



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



## Appearances

For Government: Andre M. Gregorian, Esq., Department Counsel  
For Applicant: *Pro se*

01/23/2026

## Decision

HALE, Charles C., Administrative Judge:

This case involves security concerns raised under Guidelines H (Drug Involvement and Substance Misuse), J (Criminal Conduct), and G (Alcohol Consumption). Eligibility for access to classified information is denied.

## Statement of the Case

Applicant submitted a security clearance application (SCA) on February 7, 2024. On May 6, 2024, the Department of Defense (DoD) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines H, J, and G. 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 Security Executive Agent Directive 4, National Security Adjudicative Guidelines (AG) (December 10, 2016).

Applicant submitted his Answer to the SOR on May 16, 2024, and requested a decision on the written record without a hearing. Department Counsel submitted the Government's written file of relevant material (FORM) on June 24, 2025. On July 28,

2025, a complete copy of the file of relevant material (FORM) was received by Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. He elected to not respond. The case was assigned to me on December 10, 2025.

The SOR and Answer are the pleadings in the case. Government exhibits (GE) 3 through 4 are admitted into evidence without objection.

### **Findings of Fact**

In Applicant's Answer to the SOR, he admitted without explanation that he used cocaine with varying frequency from June 2017 to January 2024. SOR ¶ 1.a and SOR ¶ 2.a. He admitted SOR ¶ 3.a without explanation that he consumed alcohol to the point of impaired judgment twice a month. His admissions are incorporated in my findings of fact. After a thorough and careful review of the pleadings and exhibits submitted, I make the following additional findings of fact.

Applicant is 33 years old. He is a high school graduate. He has been employed by his sponsor as an aerospace electrical technician since April 2021. He married in 2009 and does not have any children. (GE 3 at 5, 9, and 17.) He has never held a security clearance. (GE 4 at 4.)

**SOR ¶ 1.a: You used cocaine with varying frequency from June 2017 to January 2024.** This allegation was cross alleged under Guideline J, SOR ¶ 2.a. Applicant admitted on his February 2024 SCA that he used cocaine at parties, which occurred one to two times a month and that at the parties he used cocaine three to five times. (GE 3 at 29.) In response to the SCA question concerning future use of cocaine he stated, "I have no active intentions on the matter." (GE 3 at 29-30.)

Applicant discussed his drug use with a DoD investigator during his personal subject interview (PSI) in August 2024. He explained he used cocaine about 1-2 times a month "3-4 bumps each time), always when drunk, to help him sober up." He stated he never purchased the cocaine; a friend would always have it on hand and gave it to him. "The use was always at someone's house, typically a backyard barbecue." He explained that he stopped using cocaine the month prior to completing his SCA was because using cocaine was "not worth it if it impacts his job security." He acknowledged he "still hangs out with the group of people that use cocaine but there is no pressure to use it, and it isn't a problem." (GE 4 at 3.)

**SOR ¶ 3.a: You consume alcohol to the point of impaired judgment twice a month.** Applicant admitted the allegation. The basis for the allegation was his interview with the DoD investigator in August 2024. He disclosed that he typically drinks about 10-12 beers (throughout the day) with friends, about twice a month, often at a backyard barbecue. He drinks only on weekends and if he is drinking alone, about once a week, he will have about 2-3 beers. He told the investigator he "feels more relaxed and more jokey from alcohol use." His SCA reflects his statement that he has not had any negative impact

from his alcohol use. However, as noted above, he cites being drunk during his illegal use of cocaine. (GE 4 at 3-4.)

## 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 make the following disqualifying conditions under AG ¶ 25 applicable:

(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.

The following mitigating conditions under AG ¶ 26 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.

AG ¶¶ 26(a) and 26(b) are not established. Applicant admitted using cocaine with varying frequency from June 2017 to January 2024. His behavior is recent and was not infrequent. He admitted he still associates with friends that use cocaine. His recent use of cocaine casts doubt on his current reliability, trustworthiness, and good judgment. Insufficient time has passed to determine if his intent to stop using cocaine is credible.

#### **Guideline J: Criminal Conduct**

AG ¶ 30 expresses the security concern for criminal conduct:

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 following disqualifying condition is applicable as detailed in AG ¶ 31:

(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.

The following mitigating condition under AG ¶ 32 is potentially applicable:

(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;

Applicant's misconduct is documented in his SCA and PSI interviews. The above disqualifying conditions apply. He offered insufficient evidence to mitigate the security concerns. Based on his PSI, AG ¶ 32(a) is not applicable. His conduct is recent and did not happen under unusual circumstance. Insufficient time has elapsed to establish Applicant's conduct is unlikely to recur. This continues to cast doubt on his reliability, trustworthiness, or good judgment.

#### **Guideline G: Alcohol Consumption**

The security concern for alcohol consumption is detailed in AG ¶ 21:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

The following detailed in AG ¶ 22 is potentially applicable:

(c): habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder.

Applicant disclosed heavy weekend drinking, which led to his use of cocaine. AG ¶ 22(c) applies.

The following mitigating conditions detailed in AG ¶ 23 are potentially applicable:

(a): so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment; and

(b): the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant's admitted drinking led to him using cocaine, which casts doubt on his current reliability, trustworthiness, and judgment. Insufficient time has passed since he committed to stopping his cocaine use to determine if his behavior while drinking was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or and no longer casts doubt on his current reliability, trustworthiness, or judgment. He has not established a pattern of modified consumption or abstinence from maladaptive alcohol use, nor has sufficient time passed to establish evidence of actions taken to overcome this problem while drinking.

### **Whole-Person Concept**

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall common sense 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 Guidelines H, J, and G in my whole-person analysis and have applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. Insufficient time has passed since his last use of illegal drugs, which he stated occurred while drinking, to overcome the extent and seriousness of his conduct. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003).

After weighing the disqualifying and mitigating conditions under Guidelines H, J, and G and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his conduct under Guidelines H, J, and G.

### **Formal Findings**

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

Paragraph 1: Guideline H: AGAINST APPLICANT

Subparagraph 1.a: Against Applicant

Paragraph 2: Guideline J: AGAINST APPLICANT

Subparagraph 2.a: Against Applicant

Paragraph 3: Guideline G: AGAINST APPLICANT

Subparagraph 3.a: Against Applicant

### **Conclusion**

I conclude that it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

Charles C. Hale  
Administrative Judge