



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



In the matter of:)
)
) ISCR Case No. 24-01986
)
Applicant for Security Clearance)

Appearances

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

02/11/2026

Decision

BENSON, Pamela C., Administrative Judge:

Applicant failed to mitigate the Guideline H (drug involvement and substance misuse) security concerns. National security eligibility for access to classified information is denied.

Statement of the Case

On January 2, 2025, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline H. The DCSA CAS acted 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 adjudicative guidelines implemented by the DOD on June 8, 2017.

On January 8, 2025, Applicant provided a response to the SOR (Answer). She admitted SOR ¶ 1.a, and she denied SOR ¶ 1.b. She requested a hearing before a

Defense Office of Hearings and Appeals (DOHA) administrative judge. I was assigned this case on July 18, 2025. DOHA issued a hearing notice on August 8, 2025, scheduling the hearing for September 11, 2025. The hearing proceeded as scheduled via online video teleconferencing.

Department Counsel submitted Government Exhibits (GE) 1 and 2; Applicant testified but did not offer any documents. GE 1 and 2 were admitted into evidence without objection. Applicant requested I hold the record open so she could supplement the record with documentation. Without objection, I held the record open until September 25, 2025. DOHA received the hearing transcript (Tr.) on September 18, 2025. Applicant timely submitted Applicant Exhibit (AE) A, a Statement of Intent not to use any illegal drugs in the future, which was admitted into evidence without objection, and the record closed. This decision was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a federal government shutdown due to a lapse in federal funding.

Findings of Fact

Applicant is 25 years old. She earned a bachelor's degree in May 2022. She is unmarried and has no children. Since September 2022, she has been employed full time as a subcontract buyer for a federal contractor. This is Applicant's first application for security clearance eligibility. (GE 1; Tr. 8-9)

Drug Involvement and Substance Misuse

Applicant used marijuana the first time at age 15. She did not use marijuana for a long time after her initial use. She used marijuana a couple of times in college in approximately late 2021. She testified during the hearing that she was never a regular user of marijuana. After completing her first month of employment in October 2022, Applicant was diagnosed with bipolar II disorder. She experienced severe depression and anxiety, consistent mood swings, and she was unable to sleep. She used marijuana "a couple of times" to help with her insomnia. She purchased marijuana at a dispensary since it is legal in her state. In 2022, she became aware that marijuana was prohibited by federal law. She was prescribed hydroxyzine following her diagnosis, which helped her to fall asleep without the need for marijuana. She last used marijuana in October 2024. (SOR ¶ 1.a) (Tr. 15-19, 27)

Before Applicant was hired by her current employer, she was required to successfully pass a drug test in about July 2022. She was hired in September 2022, and about a year later Applicant was sponsored by her employer for a security clearance. She completed the security clearance application (SCA) in October 2023 and listed that she had used marijuana from September 2015 to September 2023. She stated, "I smoke marijuana occasionally due to trouble when sleeping." She also disclosed that she intended to use marijuana in the future. (SOR ¶ 1.b) She stated, "I plan to utilize this substance, as it has helped significantly when controlling my anxiety as well as when

falling asleep. It has been approved by my medical provider as safe to use in consideration to my medications.” (GE 1; Tr. 19, 21-22)

Applicant participated in a background interview in March 2024 with an authorized DOD investigator. She told the investigator that she used marijuana at home to help control her anxiety and fight insomnia. She indicated her last use occurred in March 2024, and she used marijuana one or two times a week. She further indicated she had reduced her use of marijuana and would continue to use it to help her fall asleep. Applicant was provided a copy of her background interview, and she agreed that the report accurately reflected the information she had reported to the investigator. Applicant signed and certified the truthfulness of the report on December 16, 2024. (GE 2)

During the hearing Applicant denied she had used marijuana in March 2024, as listed in the report summarizing her interview. She testified that after her background interview, she became aware that using a federally illegal drug was incompatible with someone possessing a security clearance. She stated that she had used marijuana prior to March 2024 and her last use of marijuana occurred in October 2024, during a social occasion on her birthday. She admitted that from March 2024 until February 2025 she was not sleeping well, but she did not use any marijuana to fight insomnia. Beginning in February 2025, she started to take hydroxyzine on a daily basis, which helped her issues with insomnia. (Tr. 22-25, 27)

Applicant was confronted with inconsistent information. During the hearing she reported very limited use of marijuana. During her March 2024 background interview, however, she had reported that she last used marijuana that month, and she continued to use marijuana “one to times weekly.” Applicant stated, “that was an estimate. I probably should have been more concise with the numbers, but it was on a sporadic basis and not on a regular basis whatsoever.” She stated that following her March 2024 interview, she had used marijuana two times in total. She testified she was very nervous during the interview and that is why she reported her marijuana use as one to two times weekly, which was not accurate. Applicant was then asked why she did not correct that information when the interview report was provided to her, which she certified was accurate in December 2024. Applicant apologized for not correcting the inaccurate information. (GE 2; Tr. 27-32)

During the hearing, Applicant claimed she had used marijuana once or twice from October 2022 through October 2023, when she filled out the SCA. She was confronted with additional inconsistent information. She had listed on the October 2023 SCA she used marijuana “occasionally,” with her most recent use in September 2023. During the hearing, she stated she had used marijuana once in September 2023, and that she should have not used the word “occasionally.” She could not explain why she did not report on the SCA that she had used marijuana “once” for insomnia. (GE 1; 27-32, 34-35)

Following the March 2024 background interview, Applicant was aware that she should not use an illegal drug while she was under investigation for a security clearance. Despite this knowledge, she admitted that she used marijuana recreationally with her two

best friends on her birthday in October 2024. This was her last use of marijuana, and she stated she no longer associates with her two best friends due to this incident. Applicant provided a post-hearing statement of intent to abstain from all illegal drug use in the future. (Tr. 32-34; AE A)

Policies

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 used 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 overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), 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 access to classified information will be resolved in favor of 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 not drawn inferences grounded on mere speculation or conjecture.

Directive ¶ E3.1.14 requires the Government to 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 applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security 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 safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of 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

AG ¶¶ 24 expresses the security concern for drug involvement:

The illegal use of controlled substances . . . 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.

I have considered the disqualifying conditions for drug involvement under AG ¶¶ 25 and the following are potentially applicable:

- (a) any substance misuse;

- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and

- (g) express intent to continue drug involvement and substance misuse.

Applicant admitted she used marijuana, with varying frequency, from about 2015 to October 2024. She purchased marijuana from a dispensary, and she listed in her October 2023 SCA that she intended to use marijuana in the future. The above disqualifying conditions apply.

I have considered the mitigating conditions under AG ¶¶ 26. The following 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 a statement of intent to abstain from all drug involvement or substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

Applicant's last use of marijuana occurred in October 2024. It is important to note that before she was hired by the federal contractor, she was required to pass a drug test in July 2022. She used marijuana after she had filled out an October 2023 SCA for a security clearance, and following her March 2024 background interview in which she acknowledged her awareness that using an illegal drug was incompatible with possessing a security clearance. Despite being placed on notice, she used marijuana recreationally in October 2024. She stated that she no longer uses marijuana and provided a statement of intent to abstain from illegal drug use in the future.

I find that Applicant was not a credible witness after she provided numerous inconsistent statements in the documents and during the hearing. When she was confronted about the multiple discrepancies, she provided self-serving excuses that did not diminish or fully explain her inconsistent statements. Overall, Applicant's actions demonstrate she does not possess the candor, good judgment, and reliability required by individuals entrusted with protecting classified and sensitive information. I find that more time is needed to show her commitment from refraining from marijuana use, and time to show that she is fully rehabilitated from using marijuana. None of the mitigating conditions apply. The drug involvement and substance misuse security concerns are not mitigated.

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 the applicant's conduct and all relevant 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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security 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.

I have incorporated my comments under Guideline H and the AG ¶ 2(d) factors in this whole-person analysis.

The Federal government must be able to repose a high degree of trust and confidence in persons granted access to classified information. In deciding whether to grant or continue access to classified information, the Federal government can take into account facts and circumstances of an applicant's personal life that shed light on the person's judgment, reliability, and trustworthiness. Furthermore, security clearance decisions are not limited to consideration of an applicant's conduct during work or duty hours. Even if an applicant has a good work record, her off-duty conduct or circumstances can have security significance and may be considered in evaluating the applicant's national security eligibility.

I did not find Applicant's testimony to be credible. Her explanations for concealing, minimizing, and providing inconsistent details about her use of marijuana cast doubt on her reliability, trustworthiness, and good judgment. She made deliberate choices to keep the government in the dark regarding her behavior, calling into question her willingness to comply with security rules and regulations. Accordingly, Applicant has not carried her burden of showing that it is clearly consistent with the interests of national security of the United States to grant her eligibility for access to classified information.

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
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, I conclude that it is not clearly consistent with national security to grant or continue Applicant's national security eligibility. Eligibility for access to classified information is denied.

Pamela C. Benson
Administrative Judge