



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



In the matter of:)
)
) ISCR Case No. 24-01629
)
Applicant for Security Clearance)

Appearances

For Government: Tara Karoian, Esq., Department Counsel
For Applicant: *Pro se*

01/14/2026

Decision

HALE, Charles C., Administrative Judge:

This case involves security concerns raised under Guideline H (Drug Involvement and Substance Misuse). Applicant mitigated the security concerns. Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on May 15, 2023. The Department of Defense (DoD) sent him a Statement of Reasons (SOR) dated November 5, 2024, alleging security concerns under Guideline H. The DoD acted under Executive Order (Exec. Or.) 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) promulgated in Security Executive Agent Directive 4, National Security Adjudicative Guidelines (December 10, 2016).

Applicant answered the SOR on December 8, 2024, and requested a decision on the written record without a hearing. Department Counsel issued the Government's file of relevant material (FORM) on April 21, 2025, including documents identified as

Government Exhibit (GE) 1 through GE 9. Applicant received the FORM on June 3, 2025, and did not provide a response. I was assigned the case on December 10, 2025.

The SOR, Applicant's Answer (GE 1 and GE 2) are the pleadings in the case. GE 3 through GE 9 are admitted into evidence without objection.

Findings of Fact

Applicant is a 32-year-old supply chain specialist who has worked for his security clearance sponsor since 2019 and in his current position since February 2020. He was issued a security clearance in 2010, while serving on active duty in the U.S. Marine Corps. He was honorably discharged in 2015. In addition to the SCA he completed for his 2010 security clearance, he completed a 2019 SCA. He is single and has no children. He earned a bachelor's degree in 2019. (GE 3 at 14, 23; GE 4; GE 5; GE 6.)

In Applicant's SOR Answer, he admits he used marijuana in May 2020, while holding a sensitive position, i.e., one requiring a security clearance (SOR ¶ 1.a) and that he used marijuana with varying frequency from about June 2017 to about May 2018 (SOR ¶ 1.b).

Applicant disclosed on his 2023 SCA that he had used marijuana in May 2020 and confirmed in his security clearance interview for his 2023 SCA that he had used marijuana in May 2020. He told the DoD investigator that he used marijuana in May 2020, his birthday month, and indicated he had a lapse in judgment at the time and regrets the use of marijuana. He described it as single inhale from a joint that was passed around outside a bar during the celebration of his birthday. He told the DoD investigator he inhaled for a few seconds and did not accept the marijuana a second time when it was offered again. He stated he had not used marijuana or any other form of illegal drugs or misuse of prescription drug since May 2020. (GE 3 at 42; GE 9 at 11.)

On his 2019 SCA Applicant disclosed his marijuana use alleged in SOR ¶ 1.b, which occurred while he was attending college. He estimated he smoked marijuana four or five times and stated he did not intend to smoke marijuana in the future. (GE 4 at 48.) He confirmed in his security clearance interview that he had used marijuana from 2017 – 2018, describing his motivation at the time as “recreational and out of curiosity.” He estimated to the investigator he used marijuana no more than four to five times between 2017 and 2018. The marijuana was provided by a friend in the form of a joint. (GE 9 at 11.) He stated in his 2019 SCA:

I have not smoked in a long time and do not intend to smoke marijuana as I never really felt an effect (good or bad) and simply found no use or interest in continuing to smoke marijuana. Furthermore, as part of my employment requirement and state/federal laws, I do not intend on smoking marijuana in the future. (GE 4 at 48.)

Applicant told the DoD investigator that he has spoken with his friends that drug

use was not something he was interested in maintaining. Since the incident in 2020 he has not seen any further drug use by either friends he cited and there had been no further discussion about marijuana use by either friend. He has not seen any further use of marijuana by these friends as they all have careers now and are in different places in their lives than they were in 2017, 2018, and 2020. He still socializes with these people, and he acknowledged he has no reason to believe they do not use marijuana when not in his presence. (GE 3; GE 9 at 11, 17; Answer.)

In 2014, while on active duty, Applicant had an alcohol related incident, which resulted him receiving nonjudicial punishment (NJP). As a result of the incident he explained to the investigator that no longer drinks "Red Bull and Vodka, has matured, understands his alcohol limits and takes Uber or Lyft when he is out socializing and limits his drinks to two to three which consists of beer or wine but no more hard liquor." Since 2014 there have been no further alcohol related incidents. (GE 3; GE 4; GE 5; GE 9 at 7, 17.)

In his December 2024 Answer, Applicant stated:

Additionally, my actions since these incidents reflect a deep commitment to ethical behavior and national security principles. I have sought to align my conduct with the standards required of someone in my position. This includes maintaining a lifestyle of integrity and responsibility, reflecting on the potential consequences of my actions, and ensuring that all future decisions honor the trust placed in me.

I firmly believe that my conduct over the past four and a half years demonstrates my rehabilitation, self-awareness, and unwavering commitment to safeguarding sensitive information. I wish to reiterate my loyalty to the United States and my dedication to upholding its values. My actions since May 2020 have been guided by a desire to demonstrate my reliability, trustworthiness, and sound judgment. I respectfully request that my record of honorable military service, service to Veterans, service to academia, and abdication of illegal substances, be used to address these concerns, and be considered as evidence that I am capable of fulfilling my responsibilities with integrity and diligence.

Applicant broke his 2019 promise not to use illegal drugs in the future. His 2024 Answer, where he stated, "I commit unequivocally to abstain from all drug involvement and substance misuse, as evidenced by my actions over the last four and a half years" is supported by more than five years of abstinence. He has cooperated in the security clearance process. The evidence available shows his involvement with marijuana was extremely limited in scope. The security clearance interview reads consistently with a person who has matured and has no intention to use marijuana or any other illegal drug in the future. (GE 3; GE 9 at 11, 18; Answer.)

Policies

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531.

Analysis

Guideline H, Drug Involvement and Substance Misuse

The concern under this guideline 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.

Applicant’s admissions in his SCA and Answer are sufficient to raise the following disqualifying conditions under this guideline: AG ¶ 25:

- (a): any substance misuse (see above definition);
- (c): illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and
- (f): any illegal drug use while granted access to classified information or holding a sensitive position.

The following mitigating conditions are potentially applicable under AG ¶ 26:

- (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.

There is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), cert. denied, 499 U.S. 905 (1991). After the Government produces evidence raising security concerns, an applicant bears the burden of persuasion concerning mitigation. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that a clearance may be granted only when “clearly consistent with the interests of the national security.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” AG ¶ 2(b).

Applicant’s previously disclosed marijuana use alleged in SOR ¶1.b on his 2019 SCA. The drug use occurred while he was in college and under such circumstances that are unlikely to recur, nor does it cast doubt on the individual’s current reliability, trustworthiness, or good judgment. He has addressed the issue of drugs with his friends, and he has not seen any further marijuana use since 2020 by his friends. He has repeatedly acknowledged his drug involvement and substance misuse between 2017 and 2018 and explained the actions he has taken to overcome this problem, and he has established a pattern of abstinence of five and half years. AG ¶¶ 26(a) and 26(b) are established for SOR ¶1.b.

AG ¶¶ 26(a) and 26(b) are established for SOR ¶ 1.a. Applicant has demonstrated over the last five and half years that his single lapse in judgment while in a sensitive position was so infrequent, or happened under such circumstances that it is unlikely to recur nor does it cast doubt on his current reliability, trustworthiness, or good judgment. He has addressed drug use with his friends and has not seen any further use of marijuana since 2020 by his friends. His voluntary disclosure of his single marijuana use on his SCA reflects his understanding that marijuana use is not permitted while holding a sensitive position or possessing a security clearance, and any future involvement with marijuana is grounds for revocation of a security clearance. His Answer clearly expresses his intent to abstain from all drug involvement and substance misuse.

With AG ¶ 25(f) there is a heightened security concern in this case because individuals who have already been granted access to classified information or who hold sensitive positions are held to a higher standard than individuals not similarly situated. See ISCR Case No. 23-01884 (App. Bd. Nov. 6, 2024) The record supports that Applicant’s marijuana use after being granted a security clearance was a one-time use in May 2020, despite a promise during his 2019 investigation that he had no intention to use illegal drugs again in the future. His statement of intent to abstain from future drug in his 2024 Answer is credible based on the momentary nature of his May 2020 marijuana use and voluntary nature of his disclosure, which would never have been known by the Government but for his disclosure; his five years of abstinence since that May 2020 marijuana use; and that he has addressed marijuana use with his friends. Applicant has

met his burden of persuasion. See ISCR Case No. 23-01207 (App. Bd. Mar. 25, 2024); ISCR Case No. 22-00657 at 4 (App. Bd. Apr. 18, 2023).

Whole-Person Concept

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. In applying the whole-person concept, an 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. An 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.

I have incorporated my comments under Guideline H in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I considered Applicant's admissions and explanations, including his explanation for why he started using marijuana after his honorable discharge from the Marine Corps. I found the fact he used his NJP experience to address his alcohol consumption and that he has not any further alcohol incidents to be reflective of his ability to make permanent behavioral changes. Applicant's voluntary responses in his SCAs, security interviews, and Answer, regarding his marijuana involvement, reflect his understanding that he was not permitted to use marijuana while holding a sensitive position or possessing a security clearance. He openly acknowledged his momentary mistake in 2020, which after five years of abstinence reflects the infrequency of this conduct. He discussed drug use with his friends and made permanent behavioral changes and reduced the potential for pressure or coercion to use marijuana again. Given his cooperation in the security clearance process and the length of abstinence there is little likelihood of continuation or recurrence. After weighing the disqualifying and mitigating conditions under Guideline H and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by his drug involvement while holding a sensitive position and possessing a security clearance.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline H:

FOR APPLICANT

Subparagraphs 1.a-1.b:

For Applicant

Conclusion

I conclude that it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

Charles C. Hale
Administrative Judge