



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 24-01925

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel

For Applicant: *Pro se*

12/17/2025

Decision

GARCIA, Candace Le'i, Administrative Judge:

Applicant did not mitigate the security concerns under Guidelines H and E. Eligibility for access to classified information is denied.

Statement of the Case

On January 16, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines H (drug involvement and substance misuse) and E (personal conduct). The action was taken 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) implemented by the DOD on June 8, 2017.

Applicant responded to the SOR (Answer) on January 21, 2025, and elected to have the case decided on the written record in lieu of a hearing. The Government's written case was submitted on March 12, 2025. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on March 26, 2025, and he elected not to respond. The

case was assigned to me on July 3, 2025. The Government's documents identified as Government Exhibits (GE) 1 through 6 are admitted in evidence without objection.

This decision was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a federal government shutdown due to a lapse in federal funding.

Findings of Fact

Applicant admitted all the SOR allegations in his Answer. He is 27 years old. He lives with his parents. He graduated from high school in 2016. He was subsequently unemployed for one year, and then he worked for various non-defense contractors until May 2021. He then worked as an assembly contractor for a defense contractor from May 2021 to August 2022, when he was laid off. He was subsequently unemployed until July 2023. Since then, he has worked as a mechanical assembler for his employer, a defense contractor. He has never held a security clearance. (GE 1-3, 6)

Applicant used marijuana, with varying frequency, from approximately 2012 to February 2022. (SOR ¶ 1.a; GE 2-6) In his December 10, 2021, security clearance application (SCA), in response to "Section 23 – Illegal Use of Drugs or Drug Activity . . . Illegal Use of Drugs or Controlled Substances In the last seven (7) years, have you illegally used any drugs or controlled substances? . . . ,” Applicant marked “Yes.” He estimated that he first used marijuana in approximately April 2015, and he estimated he had most recently used marijuana in approximately February 2017. He stated:

I smoked pot casually in and the following year out of high school. . . . It was purely a social thing I did with my friends at the time. Once I was out of high school and doing such a thing alone and on my own time is when I decided to stop. In the peak of it, mostly just weekends and occasional weekdays. So[,] 3 days a week [I'd] say consistently through that time frame. (GE 2)

Applicant also estimated in his 2021 SCA that he first purchased marijuana for his personal use in approximately April 2015, and he estimated he had most recently purchased marijuana in June 2017. He also stated that he purchased marijuana from a friend while he was in high school and in the year after he graduated. He further stated that he intended to purchase marijuana in the future, and that if marijuana became legal in his state, he intended to purchase it legally from marijuana dispensaries. (GE 2)

Applicant also marked “Yes” in response a question on his 2021 SCA that asked whether he intended to use marijuana in the future. He stated, “I do plan on smoking marijuana in my later years in life. Not until my kids are grown up and I am a happy old man. I do enjoy it and I do believe I am a functioning member of society when I am in the process of partaking. Aside though I have [given] it up for the time being.” (GE 2)

During his February 2022 interview with an authorized background investigator, Applicant indicated he was still using marijuana up to the date of the interview. He indicated that upon trying marijuana in 2012 with high school friends, he immediately

became a regular user, and he used marijuana once weekly or more from approximately 2012 to 2016. He indicated he used marijuana at home, and it makes him feel relaxed. He also indicated he purchased marijuana from friends or acquaintances during this period. Marijuana became legal in the state in which he resides in 2016, and he indicated that has purchased marijuana from dispensaries in his state since the first one opened in 2018. He spent an average of \$300 to \$500 weekly on marijuana. He indicated that his marijuana use was common knowledge, but his parents might not be aware of his exact amount of usage. (GE 6)

Applicant indicated during his 2022 background interview that he stopped using marijuana for approximately six months before he was hired as an assembly contractor for a defense contractor in May 2021. He indicated he knew this employer required a drug test, and he wanted to pass it. He indicated he resumed daily marijuana use in July 2021. He acknowledged he intentionally falsified his 2021 SCA, when he disclosed that his last use of marijuana was in 2017, because he did not want it to jeopardize his employment. He indicated that the disclosures he made on his 2021 SCA regarding purchasing marijuana legally from marijuana dispensaries in his state were to cover himself in case he was randomly drug tested. He also indicated that he did not understand the difference between marijuana being legal in his state but federally illegal. He explained he did not fully understand the security clearance process and that holding a clearance is a privilege. He further indicated he would give up marijuana for as long as he possesses a security clearance. He also acknowledged that he knew his employer drug tested and although he assumed he was not supposed to use illegal drugs, he did not actually recall knowing the ramifications of illegal drug use. He indicated he assumed he could lose his job, which he did not want to happen. (GE 6)

In his September 17, 2024, SCA, 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? . . . ,” Applicant marked “Yes.” He estimated that he first used marijuana in approximately April 2015, and he also estimated he had most recently used marijuana in approximately February 2018. He stated he used marijuana for personal pleasure a few times a week, “It was a social thing I did with my friends in high school and for a few years after. . . . Getting older now, moving past it.” (GE 3) He also disclosed he first purchased marijuana in April 2015, and that he had most recently purchased it in February 2018. (GE 3)

In his January 2025 response to interrogatories, Applicant approximated that he first used marijuana in May 2014 and that he last used it in February 2022. He stated that he used it daily, and he had no intention of using it in the future. (GE 4-5)

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(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

AG ¶ 24 expresses the security concern pertaining to drug involvement and substance misuse as:

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 ¶ 25 describes conditions that could raise a security concern and may be disqualifying. I considered the following relevant: "(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."

Applicant used marijuana with varying frequency from about 2012 to February 2022. AG ¶¶ 25(a) and 25(c) are established.

AG ¶ 26 provides the following potentially relevant mitigating conditions:

(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 used marijuana from 2012 to 2022. He provided false information about his marijuana usage on his 2021 SCA, which he sought to correct during his 2022 background interview. But he then provided false information about his marijuana use again, on his 2024 SCA, and he only attempted to correct this information when he was asked drug questions during his 2025 response to interrogatories.

While Applicant indicated during his 2022 background interview that he did not understand the difference between marijuana being legal in his state but federally illegal, it is evident by the other information he provided during that interview that he knew the ramifications for his illegal marijuana use. He admitted he stopped using marijuana for six months before he was hired by a defense contractor in May 2021 because he knew this employer required a drug test, and he wanted to pass it so that he would not jeopardize his employment. He also admitted that the disclosures he made on his 2021 SCA regarding purchasing marijuana legally from marijuana dispensaries in his state were to cover himself in case he was randomly drug tested. He also acknowledged that he knew his employer drug tested, and that he was not supposed to use illegal drugs because it could lead to him losing his job. He stated that his parents, while aware of his drug use, are unaware of the full extent of it. He did not provide a

statement of intent to abstain from all drug involvement and substance misuse. Given the length of time in which he has used marijuana, and his falsifications about his marijuana usage, not enough time has passed since his last use in 2022 to establish a pattern of abstinence. None of the mitigating conditions are established.

Guideline E, Personal Conduct

The security concern 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 national security investigative or adjudicative processes.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. The following 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.

Applicant marked "Yes;" however, he failed to accurately disclose his marijuana use in response to relevant questions in section 23 of his 2021 and 2024 SCA's. He admitted to falsifying his responses on both SCA's. AG ¶ 16(a) is established.

Conditions that could mitigate the personal conduct security concerns are provided under AG ¶ 17. The following are potentially applicable:

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

(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;

(d) 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; and

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

Applicant admittedly falsified information about his marijuana usage on two SCA's—his 2021 and his 2024 SCA's. His corrections, during his 2022 background interview, of his falsifications on his 2021 SCA are overcome by the falsifications about his marijuana usage that he made on his 2024 SCA. While he disclosed more marijuana use on his 2025 response to interrogatories, he only did so because he was asked questions about his drug use. Questions remain about his reliability, trustworthiness, and judgment. His deliberate omissions are not minor, and they occurred recently, in 2021 and 2024. As such, I find that AG ¶¶ 17(a), 17(c), 17(d), and 17(e) are not established.

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(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 Guidelines H and E in this whole-person analysis. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the drug involvement and substance misuse and personal conduct 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 H:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a-2.b:	Against Applicant

Conclusion

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

Candace Le'i Garcia
Administrative Judge