied to protect his desire to receive a job offer from the DoD contractor. What is most troubling is that he has shown that he will lie to protect himself." Decision at 8. The Judge concluded that AG ¶ 17(c) was not fully established. Similarly, AG ¶ 17(d) was not established for the same reasons.

Applicant next requests reconsideration of the decision under the Whole-Person Concept. He lists examples of his transparency with leadership, his performance evaluation, and his multiple letters of reference as information that was neglected in the Judge's analysis. Appeal Brief at 3, 6. Applicant's argument is unpersuasive. In summary, Applicant advocates for an alternative weighing of the evidence under the applicable mitigating conditions but fails to demonstrate harmful error. It is well established that "the presence of some mitigating evidence does not alone compel [a judge] to make a favorable security clearance decision." ISCR Case No. 06-10320, 2007 WL 4379279 at *1 (App. Bd. Nov. 7, 2007). 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

¹ The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment. AG ¶ 17(c).

² The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur. AG ¶ 17(d).

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

Applicant has not established that the Judge’s adverse decision was arbitrary, capricious, or contrary to law. Our review of the record confirms 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.’” *Dept. of 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. 25-00906 is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Jennifer Goldstein

Jennifer Goldstein
Administrative Judge
Member, Appeal Board

Signed: Allison Marie

Allison Marie
Administrative Judge
Member, Appeal Board