



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-02298

Appearances

For Government: Sakeena Farhath, Esq., Department Counsel

For Applicant: *Pro se*

09/05/2025

Decision

HALE, Charles C., Administrative Judge:

Applicant mitigated Guideline H (Drug Involvement and Substance Misuse) security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On January 15, 2025, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines H and J (Criminal Conduct). Applicant responded to the SOR on January 23, 2025, and requested a hearing before an administrative judge. The case was assigned to me on July 10, 2025.

The hearing was convened as scheduled on August 20, 2025. Prior to the hearing the Government amended SOR ¶ 1.a on August 15, 2025, without objection. During the hearing, without objection, the Government amended SOR ¶ 1.b to conform to the testimony and withdrew the Guideline J allegation. Government Exhibits (GE) 1 through 2 were admitted in evidence. Applicant testified and offered no other evidence. The record was held open until September 3, 2025. I received the transcript on September 2, 2025.

Findings of Fact

Applicant is a 24-year-old college graduate seeking his first position since graduating from college. He earned his high school diploma in 2019 and earned his bachelor's degree in June 2023. He attended college out of state. In school he participated on a club sports team and was a member of the [religious] students' association. He is single. After graduation from college, he returned home to live with his parents. (GE 1, GE 2; Tr. 16-27, 34-41.)

In Applicant's Answer to the SOR, he admitted all of the Guideline H allegations, SOR ¶¶ 1.a through 1.e. He candidly discussed his marijuana use from about 2016 to about February 2024. He acknowledged a history of purchasing marijuana first through friends and then when he was of legal age purchasing from a state marijuana dispensary. He explained he tried cocaine approximately seven times during the period alleged. During his junior year of college, he acknowledged trying acid once and mushrooms two times. The people he was associating with in his junior year "are no longer in [his] life." When the person who had provided the drugs to Applicant in the past recently reached out, Applicant responded back appropriately but did not advance any further contacts. (Tr. 22-26, 35-37, 41-42.)

Applicant's environment factored heavily into his drug use. He first experimented with marijuana in high school. His marijuana use was limited as freshman. He lived in the dorms as a freshman and when campus was closed due to the COVID-19 pandemic he returned home, all of which limited his marijuana use. He lived in an apartment his sophomore year and took his classes online due to the COVID-19 pandemic. He described his marijuana use during this period as "socially nothing to frequently." During his junior year, he and his roommate lived in a campus apartment of an adjacent university in a large city. During this period, he admitted he partied and that his marijuana use was frequent, and he experimented with the other controlled substances alleged. During his senior year he lived with the same roommate as his junior year. He was still using marijuana, but he and his roommate had a falling out. They had been using marijuana regularly together, but his roommate had stopped because something that happened between his roommate and a girl. He and his roommate no longer communicate, and the falling out was unrelated to drug use. He no longer associates with his roommate or the person who provided the cocaine, mushrooms, and acid. The person who provided the drugs does not live near Applicant. Applicant admitted he was aware he was violating federal drug laws with his drug use. (Tr. 29-31, 37-38, 41-47.)

Applicant testified how he had come to recognize the mistakes of his past were jeopardizing his future. While acknowledging some peer pressure, Applicant did not make it an excuse. Since leaving the environment where drugs were used, he has focused on his faith, which had been an important part of his upbringing. He has also focused his energy on making sure he is taking care of his body by exercising and participating in sports. He discussed having younger siblings and being at home with them now and how he needed to demonstrate he was responsible. He noted how he was raised more religiously, and his parents had raised him to be better. He explained that he was at the point in life where he was realizing what was important to focus on "like live a clean

lifestyle and focus ... on work, focus on family, and” that “everything else is just a distraction.” (Tr. 26.) He emphasized credibly that he had matured since leaving college and changing his environment. While his home state and neighboring jurisdictions have legalized marijuana and it is prevalent, he has no desire to continue to use drugs and finds the smell of marijuana does not raise any interest in him to consume it. He credibly testified that the changes in his life and commitment to abstinence from drugs have made him “unrecognizable” from the person he was in college. (Tr. 26-28, 34-39, 42-43, 45.)

Applicant was credible and consistent in his testimony and throughout the security clearance process. His testimony early in the hearing best summarizes this point:

I was completely honest and transparent about everything, everything, for me, at least is what I came up with was in my past. I try to be honest with the Government as I’m trying to obtain a clearance for a job at [company X]. I tried to put my old mistakes behind me, old like behind me. And I’m trying to be, or I have been on a better path. (Tr. 15.)

When asked why Applicant felt sufficient time had passed to mitigate his drug use, he stated:

I’d say my crazier and darkest times are behind me. I think when everybody goes to college, it’s such a different experience for everybody. For me, I moved to a completely new state, had new friends, had new environment. And for me, I experimented in different ways that I wish I didn’t. But I know for a fact that, after I graduated and moved back home, as soon as I moved back home, I’d say like months after, I really realized that this is back to the environment I’m used to. Right? Back to being with my parents. And I have to be an influence for my younger brother and my younger sister. Just kind of seeing that and knowing internally that I have to do better. And from graduation until now, just kind of working on that every single day, not going back to the same mistakes. I think enough time has elapsed to where I acknowledge that now the mistakes I’ve made, and I know not to make them. I know what’s really important, what really [is] the big picture. And I wouldn’t risk my life or risk my career for a temporary drug use or something like that. It’s not worth it for me. (Tr. 44-45.)

Policies

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief

introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used 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, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching 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."

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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse 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).

Analysis

Guideline H, Drug Involvement and Substance Misuse

The security concern for drug involvement and substance misuse is set out in AG ¶ 24:

The illegal use of controlled substances, to include the misuse of prescription 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.

Applicant admitted he purchased and used marijuana and the other alleged illegal drugs. The following under AG ¶ 25 are applicable in this case:

- (a) any substance misuse (see above definition);
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and

AG ¶ 26 provides conditions that could mitigate security concerns. The following are potentially applicable:

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

The evidence establishes that Applicant knew throughout the alleged period of time that his substance misuse was prohibited under federal law. He credibly acknowledged his drug involvement and substance misuse and provided evidence of his actions taken to overcome this problem and has established a pattern of abstinence. He no longer associates with the people from college with whom he used drugs. He changed his environment when he moved to another state to live with his parents after graduating college. While not fully establishing AG 26(b)(3), he wrote in his government interrogatory

response that he had no intention to continue to use illegal drugs and that he no longer associated with those who did illegal substances or frequent places where there might be illegal substances, and he reaffirmed this commitment during his testimony.

AG ¶¶ 26(a) and 26(b) are established for SOR ¶¶ 1.a through 1.e. Applicant's behavior happened under circumstances unlikely to recur. He has completely changed his environment and focused his time and energy on family, faith, fitness, and establishing a career, and no longer desires to engage in drug use.

Applicant voluntarily disclosed his actions on his SCA. He fully acknowledges his past actions. He clearly states he will no longer use marijuana or any other illegal drugs in the future. I found his personal explanation why he will no longer use marijuana products or any other drugs credible and compelling. His testimony reflects his understanding that any future involvement with marijuana or any other drug is grounds for revocation of a security clearance. Given the circumstances under which Applicant's drug use occurred, it is unlikely to recur and does not cast doubt on his current reliability, trustworthiness, or good judgment.

Applicant does not present a perfect case in mitigation, but perfection is not required. He has goals and the right environment to achieve them. The record supports that he will continue to do so, or he will lose his security clearance. Under the circumstances of this case, I find that sufficient time has elapsed since his last use of marijuana and other drugs and his drug involvement and substance misuse 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 factors listed at AG ¶ 2(d):

- (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.

I have incorporated my comments under Guideline H in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I considered Applicant's admissions and candid explanations, as well as his focus on his improving himself through his faith and physical wellbeing. Applicant's consistent candid responses in his SCA, security interview, and testimony concerning his drug involvement reflect his recognition that he must not possess and use marijuana or any other drug while holding a sensitive position

requiring a security clearance or having access to classified information. After weighing the disqualifying and mitigating conditions under Guideline H and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by his drug involvement.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1: Guideline H:

FOR APPLICANT

Subparagraphs 1.a-1.e:

For Applicant

Conclusion

I conclude that it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

Charles C. Hale
Administrative Judge