



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



Appearances

For Government: Aubrey De Angelis, Department Counsel
For Applicant: Eric Grasberger, Attorney At Law, Stoel Rivers, LLP

01/08/2026

Decision

Lokey Anderson, Darlene D., Administrative Judge:

On November 12, 2024, Applicant submitted a security clearance application (e-QIP). (Government Exhibit 1.) On July 17, 2025, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline H, Drug Involvement and Substance Misuse; and Guideline J, Criminal 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*, effective within the DoD after June 8, 2017.

Applicant answered the SOR on August 17, 2025, and requested a hearing before an administrative judge. The case was assigned to me on September 15, 2025. The Defense Office of Hearings and Appeals issued a notice of hearing on September 24, 2025, and the hearing was convened as scheduled on December 3, 2025. At the hearing, the Government offered two exhibits, referred to as Government Exhibits 1 and 2, which were admitted without objection. The Applicant called two witnesses and testified on his own behalf. He also offered six exhibits, referred to as Applicant's Exhibits A through F, which were admitted without objection. DOHA received the transcript of the hearing (Tr.) on December 12, 2025.

Administrative Matters

Applicant's Counsel presented the court with a Motion to Withdraw the Statement of Reasons dated November 24, 2025, based upon his mitigating conditions and evidence discussed in his brief. Said Motion was denied at the hearing. (Tr. p. 5.) Department Counsel requested that the court take Administrative Notice of the "Risks Associated with THC Use," dated September 9, 2025. Applicant had no objection. (Tr. p. 14.) Said notice was taken.

Findings of Fact

Applicant is 54 years old. He cohabitates with his significant other, with whom he has been together for the past eleven years. He has a Bachelor's degree in Architecture. He is a managing partner and equity owner of the company, who is a defense contractor. He is seeking to obtain a security clearance in connection with his employment.

Guideline H - Drug Involvement and Substance Misuse

The Government alleges that the Applicant has used controlled substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose, which can raise questions about an individual's reliability and trustworthiness.

Applicant has a history of illegal drug use involving Tetrahydrocannabinol (THC) with varying frequency from about January 1994 to about September 2024. (See Applicant's Response to SOR.) He has also built a successful career as an architect. He began working for his current employer in 1999, a national commercial architecture firm with seven offices across North America, employing 600 to 800 professionals and administrative staff at any given time, which was his third, full-time job after graduation.

The firm works on a variety of matters including contract work for the U.S. Department of State. Due to the classified nature of that work, each member of the firm's executive committee must obtain national security clearance from the Department of Defense.

In 2019, Applicant became a partner in the firm, and then the managing partner of an office. He also currently sits on the executive committee for the firm involving the firm-wide budgets and firm-wide operations matters. Applicant is licensed as an architect in nine states, and is an active member of the American Institute of Architects. He currently serves as a Director on the Board of the local Chapter. In 2022, he was elevated to the College of Fellows which is the highest membership honor and privilege given to less than 3 percent of the licensed architects in the United States for exceptional work and contribution to architecture. (Tr. pp. 44-52.)

As a member of the executive committee for the firm since 2023, Applicant is required to hold a security clearance to maintain the qualifications for the government contracts that the company currently has. Applicant stated that although his core skill set in the firm does not involve working directly with or for government contracts, a security clearance is still necessary.

In November 2024, Applicant completed a security clearance application wherein he disclosed his prior use of THC. (Government Exhibit 1.) He testified that he was honest and truthful in answering all of the questions. He disclosed on the application that he had THC in about 1994, which was his first year of college. Since then, he may have used it a total of 12 to 15 times, on an infrequent or minimal basis. During his interview with an investigator in February 2025, he explained that he used marijuana vapes and edibles during the summers, while lounging and relaxing in his pool, to reduce his stress, and has never felt dependent on the drug. He stated that he never purchased it, but used it when it was offered to him by friends. In the past, there have been times where some THC may have been left in his house. Normally, Applicant does not keep THC in his house, and his significant other, with whom he resides, does not use THC. Over the thirty-year period of "extremely infrequent" use, there were years he did not use it at all, and times he may have used it as much as three or four times a year. His last use of THC was in September 2024. Applicant also stated at that time that regarding future use, his position was neutral because his use was infrequent and not problematic. (Government Exhibit 2.)

Without sufficient understanding of the security clearance requirements, Applicant testified that he initially felt that his limited and extremely infrequent use of THC was not an issue. However, as the issue continued to develop, and when he received interrogatories to answer, and then the SOR from the Government, it revealed itself to him, and became "crystal clear" to him that his use of THC was troubling and concerning

to the Department of Defense. Applicant stated that his last use of THC was on Labor-Day weekend, at his home in his backyard. A month later, he received the security clearance application. He stated that he did not know at the time that the security clearance process was imminent, or that his relatively infrequent use of THC could potentially have such a negative impact on his career or his eligibility for a security clearance. (Tr. pp. 55-60.)

Applicant further testified that this whole process has become very educational for him. He has now read the Directive and its guidelines, and he now fully comprehends the gravity of his situation. It has changed his understanding and his outlook on things. It has become very clear to him that any illegal drug use, including his limited use of THC, is prohibited by the Department of Defense. It has been an easy decision for him to quit his use of THC, because he did not need to do it anymore. Applicant testified that he is committed to abstaining from any illegal drug use in the future. (Tr. pp. 60-61.)

Applicant stated that he has never been detained, arrested, charged, or convicted of any crime, including for anything involving any illegal product, THC, or otherwise. (Tr. p. 61.) He maintains an exemplary employment record as an architect.

A managing partner of the firm testified that she met the Applicant in 1999, long ago when they were "coming up the ranks." They are good friends as well as close professional associates. She has at times worked closely with him on projects, strategies, and observed his interactions with team members. She considers him to be an amazingly talented architect with a unique business acumen. She believes that he exercises sound judgment, has great instincts, and is one of the brightest people she has ever worked with. She has never seen him with impaired judgment. He is always and consistently responsible and trustworthy. His position demands and he has demonstrated a high quality of character, reliability, trustworthiness, and the consistent exercise of good judgment. She does not think that he poses any risk to the Government. (Tr. pp. 16-26.)

Applicant's father, who is currently a full-time tenured faculty member at a community college; and also serving as a Dean at the college, has prior military service in the United States Army, where he served in Vietnam as a Combat Infantryman, then as a Military Police Officer; and a Provost Marshal Investigator; followed by civilian service as a Police Officer, and then Lieutenant, now retired, testified that he and his son have a very close relationship. Since his mother died in 2016, Applicant moved back to California from New York to be closer to his father and to be supportive. They now see each other at least once a month and maintain regular telephonic contact. They spend time together at family gatherings, dinners, and holidays. His father has never witnessed his son impaired, out of control, or intoxicated. He considers his son to be responsible, reliable, and trustworthy. His son has always been a mentor to many, helping other individuals in

the profession. His son has also been helpful to his grandson, teaching him to swim and spending time visiting with him. He believes that his son is truthful, honest, and law abiding, and when he makes a pledge to follow through with something, he will do it. (Tr. pp. 28-38.)

A number of declarations from people who know the Applicant well were submitted on his behalf. These include declarations from the Managing Partner at the firm; a Partner at the firm; Applicant's father; an Associate Principal at the firm; and Applicant's sister. Collectively they reflect that the Applicant is an honest, reliable, and trustworthy individual. He is passionate about his work, treats others with fairness and respect, and is a strong leader and a valued member of the executive committee at the firm. He has never been observed impaired in any way that would affect his judgment and responsibilities. (Applicant's Exhibits B through F.)

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 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 AG ¶ 2 describing 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.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Directive ¶ E3.1.14, requires the Government to present evidence that establishes 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who applies for access to classified information seeks to enter 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 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 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 relating to the guideline for Drug Involvement and Substance Misuse is set forth at 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 at AG ¶ 25 contains two conditions that could raise a security concern and may be disqualifying:

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

Applicant's use of THC from about January 1994 to September 2024 is troubling. The above disqualifying conditions apply.

The guideline at AG ¶ 26 contains conditions that could mitigate security concerns:

- (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's extremely infrequent use of THC from 1994 until September 2024 demonstrated immaturity and poor judgment. His misconduct, at that time, showed a pattern of flawed behavior and irresponsibility. However, since Applicant has become fully educated about the eligibility requirements for access to classified information; the rules, regulations and policies of the Department of Defense and its position on illegal drug use, and its impact on the national security, Applicant made the decision to permanently discontinue his use of THC. Applicant now clearly understands the importance of maintaining a drug-free lifestyle, and why it is important to be responsible and trustworthy in order to properly safeguard the national secrets. Based upon the fact

that he has shown great maturity and responsibility, and no longer uses THC, and has not used THC for over a year, his earlier history of illegal drug use has been mitigated. Assuming Applicant continues to maintain a drug-free lifestyle and adhere to the DoD requirements for access to classified information, he will be eligible for a security clearance. In the event that he does not maintain a drug-free lifestyle, his clearance will be in immediate jeopardy. Applicant meets the requirements for eligibility to access classified information. Mitigating conditions set forth above are applicable. The Drug Involvement and Substance Misuse security concern is found for Applicant.

Guideline J: Criminal Conduct

The security concern relating to the guideline for Criminal Conduct is set out in AG ¶ 30:

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.

The guideline at AG ¶ 31 contains five disqualifying conditions that could raise a security concern and may be disqualifying. Two conditions apply, as discussed below:

- (a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness; and
- (b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

Applicant engaged in criminal conduct, in violation of state and Federal laws, when he used THC from January 1994 to about September 2024. This conduct demonstrated poor judgment, unreliability, and untrustworthiness. This conduct raises the above security concerns.

The guideline in AG ¶ 32 contains several conditions that could mitigate criminal conduct security concerns:

- (a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and

does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Applicant stopped using THC in September 2024, and has produced a declaration that can be considered a Statement of Intent indicating that he is firmly committed to abstaining from the use of THC or any other illegal drug in the future. (Applicant's Exhibit A.) Accordingly, he has not engaged in any criminal behavior for about a year and three months. The evidence establishes mitigation under both of the above conditions. The Criminal Conduct security concern is found for Applicant.

Considered in totality, Applicant's conduct demonstrates good judgment, reliability, and/or the ability to abide by rules and regulations. To be entrusted with the privilege of holding a security clearance, applicants are expected to abide by all laws, regulations and policies that apply to them. Applicant no longer uses THC or any illegal drug and has no intention of using anything illegal in the future. Under the particular facts of this case, he shows the requisite character or judgment of someone who has the maturity, integrity, good judgment, and reliability necessary to access classified information. Applicant meets the qualifications for access to classified information.

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 facts and circumstances surrounding this case. I have incorporated my comments under Guideline H and Guideline J in my whole-person analysis. An individual who holds a security clearance is expected to comply with the law at all times. Applicant demonstrates the level of maturity needed for access to classified information. He has established a full career and a lifetime of abiding by the law, excelling in his profession, and gaining the trust and respect of friends, family, and others in the architectural forum. Now that he is aware of the particulars of the law, this is an individual in whom the Government can be confident to know that he will always follow rules and regulations and do the right thing, even when no one is looking. Applicant is qualified for access to classified information and does meet the qualifications for a security clearance.

Overall, the record evidence leaves me without questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the Drug Involvement and Substance Misuse, and Criminal Conduct security concerns.

Formal Findings

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

Paragraph 1, Guideline H:	FOR APPLICANT
Subparagraph 1.a	For Applicant
Paragraph 2, Guideline J	FOR APPLICANT
Subparagraph 2.a	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 national security eligibility for a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson
Administrative Judge