



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



In the matter of:)
)
) ISCR Case No. 25-00508
)
Applicant for Security Clearance)

Appearances

For Government:
Erin Thompson, Esquire, Department Counsel

For Applicant:
Ryan C. Nerney, Esquire, Applicant's Counsel

02/06/2026

Decision

CEFOLA, Richard A., Administrative Judge:

On April 21, 2024, Applicant submitted his Electronic Questionnaire for Investigations Processing (e-QIP). On May 12, 2025, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines H and J. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines effective June 8, 2017.

Applicant answered the SOR in writing on June 2, 2025, and requested a hearing before an administrative judge. The Defense Office of Hearings and Appeals (DOHA)

received the request on September 10, 2025. I received the case assignment on September 10, 2025. DOHA issued a Notice of Hearing on September 11, 2025, setting this matter for hearing on October 29, 2025. However, when all Administrative Judges were furloughed from October 1 through November 12, 2025, this hearing date was cancelled and rescheduled for January 15, 2026. I convened the hearing as rescheduled. The Government offered Exhibits (GXs) 1 and 2, which were received without objection. Applicant testified, called three witnesses to testify, and submitted Exhibits (AppXs) A through T, which were received without objection. DOHA received the transcript of the hearing (TR) on February 2, 2026. Based upon a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is granted.

Findings of Fact

In his Answer to the SOR Applicant admitted the factual allegations in Paragraphs 1 and 2 of the SOR, with explanations. He also provided additional information to support his request for eligibility for a security clearance.

Applicant is 37 years old, married, and has no children. He has an Associate's Degree in Software Engineering. Applicant works for a defense contractor, and is applying for a security clearance for the first time. All his alleged, past-drug involvement was admitted to in the execution of Applicant's April 2024 e-QIP. (TR at page 6 lines 7~18, at page 37 line 5 to page 38 line 23, and GX 1 at pages 36~43.)

Guideline H – Drug Involvement and Substance Misuse & Guideline J - Criminal Conduct

1.a. and 2.a. Applicant admits that he used and purchased cocaine from about 2006 until his last usage in December 2023 or January 2024, about two years ago, and about three months prior to the execution of his e-QIP. About once a month, he would “hang out with friends . . . [and] do it recreationally at parties.” Applicant no longer associates with those with whom he used cocaine, and has no intent of using cocaine in the future. He tested “Negative” for the use of illegal substances in June 2025 and again in October 2025. (TR at page 39 line 20 to page 43 line 3, at page 48 lines 7~9, at page 63 line 19 to page 65 line 4, GX 1 at pages 39~40, and AppXs H, I and S.)

1.b, 1.c. and 2.a. Applicant admits that he used and purchased MDMA, “a stimulant,” from about 2004 until his last usage in September 2023, more than two years ago, and about seven months prior to the execution of his e-QIP. He used it “five to ten times,” to “enhance the experience” at “a concert with friends.” Applicant no longer associates with those with whom he used MDMA, and has no intent of using the stimulant in the future. He tested “Negative” for the use of illegal substances in June 2025 and

again in October 2025. (TR at page 43 line 4 to page 44 line 21, at page 48 lines 10~12, at page 65 lines 5 ~4, GX 1 at page 40, and AppXs H, I and S.)

1.d. and 2.a. Applicant admits that he used and purchased marijuana from about 2006 until his last usage in December 2023 or January 2024, about two years ago, and about three months prior to the execution of his e-QIP. Since 2012, he would use marijuana about “once every six months,” usually at home “at night, playing video games or before going to bed.” Applicant has no intent of using marijuana in the future. He tested “Negative” for the use of illegal substances in June 2025 and again in October 2025. (TR at page 44 line 22 to page 46 line 7, at page 65 lines 8~21, GX 1 at pages 40~41, and AppXs H, I and S.)

1.e, 1.f. and 2.a. Applicant admits that he used and purchased psilocybin mushrooms from about 2006 until his last usage in December 2023 or January 2024, about two years ago, and about three months prior to the execution of his e-QIP. During this 18-year period, he used psilocybin mushrooms “five to ten times,” to relieve “stress.” Applicant has no intent of using psilocybin mushrooms in the future. He tested “Negative” for the use of illegal substances in June 2025 and again in October 2025. (TR at page 46 line 8 to page 48 line 6, GX 1 at page 41, and AppXs H, I and S.)

1.g. and 2.a. Applicant admits that he misused the prescription medication Adderall from about August 2023 to January 2024. His last nonprescription usage was about two years ago, and about three months prior to the execution of his e-QIP. He obtained it from a former friend, and used it “as a study aid.” Applicant has since obtained prescriptions for Adderall. He tested “Negative” for the use of illegal substances in June 2025 and again in October 2025. (TR at page 48 line 13 to page 50 line 12, GX 1 at page 42, and AppXs H, I, L, Q and S.)

1.h. and 2.a. Applicant admits that he misused the prescription medication Xanax from about January 2020 or January 2024. His last nonprescription usage was about two years ago, and about three months prior to the execution of his e-QIP. He obtained it from a former friend, and used it to treat “anxiety,” particularly during the Covid Virus outbreak. Applicant has since obtained prescriptions for Xanax. He tested “Negative” for the use of illegal substances in June 2025 and again in October 2025. (TR at page 50 line 13 to page 52 line 6, at page 66 line 17 to page 67 line 7, GX 1 at page 42, and AppXs H, I, L, M and R.)

Applicant has submitted a signed statement of intent to abstain from future drug involvement, has taken online Drug Awareness and Behavioral Modification courses, and

has an Ongoing Marijuana Education Course Certificate. He also received a psychological evaluation in July of 2025. That Licensed Psychologist concluded the following: “Based on the available and current data, . . . [Applicant] does not present with any psychological condition at this time that could impair his judgment and ability to safeguard sensitive information. **He does not have any substance abuse issues.**” (TR at page 55 line 22 to page 56 line 15, and AppXs H, J, K, N, and O (emphasis supplied).)

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 useful 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “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 seeks access to classified information enters 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 Executive Order 10865 provides that 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 seven conditions that could raise a security concern and may be disqualifying. Two conditions are established:

- (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.

Appellant used and purchased cocaine, MDMA, marijuana, and psilocybin mushrooms. He also used Adderall and Xanax without prescriptions. Therefore, AG ¶ 25 is established.

The guideline at AG ¶ 26 contains four conditions that could mitigate security concerns. Three conditions may be 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;

(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;

(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; and

(d) satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Applicant's drug involvement was more than two years ago. He no longer is associated with drug users, and has signed a statement of intent to abstain from future drug involvement. Applicant also has a favorable prognosis by a duly qualified medical professional. Drug Involvement 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 used illegal substances over a period of about 17 years from 2006 until his last usage in December 2023 or January 2024. This evidence raises security concerns under these disqualifying conditions, thereby shifting the burden to Applicant to rebut, extenuate, or mitigate those concerns.

The guideline in AG ¶ 32 contains two 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's admitted, past criminal conduct, and related drug involvement, occurred more than two years ago. He has taken courses to prevent future drug involvement; and according to a duly qualified medical professional, Applicant has no current illegal drug issues. Criminal conduct is found for Applicant.

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 an applicant's conduct and all the 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.

AG ¶ 2(b) requires each case must be judged on its own merits. 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 the facts and circumstances surrounding this case. Applicant's drug involvement was more than two years ago. He self-reported that involvement. Applicant is highly respected in the workplace as attested to by his supervisor and by two colleagues. (TR at page 13 line 7 to page 36 line 4.) There is nothing to diminish Applicant's current reliability, trustworthiness, or good judgment by either of the alleged security concerns.

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

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

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| Paragraph 1, Guideline H: | FOR APPLICANT |
| Subparagraphs 1.a.~1.h: | 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.

Richard A. Cefola
Administrative Judge