



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



In the matter of:

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ISCR Case No. 24-00014

Applicant for Security Clearance

Appearances

For Government: Brian L. Farrell, Esq., Department Counsel
For Applicant: Bradley P. Moss, Esq.

11/17/2025

Decision

Curry, Marc E., Administrative Judge:

Applicant mitigated the security concern related to failing to disclose marijuana use on her 2018 Public Trust Position application but failed to mitigate the security concern generated by her use of prohibited drugs between 2021 and 2023, while granted access to classified information or holding a sensitive position. Under these circumstances, her application for a security clearance is denied.

Statement of the Case

On April 30, 2024, the Defense Counterintelligence and Security Agency Adjudication and Vetting Services (AVS), issued a statement of reasons (SOR) setting forth allegations under Guideline E, personal conduct, and Guideline H, drug involvement, as to why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The AVS took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended;

Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017. On June 4, 2024, Applicant answered the SOR, admitting subparagraphs 1.a, 2.a, and 2.c, and admitting in part and denying in part subparagraph 2.b. She requested a hearing, whereupon the case was assigned to me on January 13, 2025. On March 13, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice of video teleconference hearing, scheduling the case for May 6, 2025. At the hearing, I received five government exhibits, marked as Government Exhibit (GE) 1 through GE 5, and 12 Applicant exhibits, marked as Applicant Exhibit (AE) A through AE L. The transcript was received on May 19, 2025.

Findings of Fact

Applicant is a 27-year-old single woman. She graduated from college in 2020, majoring in mechanical engineering with a concentration in aerospace engineering. (Tr. 63) She was an outstanding student-athlete. Her grade-point average was 3.95 and she was an all-American collegiate athlete.

Since graduating from college, Applicant has worked as a systems engineer. (Tr. 63) A subject-matter expert in model-based engineering, she is highly respected on the job. (Tr. 64 - 65) According to her supervisor, she “has consistently been a top performer amongst her peers during performance evaluations.” (AE C) A peer who mentored her when she first arrived at her current employer described her as an exceptional performer who “is highly sought after to support different programs across . . . the business . . .” (AE E) A company’s project oversight manager testified that he prefers her to work in positions most critical to company operations, and commensurate with her continually growing skills. (Tr. 15, 19) Her employer has formally recognized her for her outstanding leadership and innovation. (Tr. 117)

Applicant admitted smoking marijuana on various occasions while in college from 2016 to 2019. (Tr. 111) She used it approximately four times per year. (Tr. 72, 105) She never purchased it.

Applicant completed a Public Trust Position application in April 2018. Section 23 of the application required her to disclose any illegal drug use that occurred within one year of completing the application. (Ex. 1 at 52) Applicant failed to disclose her use of marijuana in October 2017. (Answer at 2) She testified that she did not disclose the marijuana use on the Public Trust Position application because, at the time, she thought the question referred to regular use of drugs rather than sporadic use. (Tr. 75) Now she recognizes that this was “a complete oversight,” and she takes full responsibility for the mistake. (Tr. 75)

Applicant applied for a security clearance in 2020. She disclosed her marijuana use, noting that she used it four times per year between 2016 and 2018, and three times in 2019. (GE 2 at 43-44; Tr. 76) By then, she knew where she wanted to go with her career. (Tr. 76) There is no record of her having been confronted by an investigative agent between the time she falsified the Public Trust position application in 2018 and the time she disclosed the derogatory information on her security clearance application in 2020. She disclosed on the security clearance application that she would not use marijuana again because it did not “align with her values,” and it “made her feel horrible.” (GE 2 at 44)

After the government granted Applicant access to classified information, she resumed marijuana use, using it twice in 2021 and once in 2022 (Tr. 77) In addition, she used hallucinogenic mushrooms, after completing the security clearance application, on one occasion in December 2021. (Tr. 78) She was aware that she should not have been using illegal drugs after being granted a security clearance. (Tr. 78) Her employer had a policy forbidding employees from using illegal drugs. (Tr. 92) Applicant disclosed her post-clearance, illegal drug use to an investigator during an interview in June 2023. (GE 4 at 4)

Applicant has not used marijuana or any other illegal drugs since 2022. (AE A at 2) To demonstrate her commitment to abstinence, she voluntarily subjected herself to random drug testing, beginning in November 2024. All the tests were negative. (AE A, AE L; Tr. 82)

Applicant attended six weeks of drug counseling as a gesture of “good faith toward maintaining her security clearance.” (Tr. 83; AE L) At the counseling sessions, she learned how to build strategies to prevent further drug use from recurring. (Tr. 84) Per the substance abuse counselor, “there is no clinical indication of a substance use disorder or ongoing risk for substance misuse,” and “no diagnosis was warranted.” (AE L at 3)

Applicant attributes her recurrent use of marijuana to “youthful stupidity.” (Tr. 79, 95) She does not intend to use illegal drugs in the future. Outside of work, she now focuses on her public service, including volunteering at a local homeless shelter, and maintaining her physical fitness. (Tr. 88) Recently, her college awarded her with its Distinguished Alumni Award. (Tr. 88)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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 overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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 ¶ 1(d) 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 to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

Analysis

Guideline E: Personal Conduct

The security concern under this guideline is set forth in AG ¶ 15 as follows:

[c]onduct 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 information is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

Applicant's failure to disclose her marijuana use on her 2017 application for a Public Trust Position raises the issue of whether 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," applies. Applicant's explanation that she did not disclose the marijuana use because she misinterpreted the question by thinking that it only required applicants to disclose regular use rather than sporadic use was not credible, particularly given her superior intellect, as a person who graduated from college with a nearly perfect GPA. I conclude that Applicant's omission of her marijuana use from her 2017 application constituted a falsification. AG ¶ 16(a) applies.

Applicant disclosed her 2016 to 2018 marijuana use two years later on a security clearance application without being confronted with the discrepancy. In light of Applicant's youth when she completed the Public Trust Position, and the other positive steps that she has taken, together with the amount of time that has passed since the original falsification, I conclude that AG ¶ 17(a), "the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts," applies. Applicant has mitigated the Guideline E security concern.

Guideline H: Drug Involvement

Under this guideline, "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." (AG ¶ 24)

Applicant's history of marijuana use and her use of hallucinogenic mushrooms trigger the application of AG ¶ 25(a), "any substance misuse." Applicant's marijuana use was infrequent and sporadic. In addition, much of it occurred six to ten years ago between 2016 and 2018, when she was in her late teens to early twenties, and she has since undergone counseling by a counselor who concluded at the end of six weeks of counseling that she does not currently have a drug abuse problem. Under these circumstances, AG ¶ 26(d), "satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional," applies. The amount of time that has elapsed since this conduct and the steps that Applicant has taken to mitigate this conduct is sufficient to mitigate the drug use that occurred between 2016 and 2019, as set forth in subparagraph 2.a. I resolve this subparagraph in her favor.

Conversely, Applicant's marijuana use recurred in 2021, after being granted access to classified information, and continued through 2022. She not only used marijuana three times during this period, she used psilocybin mushrooms on one occasion, as well. Given Applicant's tremendous job performance, her proactive efforts at rehabilitation, including consulting a drug abuse counselor, and the three years of abstinence from drug use, I do not believe that she has a drug involvement problem. However, her use of illegal drugs after being granted access to classified information remains a security concern because it raises questions about her judgment, reliability, and willingness to comply with laws, rules, and regulations. This generates an ongoing security concern regardless of whether marijuana use is trending towards legalization at the state level, and regardless of the nature, frequency, and remoteness in time of the marijuana use. Consequently, I conclude Applicant has not mitigated the drug involvement security concern set forth in subparagraphs 2.b and 2.c. .

Whole-Person Concept

Given the amount of rehabilitation Applicant has engaged in, her community involvement, and her extraordinary academic and work performance, Applicant may well demonstrate persuasive evidence of her security worthiness if given the opportunity to reapply. Given the nature and seriousness of her misconduct – using illegal drugs after being granted access to classified information – it is simply too soon to conclude that she has mitigated the security concern. Upon considering this case in the context of the whole-person concept, I conclude that Applicant has not mitigated the security risk.

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 E:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline H :	AGAINST APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraphs 2.b – 2.c:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Marc E. Curry
Administrative Judge