



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



In the matter of:)
)
) ISCR Case No. 25-00088
)
Applicant for Security Clearance)

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel
For Applicant: *Pro se*

11/19/2025

Decision

BORGSTROM, Eric H., Administrative Judge:

Applicant did not mitigate the drug involvement and substance misuse or the personal conduct security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On May 20, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E (personal conduct) and Guideline H (drug involvement and substance misuse). The DCSA acted 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 adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

In Applicant's May 28, 2025 response to the SOR (Answer), he admitted, with explanations, all five allegations. He characterized his response on his security clearance application (e-QIP) as "inaccurate" and stated that he did not intend "to be dishonest or

misleading." He did not attach any documentary evidence. He requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. (Answer)

On July 18, 2025, the Government was ready to proceed to a hearing. By email dated September 15, 2025, Applicant requested an expedited hearing and eligibility determination. I was assigned this case on September 16, 2023. On September 16, 2023, a notice was issued scheduling the hearing for September 23, 2025, by video teleconference. The hearing proceeded as scheduled.

During the hearing, Applicant confirmed his waiver of the 15-day notice requirement. The Government proffered two evidentiary exhibits, which I admitted as Government Exhibits (GE) 1 and 2, without objection. Applicant testified and did not submit any documentary evidence. I held the record open until September 30, 2025, to give Applicant the opportunity to provide any other additional evidence. I received the transcript (Tr.) on September 24, 2025. Due to the government shutdown, Applicant's post-hearing submission, Applicant Exhibit (AE) A, was received and admitted, without objection, on November 17, 2025. The record closed on November 17, 2025.

Findings of Fact

Applicant is 24 years old. He graduated from high school in June 2020, and he earned his bachelor's degree in May 2024. He has never been married and does not have any children. Since August 2024, he has been employed full time as a software engineer for a DOD contractor. (Tr. 20-21, 45)

The SOR alleges drug involvement and substance misuse security concerns arising from Applicant's illegal use (SOR ¶ 2.a.) and purchase (SOR ¶ 2.b.) of marijuana, illegal use and purchase of lysergic acid diethylamide (LSD) (SOR ¶ 2.c.), and illegal use and purchase of Adderall, a prescription medication (SOR ¶ 2.d.). The SOR also alleges personal conduct security concerns based on Applicant's omissions on his security clearance application.

On June 24, 2024, Applicant completed and certified an Electronic Questionnaire for Investigations Processing (e-QIP). Under Section 23 – Illegal Drugs or Drug Activity, he responded "YES" to the following question:

In the last seven (7) years, have you illegally used any drugs or controlled substances? Use of a drug or controlled substance includes injecting, snorting, inhaling, swallowing, experimenting with or otherwise consuming any drug or controlled substance

He reported that he used marijuana twice a week from July 2020 to October 2021, and he expressed his intent not to use marijuana in the future. He did not report any other illegal drug use or the purchase of any illegal drugs.

Under Section 23, he responded "NO" to the following questions:

Do you have an additional instance(s) of illegal use of a drug or controlled substance to enter?

In the last seven (7) years, have you been involved in the illegal purchase, manufacture, cultivation, trafficking, production, transfer, shipping, receiving, handling or sale of any drug or controlled substance?

In the last seven (7) years have you intentionally engaged in the misuse of prescription drugs, regardless of whether or not the drugs were prescribed to you or someone else?

On September 18, 2024, Applicant was interviewed by an authorized investigator on behalf of the Office of Personnel Management (OPM). He admitted that he stopped using marijuana following his October 2021 alcohol arrest and then resumed his marijuana use after his court proceedings and mandatory drug testing had concluded in September 2022. During the interview, he reported that he used marijuana monthly from September 2022 to May 2024. He ceased his marijuana use in anticipation of his pre-employment drug testing with his current employer. He confirmed that he did not intend to use marijuana in the future. During his OPM interview, he admitted that he had used LSD once in December 2021. He also admitted using a prescription drug, Adderall, without a prescription approximately eight times between December 2020 and December 2021, while studying for exams. He illegally purchased this medication from a classmate. (GE 2)

When confronted by the OPM investigator about his omitted marijuana and LSD use on his e-QIP, Applicant had no explanation for his omitted marijuana use. As to his omitted LSD use, he explained that he had experienced some technical problems when completing the e-QIP and had to re-enter his responses. On March 10, 2025, Applicant confirmed the accuracy of the OPM interview summary regarding his illegal drug use and e-QIP omissions. (GE 2)

In his March 13, 2025 response to DOHA interrogatories, Applicant admitted using marijuana twice a week between July 2019 and May 2024 (SOR ¶ 2.a.); LSD in July 2020 and December 2021 (SOR ¶ 2.c.); and Adderall without a prescription eight times between May 2021 and February 2023 (SOR ¶ 2.d.). He admitted purchasing marijuana twice a month between January 2019 and February 2024 (SOR ¶ 2.b.); LSD in July 2020 and December 2021 (SOR ¶ 2.c.); and Adderall without a prescription approximately 6 to 10 times between May 2021 and February 2023 (SOR ¶ 2.d.). (GE 2)

At the hearing, Applicant testified that he was charged with driving under the influence in October 2021. Prior to his arrest, he had consumed alcohol underage and had used marijuana. In February 2022, he pled guilty and was sentenced to an Accelerated Rehabilitation Diversion (ARD) program that included mandatory drug testing and approximately eight substance abuse counseling sessions. He tested negative during all drug testing, and he was released from ARD in September 2022. He adhered to the

ARD prohibitions against alcohol and illegal drug use while in the program. (Tr. 24-28, 42-43)

Applicant did not use marijuana between February 2022 and September 2022; however, he resumed twice weekly marijuana use from September 2022 to May 2024. He confirmed that he stopped using marijuana in May 2024, in anticipation of pre-employment drug testing. He remains subject to random drug testing through his employer, a DOD contractor. He has not used marijuana since May 2024 nor been tested since his June 2024 pre-employment drug test. (Tr. 28-30, 42-43, 46-47)

At the hearing, Applicant was confronted about reporting on his e-QIP that he last used marijuana in October 2021. He responded, "I have no answer for that, sir." He then admitted that he had not forgotten about his more recent marijuana usage and that he intentionally omitted his marijuana use between September 2022 and May 2024. He further admitted that he omitted the more recent marijuana usage due to the potential negative impact to his clearance eligibility. He explained that he had, in fact, reported his LSD and use of Adderall without a prescription on his e-QIP but had encountered technical problems that deleted or had not retained his responses. (Tr. 31-32, 36-37, 48)

At the hearing, Applicant clarified that he rarely used marijuana in high school, and his twice weekly marijuana use occurred during college. He admitted that he had illegally purchased marijuana, LSD, and Adderall, as delineated in his response to DOHA interrogatories. He further admitted his LSD and Adderall use consistent with his response to the DOHA interrogatories. At the time he used Adderall, he was aware that it was illegal to use a prescription medication without a prescription. (Tr. 34-39, 44, 49, 51-52)

Applicant testified that his parents and supervisor are aware of his illegal drug use; however, he did not provide any corroborating evidence. He admitted that while his supervisor and co-workers are aware of the falsification allegation, he explained to them that he had made "mistakes" on his e-QIP and had not admitted his deliberate falsifications. (Tr. 40, 48-49)

Whole Person

Applicant's supervisor submitted a character-reference letter in support of his clearance eligibility. He praised Applicant's work performance as excellent, accountability, and increased maturity. (AE A)

Policies

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(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 ¶ 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 sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive 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 E: Personal Conduct

The concern under this guideline 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. . . .

The guideline notes several conditions that could raise security concerns under AG ¶ 16. The following disqualifying condition is potentially applicable in this case:

- (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.

At the hearing, Applicant admitted that he deliberately falsified his response on the June 2024 e-QIP, in response to Section 23. Specifically, he intentionally omitted the span of his marijuana use and purchase from September 2022 to May 2024. AG ¶ 16(a) applies.

Applicant testified that he listed his illegal use and purchase of LSD and Adderall on his e-QIP, but that the information was deleted or not retained as he filled out the questionnaire. These omissions were not deliberate. AG ¶ 16(a) does not apply.

The following personal conduct mitigating conditions under AG ¶ 17 are potentially relevant:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and
- (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 it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment.

During his OPM interview, when first confronted about his omitted marijuana use and purchase on his e-QIP, Applicant responded that he had no explanation. He later claimed to have made a "mistake." In his Answer, he also characterized his omitted marijuana use as "inaccurate" and that he did not intend "to be dishonest or misleading." Even at the hearing, he initially claimed to have made a "mistake," and, upon further questioning, he admitted that he intentionally omitted the required information due to its potentially negative impact on his clearance eligibility. He deliberately falsified his security questionnaire and failed to take responsibility for his intentional omissions until his security clearance hearing. Such conduct casts doubt on his reliability, trustworthiness, and judgment. None of the personal conduct mitigating conditions apply.

Guideline H: Drug Involvement and Substance Misuse

The security concern for drug involvement 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 25. The following are potentially applicable:

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

Marijuana is a Schedule I controlled substance under Federal law pursuant to Title 21, Section 812 of the United States Code. Schedule I drugs are those which have a high potential for abuse; have no currently accepted medical use in treatment in the United States; and lack accepted safety for use of the drug under medical supervision. Section 844 under Title 21 of the United States Code makes it unlawful for any person to knowingly or intentionally possess a controlled substance not obtained pursuant to a valid prescription.

On October 25, 2014, the then Director of National Intelligence (DNI) issued guidance that changes to laws by some states and the District of Columbia to legalize or decriminalize the recreational use of marijuana do not alter existing Federal law or the National Security Adjudicative Guidelines, and that an individual's disregard of Federal law pertaining to the use, sale, or manufacture of marijuana remains adjudicatively relevant in national security eligibility determinations.

On December 21, 2021, the then DNI issued clarifying guidance concerning marijuana, noting that prior recreational use of marijuana by an individual may be relevant to security adjudications, but is not determinative in the whole-person evaluation. Relevant factors in mitigation include the frequency of use and whether the individual can demonstrate that future use is unlikely to recur.

Applicant admitted his illegal purchase and use of marijuana, LSD, and Adderall. AG ¶¶ 25(a) and 25(c) apply. All of these controlled substances were illegal in Applicant's state of residence.

Conditions that could mitigate the drug involvement security concerns are provided under AG ¶ 26. 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.

Applicant was fully aware that his purchase and use of these controlled substances was illegal. Even after an alcohol arrest and counseling, he resumed his frequent marijuana use. Over the course of his time in college, he used illegal drugs or misused a prescription drug on over 100 total occasions. He has not used illegal drugs since May 2024, and he has expressed his intent to abstain from illegal drugs in the future. Given the frequency of Applicant's illegal purchase and use of illegal drugs and that multiple controlled substances were involved, evidence of a longer period of abstinence is required. He did not mitigate the drug involvement and substance misuse security concerns.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for access to classified information 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(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.

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. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline E, Guideline H, and the factors in AG ¶ 2(d) in this whole-person analysis.

While Applicant's drug involvement during college may not be uncommon, the frequency of his use and purchase of marijuana, LSD, and Adderall without a prescription does not reflect the reliability, good judgment, and adherence to rules and regulations required of those entrusted to safeguard classified information. More importantly, in anticipation of his employment with a DOD contractor, Applicant deliberately falsified his e-QIP. Only at the hearing did he finally admit that he intentionally omitted his more recent marijuana use. With candor, a greater passage of time, and continued abstinence, he may be able to mitigate those concerns, but, at present, Applicant has not mitigated the personal conduct or the drug involvement and substance misuse security concerns.

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:	AGAINST APPLICANT
Subparagraph 1.a.:	Against Applicant
Paragraph 2, Guideline H:	AGAINST APPLICANT
Subparagraphs 2.a.-2.d.:	Against Applicant

Conclusion

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

Eric H. Borgstrom
Administrative Judge