



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 25-00146
)
Applicant for Security Clearance)

Appearances

For Government: Cynthia Ruckno, Esq., Department Counsel
For Applicant: *Pro se*

02/02/2026

Decision

WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, exhibits, and testimony, Applicant mitigated drug involvement and substance misuse and personal conduct concerns. Eligibility for access to classified information or to hold a sensitive position is granted.

Statement of the Case

On April 30, 2025, the Defense Counterintelligence and Security Agency (DCSA) Adjudications and Vetting Services (AVS) issued a statement of reasons (SOR) to Applicant detailing reasons why under the drug involvement and substance misuse guideline the DCSA AVS could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked.

The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); *Defense Industrial Personnel Security Clearance Review Program*, Department of Defense (DoD) Directive 5220.6 (January 2, 1992) (Directive); and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for*

Access to Classified Information or Eligibility to Hold a Sensitive Position (AGs), effective June 8, 2017.

Applicant responded to the SOR on June 24, 2025, and requested a hearing. The case was assigned to me on September 19, 2025. A hearing was initially scheduled for October 14, 2025, and was rescheduled for December 10, 2025. The hearing was heard on the date as rescheduled. At the hearing, the Government's case consisted of seven exhibits. (GEs 1-7) Applicant relied on one witness (herself) and 12 exhibits. (AEs A-L) The transcript (Tr.) was received on December 19, 2025.

Summary of Pleadings

Under Guideline H, Applicant allegedly (a) used marijuana on various occasions from about May 2008 to about May 2022 and (b) used marijuana while holding a sensitive position, i.e., one in which she held a security clearance. Allegedly Applicant's use of illegal drugs while holding a security clearance presents continuing security concerns.

Under Guideline E, Applicant allegedly falsified material facts on the Electronic Questionnaires for Investigations Processing (e-QIP) she completed in October 2017, when she denied using any drugs or controlled substances within the past seven years, failing to disclose her use of marijuana from about September 2011 until at least February 2017.

In her response to the SOR, Applicant admitted the substance misuse allegations with explanations and claimed mitigating information. She attached supporting documentation covering her mitigation claim. Addressing the e-QIP falsification allegations, she denied any deliberate attempt to falsify information in the e-QIP she completed in 2017.

Findings of Fact

Applicant is a 35-year-old employee of a defense contractor who seeks a security clearance. The admitted allegations are incorporated and adopted as relevant and material findings. Additional findings follow.

Background

Applicant never married and has no children. (GEs 1-3) She earned a high school diploma in May 2008. She reported no military service.

Since June 2024, Applicant has been employed by her current employer as a program analyst. (GE 1; Tr. 14, 60) Between September 2012 and June 2024, she

worked for other employers in various capacities. She held a public trust position in 2017 and has held a security clearance since 2020 for the most part. (GE 1; Tr. 19)

Applicant's drug history

Applicant was introduced to marijuana in 2008 at the age of 18 and used it infrequently (no more than 10 times) between May 2008 and February 2017. (GEs 4-7 and AE F; Tr. 51-53) After abstaining from marijuana use for over five years, she accepted a marijuana-loaded cigarette from a friend (unbeknownst at the time of acceptance that it contained THC and was legalized in her state of residence) to address her emotional stress from the loss of her father figure in May 2022. (GEs 1 and 6-7 and AE L; Tr. 33-34, 47-48, 52) The cigarette made her throw up, and she has not used marijuana or any other federally banned illegal drug since May 2022. (GEs 1 and 6-7)

In anticipation of a hearing on her security clearance application, Applicant self-referred herself to a licensed substance abuse counselor in May 2025. (AE F) After taking background history from Applicant, the counselor detailed her substance abuse history and employed the criteria detailed in the *Diagnostic and Statistical Manual-V* (DSM-5) (American Psychological Manual V 2012) to delineate criteria for diagnosing and categorizing any symptoms indicative of a substance abuse disorder. (AE F) After considering and evaluating all of the symptoms reported by Applicant, her retained substance abuse counselor found no current or active substance use disorder that he could identify. (AE F)

Applicant has consistently denied any intention to resume her marijuana use and no longer associates with people who use marijuana or other illegal drugs. (Tr. 53) She corroborated her future abstinence assurances with a pledge to abstain from using marijuana and other illegal drugs at the risk of losing her security clearance in the event of any resumed use. (AE E) She reinforced her abstinence commitments with completed security training courses (AEs G and H) and has successfully concluded a drug evaluation course in May 2025. (AEs F-H)

Applicant's E-QIP omissions

Asked to complete an e-QIP in October 2017, Applicant failed to disclose her past use of marijuana in 2017. (GE 3) Acknowledging her omissions, she denied any deliberate attempt to omit her past use of the drug. (GEs 6-7; Tr. 37, 56) Considering all of the developed evidence in the record, her explanations reflect credible understandings of the circumstances surrounding her omissions. No inferences of knowing and willful falsification are warranted.

When asked to complete additional e-QIPs in June 2020 and June 2024, respectively, Applicant fully and candidly disclosed her past use of marijuana. (GEs 2-3) She was fully candid and forthcoming as well in her ensuing personal subject interviews (PSIs) about her past use of marijuana. (GEs 6-7)

Endorsements and awards

Applicant is well-regarded by her managers, coworkers, colleagues, and friends who are familiar with her current security clearance investigation. (AE J) Uniformly they consider her to be reliable and trustworthy. Her designated functional managers who have worked closely with her cite her impressive work ethic and attention to detail. They credit her proactive approach in facilitating her team's ability to transition smoothly with new hires. (AE J) Other colleagues extended special recognition to Applicant's noted exceptional problem-solving skills, professionalism, and positive attitude.

Policies

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), "no one has a 'right' to a security clearance." 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. Eligibility for access to classified information may only be granted "upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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, these guidelines are applied 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, reliable information about the person, past and present, favorable and unfavorable.

The AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These AG guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information.

The AG guidelines include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns, if any. These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although,

the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following ¶ 2(d) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent herein:

Drug Involvement and Substance Misuse

The Concern: The illegal use of controlled substances, to include the misuse of 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.

Personal Conduct

The Concern: Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, and

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 . . . AG ¶

Burdens of Proof

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 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 “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. See also Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

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. 95-0611 at 2 (App. Bd. May 2, 1996).

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 ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Security concerns are raised over Applicant’s recurrent use of marijuana over a considerable number of years that included an isolated extenuating use of a marijuana-loaded cigarette while holding a sensitive position requiring a security clearance.

Additional concerns are raised over her omission of er marijuana use in an e-QIP she completed in October 2017.

Drug Involvement and Substance Misuse concerns

Applicant's admissions to her recurrent use of marijuana over a period of years raise security concerns over risks of recurrence as well as judgment issues. On the strength of the evidence presented, three disqualifying conditions (DCs) of the AGs for drug involvement and substance misuse apply to Applicant's situation: DC ¶¶ 25(a), "any substance misuse"; 25(c), "illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of illegal drugs or drug paraphernalia"; and 25(f), "any illegal drug use while granted access to classified information or holding a sensitive position."

To her credit, Applicant has committed to abandoning all use and involvement with marijuana and has remained abstinent from illegal drugs for almost four years. Currently, she exhibits no visible signs or indications of succumbing to any risks or pressures she might encounter to return to illegal drug use in the foreseeable future. Her post-high school use of marijuana was never more than infrequent with friends in social situations, and she is regularly tested for any resumption possibilities. None of her non-randomized tests have yielded any positive results to date.

Applicable mitigating conditions (MCs) for raised Guideline H concerns are as follows: MC ¶¶ 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 26(b), "the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome the 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 progress to date in avoiding all illegal drugs (inclusive of marijuana) and persons who use these drugs is notable. While her past use of marijuana while holding a sensitive position requiring a security clearance is somewhat troubling, it was both inadvertent (attributable to a marijuana-laden cigarette given to her by a friend of a father figure who she had recently lost) and isolated. Moreover, she has learned

important lessons from her mistakes and can be expected to abstain from illegal drugs in the foreseeable future

Personal Conduct concerns

Allegations of falsification of an e-QIP completed by Applicant in October 2017 are unsubstantiated and pose no security concerns over Applicant's overall trustworthiness, reliability, and good judgment. After mistakenly failing to list her past use of marijuana in her 2017 e-QIP, she was fully forthcoming about her past use infrequent use of marijuana in the 2008-201 time frame. She was fully candid as well about her isolated marijuana use in May 2022 in the e-QIPs she completed in 2020 and 2024.

Further, when she was questioned about her prior marijuana use in her ensuing 2025 PSI she was both forthcoming and consistent about her prior marijuana use. Summarized, Applicant displayed candor throughout the investigation process and exhibited no demonstrated lapses in candor or judgment when questioned about her past misuse of illegal drugs.

Whole-person assessment

From a whole-person perspective, Applicant has established enough independent probative evidence of her overall, trustworthiness, reliability, and good judgment required of those who seek eligibility to hold a security clearance or sensitive position. Considering the record as a whole and granting due weight to Applicant's positive commitments to abstinence, there is sufficient probative evidence of sustainable mitigation in the record to make safe, predictable judgments about Applicant's ability to avoid illegal drugs in the foreseeable future. Any residual security about Applicant's overall honesty and reliability are resolved favorably.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person, I conclude drug involvement and substance misuse concerns are mitigated and personal conduct security concerns are not established. Eligibility for access to classified information is granted.

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:

GUIDELINE H (DRUG INVOLVEMENT): FOR APPLICANT

Subparagraphs 1.a-1.b: For Applicant
GUIDELINE E: (PERSONAL CONDUCT): 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 eligibility for a security clearance. Eligibility for access to classified information is granted.

Roger Wesley
Administrative Judge