



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-00568

Appearances

For Government: Brittany White, Esq., Department Counsel
For Applicant: *Pro se*

01/07/2026

Decision

Curry, Marc E., Administrative Judge:

Given that Applicant was using marijuana as recently as May 2024, one month after the issuance of the Statement of Reasons (SOR), it is too soon to conclude that he mitigated the drug involvement security concern. His application for a security clearance is denied.

Statement of the Case

On April 19, 2024, the Defense Counterintelligence and Security Agency Adjudication and Vetting Services (AVS), issued an SOR setting forth allegations under 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 20, 2024, Applicant answered the SOR, admitting subparagraphs 1.a and 1.b, and denying subparagraph 1.c. He requested a hearing, whereupon the case was assigned to me on January 13, 2025. On March 25, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice of video teleconference hearing, scheduling the case for May 24, 2025. At the hearing, I received two government exhibits, marked as Government Exhibit (GE) 1 and GE2. The transcript was received on June 2, 2025.

Findings of Fact

Applicant is a 23-year-old single man. He earned an associate degree in computer science, and is currently enrolled in college, pursuing a degree in engineering. (Tr. 14) During the summers of 2023 and 2024, he interned for an engineering company that is a defense contractor. (Tr. 12) The company is sponsoring him for a clearance to further his professional advancement. (Tr. 13)

Applicant used marijuana with varying degrees of frequency between March 2020, when he was in high school, to April 2024. For the first two years of his use, he purchased it approximately every other month. (AE 2 at 10) By 2023, he had limited his purchases to every three months. (AE 2 at 12; Tr. 17). Once it was legalized in his state of residence, he purchased it from a dispensary.

When Applicant completed his security clearance application in June 2023, he stated that he was not going to use marijuana again. (GE 1 at 23) During his interview with an investigative agent in November 2023, he stated that he had resumed use, was going to continue smoking marijuana while the investigation was pending and was planning on stopping only once he obtained his security clearance. (Tr. 21) He thought at that time that it would only become a “big deal” if he used marijuana after he was granted a clearance, rather than when the investigation was under way. (Tr. 22) Consistent with his explanation, he continued using marijuana until June 2024 when he stopped because he said he no longer had the desire to smoke it. (Tr. 25)

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 clearance 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 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 purchase and use triggers the application of AG ¶¶ 25(a), "any substance misuse," and 25(c), illegal possession of controlled substances, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia. Applicant's equivocal, vacillating response regarding whether he would use marijuana in the future triggers the application of AG ¶ 25(g), "failure to clearly and convincingly commit to discontinue [drug] misuse."

Applicant continued using marijuana while his security clearance application was pending and did not stop until after the SOR was issued. Moreover, his belief that his marijuana use would only pose a problem after he was granted a clearance rather than while the investigation was pending reflects poor judgment and a lack of maturity. As such, none of the mitigating conditions under AG ¶ 26 apply. Given that Applicant was using marijuana as recently as May 2024, one month after the issuance of the SOR, it is too soon to conclude that he mitigated the drug involvement security concern. Applicant has failed to provide sufficient evidence to mitigate the drug involvement security concern.

Whole-Person Concept

I considered the whole-person concept factors in my analysis of the disqualifying and mitigating conditions under the drug involvement security concern, and they do not warrant a favorable conclusion.

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

Subparagraphs 1.a – 1.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