



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
 [Name Redacted]) ISCR Case No. 23-01398
)
)
 Applicant for Security Clearance)

Appearances

For Government: Karen Moreno-Sayles, Esquire, Department Counsel
For Applicant: Alan V. Edmunds, Esq.

12/03/2024

Decision

HOGAN, Erin C., Administrative Judge:

On December 27, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing the security concerns under Guideline H, Drug Involvement; and Guideline E, Personal Conduct. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented within the Department of Defense on June 8, 2017.

On February 9, 2024, Applicant answered the SOR and requested a hearing before an administrative judge. I was initially assigned the case on May 3, 2024. The case was transferred to another administrative judge on July 3, 2024, but was transferred back to me in August 2024. On September 30, 2024, a Notice of Hearing was issued, scheduling the hearing on October 31, 2024. The hearing was held as scheduled. During the hearing, the Government offered five exhibits which were admitted without objection as Government (Gov) Exhibits 1 - 5. Applicant testified, called four witnesses and offered 13 exhibits which were admitted without objection as Applicant Exhibits (AE) A - M. The transcript was received on November 7, 2024. Based

upon a review of the case file, pleadings, and exhibits, eligibility for access to classified information is granted.

Findings of Fact

In his answer to the SOR, Applicant admits to the allegation in SOR ¶ 1.a with explanation, and denies SOR ¶¶ 1.b, 2.a – 2.c with explanation.

Applicant is a 32-year-old employee of a DOD contractor who seeks a security clearance. He has been employed with his current company (DC # 2) since December 2022. His first job was with another defense contractor (DC # 1) from July 2014 to June 2022. He was granted a security clearance in June 2013. From May 2013 to August 2013, he worked as an intern for the same defense contractor. This was his first job after graduating college. He earned a bachelor's degree in May 2014. He recently married in September 2024. He and his wife have no children. (GE 1, GE 2, GE 5; Tr. 19-26)

(Note: The facts in this decision do not specifically describe employment, names of witnesses, or locations in order to protect Applicant's and his family's privacy. The cited sources contain more specific information.)

Drug Involvement

Under the drug involvement concern, the SOR alleged Applicant used marijuana on one occasion during the summer of 2022, and used marijuana on two or three occasions between 2010 and 2013 (SOR ¶ 1.a: Gov 3 at 8-9). He testified that his marijuana usage between 2010 and 2013 occurred while he was in college. It may have occurred when he was at college in a state where marijuana is illegal or in his home state when he was home on break. At the time of usage, his home state had decriminalized marijuana in 2008. His home state did not legalize the use of marijuana until 2018. (Tr. 43, 64)

Applicant worked for DC # 1 for nine years. He took a pre-employment drug test which was negative for illegal drugs, including marijuana. He held an active security clearance during his employment with DC # 1 with no security incidents or violations. He is aware that he was not allowed to use marijuana while working at DC # 1 and that marijuana use was incompatible with holding a security clearance. He never used marijuana while employed at DC # 1. (Tr. 41, 45-46, 61-62)

In June 2022, Applicant left his job with DC # 1 to work for a start-up company. He was read out of his classified programs upon his departure in June 2022. He began to work for the startup company in June 2022. He remained employed with the startup company until December 2022. He did not work with classified information when he worked for the startup company and therefore did not require a security clearance. The startup was located in his home state where marijuana use is legal. In approximately August 2022, he went over to a friend's house to watch a movie. His friend offered him and he ate a marijuana edible. Marijuana was legal in the state where he resided. He did not work in the defense industry at the time he ingested the marijuana edible. He

was read out of his classified programs when he left his employ with DC # 1. At the time, he ate the marijuana edible, he had no plans to apply for a federal job in the future. (Tr. 46, 48, 51, 54, 57-58)

The last time Applicant used marijuana was in approximately August 2022 as described in the above paragraph. He has not used marijuana since that date. His history of marijuana use was minimal and sporadic. There is no indication that he had marijuana dependency issues. During the hearing, he provided a signed Statement of Intent, indicating that he will abstain from all drug involvement and substance misuse, to include use and possession of any illegal drug or the use of a legal prescription drug without a valid prescription or in a manner inconsistent with their intended purpose. He acknowledged that any future illegal drug involvement or misuse is grounds for revocation of national security eligibility. (AE A) Applicant completed an online drug course in October 2024. He provided several drug tests, the results of which were negative to include marijuana. (AE B; AE J)

Personal Conduct

In December 2022, Applicant was hired by another defense contractor (DC # 2). On December 21, 2022, he completed a security clearance application. (GE 1) Under the Personal Conduct concern, the SOR alleges that he deliberately lied about his illegal marijuana use on three occasions. The first allegation involved his December 21, 2022, security clearance application in response to Section 23, Illegal Use of Drugs or Drug Activity, "In the last seven (7) years, have you illegally used any drugs or controlled substances? Use of a drug or controlled substances includes injecting, snorting, inhaling, swallowing, experimenting with or otherwise consuming any drug or controlled substance?" He answered, "No" and deliberately failed to disclose that he illegally used marijuana on one occasion in 2022 and on two or three occasions between 2010 to about 2013. (SOR ¶ 2.a: GE 1 at 43; GE 3 at 8-9)

The second allegation related to his answer on the same December 2022 security clearance application in response to Section 23, Illegal Use of Drugs or Drug Activity. "Have you EVER illegally used or otherwise been illegally involved with a drug or controlled substance while possessing a security clearance other than previously listed?" He answered "No." He failed to list he used marijuana in the summer of 2022 while possessing a security clearance. (SOR ¶ 2.b : GE 1 at 44; GE 3 at 8-9)

During the hearing, Mr. P. testified on Applicant's behalf. He has been his supervisor for the past two years. About one month after completing his security clearance application, Applicant disclosed to Mr. P. that he omitted his past marijuana use on his security clearance application. Mr. P. advised him to disclose his past marijuana use to the investigator who would interview him in conjunction with his security clearance background investigation. He is aware that Applicant used marijuana on a couple occasions in the past. He believes he is trustworthy and should have a security clearance. He believes that Applicant will not make the mistake of omitting answers on his security clearance application again. He works with Applicant daily. He writes his performance evaluation. He describes Applicant's performance as fantastic.

He promoted him to a position with more responsibility last year. He supports Applicant being granted a security clearance. (Tr. 25-27; AE G)

On March 1, 2023, Applicant was interviewed by an investigator conducting his background investigation. He disclosed that he ingested a marijuana edible in the summer of 2022. His friend provided him the edible before watching a movie. He did not pay for the edible. Marijuana was legal in the state where he used the edible. Applicant no longer worked for a defense contractor or had an active security clearance. He has not used marijuana since this one occasion and has no plans to use marijuana in the future. He told the investigator that he regrets not listing his marijuana use on his security clearance application and that he may have misunderstood the wording of the question. (GE 3 at 8)

During the March 2023 background investigation interview, Applicant volunteered his past marijuana use while in college. He used marijuana on two or three occasions between 2011 and 2013. On those occasions, he was at a social gathering and marijuana was offered. He tried it just to join in with the social aspect. He told the investigator that marijuana never had much of an affect on him. He did not find it enjoyable and only used marijuana on those two or three occasions. He did not use marijuana from 2013 to the summer of 2022 when he worked for DC # 1. He was aware that marijuana use was not compatible with working for a defense contractor or while possessing a security clearance. He has no history of drug counseling or treatment. He told the investigator he could not be blackmailed or coerced because of his past marijuana use. (GE 3 at 9)

Finally, Applicant is alleged to have deliberately failed to list that he used marijuana on two to three occasions between 2010 to about 2013, in response to Section 23, Illegal Use of Drugs and Drug Activity on his security clearance application, dated May 17, 2013. (SOR ¶ 2.c: GE 2 at 32-33; GE 3 at 8-9) In his Response to the SOR, Applicant indicated that he used marijuana on two to three occasions while he was away from home and in college. He experimented with marijuana to help cope with stress. Some of his marijuana use occurred in his home state where marijuana was decriminalized in 2008. He was unsure if he needed to put this on his e-QIP form since the question asked if he illegally used drugs. He claims that his oversight was not intentional and was caused by his lack of understanding that marijuana remained illegal under Federal law.

Whole-Person Factors

In addition to the testimony of Mr. P., which was discussed above, two additional witnesses testified on Applicant's behalf during the hearing. Mr. W. is the security manager for DC # 2. He has worked there for 16 years and has held a security clearance for 20 years. He is aware of the allegations in Applicant's SOR. He has known Applicant since he started work at DC # 2. He does not work with him at the same location, but as the security manager, he has read Applicant into some of the special programs. He describes Applicant as a very trustworthy individual. He recommends that he be given a security clearance because he follows all security guidelines and policies. He is more focused on following security procedures than

anyone else. Applicant has had no security incidents when handling classified information. (Tr. 29 – 33)

Mr. A. is the Facility Security Officer (FSO) and the Information Systems Security Manager (ISSM) at the location where Applicant works. He was worked there since October 2014. He is a retired Air Force Master Sergeant and served 26 years in the military. He has held a security clearance since 1982. He is aware that Applicant smoked marijuana and failed to list it on his security clearance application. He works with him daily. Applicant handles a lot of classified information. He is able to observe how Applicant handles classified information on a daily basis. Applicant follows all procedures for handling classified information and has had no security incidents. He describes him as a trustworthy and loyal person and has no reason to doubt him. (Tr. 34-39)

Several others provided written statements on Applicant's behalf. Mr. O. is a family friend of Applicant's. He has watched him grow up. He was born on the same day as his twins. He and his family have been friends with Applicant's family for over 35 years. He states Applicant has always demonstrated leadership, intelligence, conscientiousness, passion, integrity, honesty, and loyalty to every endeavor he has pursued. His character is beyond reproach. (AE F)

Mr. F. worked with Applicant at DC # 1 for nine years from 2013 to 2022. He was his team lead on a program from 2014 to 2018. He also worked with him as a co-worker on another project until he left to work at another site. He describes Applicant as a talented, trustworthy, and dependable worker on classified programs. He worked closely with him and never had a reason to question his character, trustworthiness, dependability or commitment to the defense of the United States and its allies. (AE H)

Applicant provided a copy of his performance evaluation which covered the period of January 6, 2023, to January 6, 2024. Mr. P., his supervisor notes that Applicant "consistently demonstrates an unparalleled commitment to his work, going above and beyond in every task assigned. His innovative approaches to problem solving have been noticed by our customers. He has a strong sense of ownership and produces quality technical work with little oversight." (AE D at 2) Mr. P. said Applicant consistently exceeds expectations and delivers high-quality results. He recommended Applicant be promoted and receive a raise, which was approved. (AE D at 7-8)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's over arching

adjudicative goal is a fair, impartial and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

DOD and Federal Government Policy on Marijuana Use

On October 25, 2014, the Director for National Intelligence, issued a memorandum titled, “Adherence to Federal Laws Prohibiting Marijuana Use” addressing concerns raised by the decriminalization of marijuana use in several states and the District of Columbia. The memorandum states that changes to state and local laws do not alter the existing National Security Adjudicative Guidelines. “An individual’s disregard for federal law pertaining the use, sale, or manufacture of marijuana remains adjudicatively relevant in national security determinations.”

On May 26, 2015, the Director of the United States Office of Personnel Management (OPM) issued a memorandum titled, “Federal Laws and Policies Prohibiting Marijuana Use.” The Director of OPM acknowledged that several jurisdictions have decriminalized the use of marijuana, allowing the use of marijuana for medicinal purposes and/or for limited recreational use but states that Federal law on

marijuana remains unchanged. Marijuana is categorized as a controlled substance under Schedule I of the Controlled Substances Act. Thus, knowing or intentional marijuana possession is illegal, even if the individual has no intent to manufacture, distribute, or dispense marijuana.

On December 21, 2021, Director of National Intelligence (DNI) Avril D. Haynes issued a memorandum entitled, “*Security Executive Clarifying Guidance Concerning Marijuana for Agencies Conducting Adjudications of Persons Proposed for Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position.*” The 2021 DNI memo specifically notes that “under policy set forth in SEAD 4’s adjudicative guidelines, the illegal use or misuse of controlled substances can raise security concerns about an individual’s reliability and trustworthiness to access classified information or to hold a sensitive position, as well as their ability or willingness to comply with laws, rules, and regulations.” Thus, consistent with these references, the AGs indicate that “disregard of federal law pertaining to marijuana remains relevant, but not determinative, to adjudications of eligibility for access to classified information or eligibility to hold a sensitive position.” (2021 DNI Memo)

Guideline H, Drug Involvement

The security concern relating to the guideline for Drug Involvement is set out in AG & 24:

The illegal use of controlled substances, to include the misuse of prescription drug and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual’s reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person’s ability or willingness to comply with laws, rules and regulations. *Controlled substance* means any “controlled substance” as defined in 21 U.S.C. 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed above.

The guideline notes several disqualifying conditions that could raise security concerns. I find the following drug involvement disqualifying conditions apply to Applicant’s case.

AG ¶ 25(a) any substance misuse; and

AG ¶ 25(c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.

The SOR alleges and Applicant admits he used marijuana on one occasion in the summer of 2022 and on two or three occasions between 2010 to 2013. He did not purchase the marijuana. It was provided to him at social gatherings and by his friend during the August 2022 incident. He possessed the marijuana when he used it. There is

sufficient evidence to conclude that Applicant used and possessed marijuana during the alleged time periods. AG ¶ 25(a) and AG ¶ 25(c) apply.

The Government's substantial evidence and Applicant's own admissions raise security concerns under Guideline H, Drug Involvement. The burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the security concerns. (Directive ¶ E3.1.15) An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. (See ISCR Case No. 02-31154 at 5 (App. Bd. September 22, 2005))

Guideline H also includes examples of conditions that could mitigate security concerns arising from drug involvement. The following mitigating conditions potentially apply to the Applicant's case:

AG ¶ 26(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment; and

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, including, but not limited to: (1) disassociation from drug-using associates and contacts; (2) changing or avoiding the environment where drugs were used; and (3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

AG ¶ 26(a) applies because more than two years have passed since Applicant last used marijuana in August 2022. His prior period of usage was on two to three occasions between 2010 to 2013 while he was in college. He was not a habitual user of marijuana. Applicant recently married and is focused on his career. His marijuana usage is unlikely to recur and does not cast doubt about his current reliability, trustworthiness and good judgment.

AG ¶ 26(b) applies because Applicant acknowledged his illegal drug use and signed a statement of intent indicating he will not illegally use marijuana or other illegal drugs in the future. He acknowledged any future illegal use could result in the revocation of his security clearance.

Overall, Applicant met his burden to mitigate the security concerns raised under Guideline H, Drug Involvement.

Guideline E, Personal Conduct

The security concern relating to the guideline for Personal Conduct is set out in AG ¶15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during the national security or adjudicative processes.

The following disqualifying conditions potentially apply to Applicant's case:

AG ¶ 16(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

Applicant omitted his summer 2022 marijuana use on his December 2022 security clearance application. In response to the question , "In the last seven (7) years, have you illegally used any drugs or controlled substances? Use of a drug or controlled substances includes injecting, snorting, inhaling, swallowing, experimenting with or otherwise consuming any drug or controlled substance?" He answered, "No." I find for Applicant with regard to the part of SOR ¶ 2.a that alleged he omitted his marijuana use between 2010 to 2013, because the usage occurred more than seven years before he completed the December 2022 security clearance application. AG ¶ 16(a) applies to the remaining part of the allegation with reference to his August 2022 marijuana edible use.

I find SOR ¶ 2.b for Applicant, which alleged that he deliberately failed to list his August 2022 marijuana use in response to the question about whether he had used marijuana while possessing a security clearance. Applicant was read out of his classified programs in June 2022 when he left his employment with DC # 1. I find his testimony that he believed he no longer possessed a security clearance after he was read out of the classified programs he worked on at DC # 1 to be credible. At the time of his August 2022 marijuana usage, he was working for a startup that did not have classified programs and did not require him to have a security clearance.

AG ¶ 16(a) applies to the allegation in SOR ¶ 2.c. related to his omission of his marijuana use on two to three occasions from about 2010 to about 2013 on his May 17, 2013 security clearance application. While Applicant states that he believed at the time he did not have to list his marijuana use because it was decriminalized under the state law where he used it, it remains illegal under Federal law. The record is unclear as to where he used the marijuana – in his home state or the state where he attended college where marijuana remained illegal under state law.

Under Guideline E, the following mitigating conditions potentially apply in Applicant's case:

AG ¶ 17(a) the individual made prompt, good-faith efforts to correct the omission, concealment or falsification before being confronted with the facts;

AG ¶ 17(c) 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 is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

AG ¶ 17(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

Regarding SOR ¶ 2.a, AG ¶ 17(a) applies because although Applicant initially omitted his 2022 marijuana use on his December 2022 security clearance application, he disclosed his marijuana use to his supervisor and security manager. They both advised him to be upfront and honest with the investigator conducting his background investigation. He followed their advice and disclosed his past marijuana use during his March 2023 background investigation interview. He made prompt, good-faith efforts to correct the omission of his illegal marijuana use before being confronted with the facts.

AG ¶ 17(c) applies because Applicant acknowledged he omitted his illegal marijuana use on his December 2022 security clearance application to his supervisor about a month after completing his security clearance application. He followed his supervisor's advice and fully disclosed his illegal marijuana use during his March 2023 background investigation interview with a special investigator. The conduct is unlikely to recur and does not cast doubt on Applicant's reliability, trustworthiness, or good judgment.

As mentioned previously, SOR ¶ 2.b is found for Applicant because he sincerely believed he did not have an active security clearance when he used the marijuana edible in August 2022. When he left his employment with DC # 1 in June 2022, he was read out of all his classified programs. In August 2022, he was employed by a start-up that did not handle classified information and did not require Applicant to have a security clearance.

With regard to SOR ¶ 2.c, AG ¶ 17(c) applies. Although Applicant did not disclose his marijuana use while in college on his May 2013 security clearance application, this was the first time he completed a security clearance application. He was not habitual user of marijuana while in college having only used marijuana on two to three occasions over a four-year period between 2010 and 2013. He did not use marijuana during his nine-years of employment with DC #1 because he understood it was not compatible with possessing a security clearance and handling classified information. While he initially omitted his marijuana use on his December 2022 security clearance application, he fully disclosed that he omitted his marijuana use to his supervisor, Mr. P. Following his supervisor's advice, he fully disclosed his August 2022

marijuana use and his marijuana use between 2010 to 2013 to the investigator conducting his background investigation interview in March 2023. His favorable duty performance at both Defense Contractor # 1 and Defense Contractor # 2 as well as the disclosure of the omission of his past marijuana use to his supervisor indicate that his conduct is unlikely to recur and does not cast doubt about his reliability, trustworthiness, and judgment. He signed a statement of intent to refrain from illegal marijuana use in the future acknowledging any future use would result in the revocation of his security clearance. It is unlikely that Applicant will repeat this conduct in the future.

AG ¶ 17(e) applies because Applicant fully disclosed his marijuana use. As a result, he reduced his vulnerability to exploitation, manipulation, or duress.

Personal Conduct Security Concerns are mitigated.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

It is not every day that an Applicant's supervisor, security manager, and FSO testify in person on their behalf. Applicant fully disclosed the omission of his marijuana use on his December 2022 security clearance application to Mr. P., his supervisor at DC # 2 and sought his advice on how to correct the omission. He followed Mr. P.'s advice and disclosed his past marijuana use to the investigator who interviewed him during his background investigation in March 2023. All three witnesses who testified were aware of the allegations in Applicant's case but recommended him for a security clearance because of his outstanding duty performance, trustworthiness, and reliability. They also praised his strict adherence to following the procedures handling and protecting classified information.

I also considered that Applicant recently married and his other favorable character references. I find Applicant mitigated the security concerns under Guideline H

because it has been more than two years since he last used marijuana and he signed a statement of intent to no longer use marijuana in the future.

While Applicant's failure to list his college marijuana use on his 2013 security clearance application and his failure to list his August 2022 marijuana use on his December 2022 security clearance application raised a concern under Personal Conduct about his judgment and trustworthiness, he provided full disclosure to his supervisor and security manager shortly after completing his December 2022 security clearance application who advised him to fully disclose his past marijuana use to the investigator during his background investigation interview. He followed their advice. The security concerns under Personal Conduct are mitigated.

I considered the potentially disqualifying and mitigating conditions as well as the facts and circumstances surrounding this case. All security concerns are mitigated.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline H:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a -2.c:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

ERIN C. HOGAN
Administrative Judge