



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



In the matter of:)
)
) ISCR Case No. 24-02264
)
Applicant for Security Clearance)

Appearances

For Government: Alison P. O’Connell, Esq., Department Counsel
For Applicant: *Pro se*

02/09/2026

Decision

BORGSTROM, Eric H., Administrative Judge:

Applicant did not mitigate the drug involvement and substance misuse security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On March 4, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline H (drug involvement and substance misuse). The DCSA acted under Executive Order (EO) 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) implemented by the DOD on June 8, 2017.

In Applicant’s June 11, 2025 response to the SOR (Answer), he admitted, with explanations, SOR ¶¶ 1.a., 1.c., and 1.e. He admitted in part and denied in part SOR ¶¶ 1.b. and 1.d. He attached a resume, character-reference letters, and a statement of intent to abstain from illicit drug use and substance misuse in the future. He requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. (Answer)

On August 1, 2025, the Government was ready to proceed to a hearing. I was assigned this case on September 30, 2025. This case 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.

On December 4, 2025, a notice was issued scheduling the hearing for January 7, 2026, by video teleconference. The hearing proceeded as scheduled. The Government proffered four evidentiary exhibits, which I admitted as Government Exhibits (GE) 1 through 4, without objection. Applicant and one witness testified. Applicant submitted one exhibit, which I admitted as Applicant Exhibit (AE) A, without objection. At Applicant's request, I left the record open until January 26, 2026, to provide him an opportunity to supplement the evidentiary record. DOHA received the hearing transcript (Tr.) on January 14, 2026. On January 22, 2026, Applicant submitted two additional documents, which I admitted as AE B and C, without objection. The record closed on January 22, 2026.

Findings of Fact

Applicant is 38 years old. He graduated from high school in 2006. He earned a bachelor's degree in 2010. He has never been married and does not have any children. (Answer; GE 1; Tr. 55)

From February 2017 to October 2019 and from March 2020 to April 2021, Applicant was employed as a mechanical engineer with a DoD contractor. He first applied for a security clearance in March 2017. On March 28, 2017, Applicant certified and submitted an Electronic Questionnaire for Investigations Processing (e-QIP). Under Section 23 – Illegal Use of Drugs or Drug Activity, he answered “NO” to the following question:

In the last seven (7) years, have you illegally used any drugs or controlled substances? Use of a drug or controlled substance includes injecting, snorting, inhaling, swallowing, experimenting with or otherwise consuming any drug or controlled substance.

He was granted a secret clearance in July 2017 and signed a Nondisclosure Agreement (NDA). He had access to classified information during both stints with this DOD contractor. (Answer; GE 1, GE 2, GE 4; Tr. 51, 57-58)

From April 2021 to June 2023, he was employed as a mechanical engineer for a private company. He passed a pre-employment drug screening for this position, and he believed that this employer had a “zero-tolerance” drug policy. He did not hold a sensitive position nor have access to sensitive or classified information during this employment. Since July 2023, he has been employed as a mechanical engineer with a DOD contractor. (Answer; GE 1; AE A; Tr. 48-53, 57-58, 68-69)

SOR ¶¶ 1.a.-1.d. In his Answer and at the hearing, Applicant admitted he did not use marijuana prior to April 2019. Between April 2019 and about May 2023, he used marijuana approximately four to six times each year. He testified that he used marijuana

twice between April 2019 and October 2019 and approximately four times between September 2020 to March 2021, while possessing a security clearance and with access to classified information. While possessing a clearance, he purchased marijuana once from a state-licensed dispensary. (Answer; Tr. 48-49, 58-59, 65-67, 70-73)

Applicant attributed his marijuana use to both the availability of recreational marijuana in his state of residence and the stressors in his life during this period. In 2019, his parents separated and divorced, and, in September 2020, his partner was diagnosed with cancer and endured several surgeries and treatment through late 2022. He admitted that he was aware, at the time, that marijuana was prohibited for clearance holders and violated federal drug laws. He was generally aware of these restrictions and had participated in a pre-employment drug screening in early 2017. He had believed, while cleared, that he was subject to random drug screening by his then employer; however, he was never tested during his employment. (Answer; Tr. 50, 58-60, 71-72, 87)

SOR ¶ 1.e. Applicant admitted that he used methylenedioxymethamphetamine (MDMA) on one occasion in September 2021. He was attending a sporting event with friends, had consumed alcohol, and was offered MDMA by an acquaintance. He was aware that MDMA was illegal, and he characterized his one-time use as an “impulse decision.” (Answer; Tr. 76, 99)

In early 2023, Applicant began looking for other employment as he observed and sensed that the unclassified project was no longer progressing. He sought employment in cleared and uncleared positions, but he anticipated either a pre-employment drug screening or to have to apply for a clearance. As he prepared, he confirmed and sharpened his understanding that marijuana use was prohibited by federal drug laws and prohibited for clearance holders. His current employer did not require him to participate in a pre-employment drug screening, and he has never reported his past illegal drug use to his current or previous employers. He was aware that his prior illegal drug use might jeopardize his clearance eligibility when he applied in 2023. (Tr. 54, 62-67, 88-89, 95)

On September 7, 2023, Applicant submitted an updated e-QIP. Under Section 23 – Illegal Use of Drugs or Drug Activity, he answered “NO” to the following questions:

In the last seven (7) years, have you illegally used any drugs or controlled substances? Use of a drug or controlled substance includes injecting, snorting, inhaling, swallowing, experimenting with or otherwise consuming any drug or controlled substance.

Have you EVER illegally used or otherwise been illegally involved with a drug or controlled substance while possessing a security clearance other than previously listed?

Under Section 25 – Investigations and Clearance Record, he admitted that he had been granted a DOD secret clearance in June 2017. (GE 1)

On July 23, 2024, Applicant was interviewed by an authorized investigator on behalf of the Office of Personnel Management (OPM). He reviewed his September 2023 e-QIP responses and did not disclose any illegal drug involvement. (GE 3)

On July 25, 2024, the interview was continued. He admitted that he intentionally did not report his marijuana use in his 2023 e-QIP on in the previous OPM interview due to “bad judgment.” He further admitted that he used marijuana approximately four or five times a year between 2019 and spring 2023. He was given marijuana by his friends or he purchased marijuana from state-licensed dispensaries. He used marijuana while he possessed a security clearance. He also admitted using MDMA on one occasion in September 2021. At the time of the interview, he continued to associate with individuals who used illegal drugs. He denied any intent to use illegal drugs in the future. (GE 3)

In his February 5, 2025 response to DOHA interrogatories, Applicant admitted using marijuana four to six times a year between April 2019 and May 2023. He also admitted using MDMA on one occasion in September 2021. He further admitted purchasing marijuana three times between fall of 2020 and fall of 2022. He attributed his illegal drug use to circumstances in his life, including his partner’s cancer diagnosis and treatment. He expressed his intent to abstain from all illegal drug use in the future. He noted that he had not reported his illegal drug use to his current employer because he has not used during his current employment. He acknowledged that some of his illegal drug use occurred while he had access to classified information. While employed from April 2021 to June 2023 with a different company, he did not hold a sensitive position or have access to classified information. He explained that his former roommate and his partner no longer use illegal drugs, but that he had other friends who continued to use marijuana on occasion. (GE 3)

On January 14, 2026, Applicant participated in a hair-follicle drug screening. He tested negative for amphetamines, methamphetamines, MDMA, benzoylcegonine, cocaine, marijuana, opiates, morphine, and phencyclidine. (AE B, AE C)

Although Applicant’s omission of his illegal drug use on his 2023 e-QIP was not alleged, he addressed his omission at the hearing.

I guess I was embarrassed and scared how it could affect me – you know, my position. You know, like we said, I had used during – while holding a clearance and beyond, and I – I rushed that application. I didn’t feel comfortable listing it, and it was a very – very unfortunate mistake and something that I felt guilty of almost immediately. (Tr. 77-78)

He further admitted that the OPM investigator reviewed the 2023 e-QIP question-by-question during his July 23, 2024 security interview, and he did not volunteer his marijuana or MDMA use, purchase, or use while possessing a security clearance. Rather, he confirmed his prior “NO” responses under Section 23. “And when the investigator got to that section, I panicked and just agreed with the statement read directly off the

application.” He disclosed his marijuana and MDMA use during the follow-up interview on July 25, 2024. (Tr. 78-82)

At the hearing, Applicant confirmed his last use of marijuana was in May 2023. He has never misused prescription drugs, and he believes that his prior drug-using friends no longer used marijuana. He admitted that he had known his illegal drug use, at the time of his use, was prohibited by clearance holders and violated federal drug laws; however, he had not grasped the gravity of violating either the federal drug laws or the DOD policies for clearance holders until applying for his current position in early 2023. He acknowledged his lapses in judgment both in his illegal drug use and in his intentional omission of this conduct on his e-QIP. (Tr. 75, 84, 86, 98)

Applicant’s partner testified in support of his clearance eligibility. They have been friends for nearly 20 years ago and have been romantic partners for about six years. She attributed Applicant’s marijuana use, in part, to the shock and stressors of his parents’ 2019 separation, the COVID pandemic, and her September 2020 cancer diagnosis and treatment. She noted that Applicant’s MDMA use was around the time she had experienced a medical scare. Applicant and his partner used marijuana to help cope with or self-medicate for stress. The partner’s last surgery was August 2022, and she met an important two-year milestone in her treatment in early 2023 and some of their stress abated. She estimated that they used together three or four times a year between September 2020 and early 2023, and she confirmed that the marijuana use overlapped with his employment in a sensitive position. They purchased marijuana from state-licensed dispensaries in their state of residence. She did recall discussions with Applicant in 2023 about his marijuana use and the potential negative consequences of such conduct on his clearance eligibility. The witness testified that they have friends who may use marijuana, but they don’t really socialize with them. She considers him to be honest, reliable, and trustworthy. She also testified that they experience much less stress currently, and they travel as a stress-relief mechanism. They also spend a lot of time in their ethnic community volunteering and celebrating their heritage. (Tr. 26-45)

Whole Person

Applicant attached nine character-reference letters in support of his clearance eligibility to his Answer. Two current and two former supervisors praised his honesty, trustworthiness, reliability, proficiency, and professionalism. Although these references were aware of Applicant’s illegal drug use while possessing a clearance, the letters did not reflect any awareness of his falsifications during the security clearance process. His four friends and his partner attested to loyalty, honesty, integrity, trustworthiness, and community involvement; however, they too did not indicate any awareness of his falsifications. (Answer)

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 to be 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, administrative judges apply the guidelines 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(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."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the 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." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive information.

Section 7 of EO 10865 provides that adverse 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 for drug involvement 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.

Director of National Intelligence (DNI) Memorandum ES 2014-00674, "Adherence to Federal Laws Prohibiting Marijuana Use," October 25, 2014, states:

[C]hanges to state laws and the laws of the District of Columbia pertaining to marijuana use do not alter the existing National Security Adjudicative Guidelines. . . . An individual's disregard of federal law pertaining to the use, sale, or manufacture of marijuana remains adjudicatively relevant in national security determinations. As always, adjudicative authorities are expected to evaluate claimed or developed use of, or involvement with, marijuana using the current adjudicative criteria. The adjudicative authority must determine if the use of, or involvement with, marijuana raises questions about the individual's judgment, reliability, trustworthiness, and willingness to comply with law, rules, and regulations, including federal laws, when making eligibility decisions of persons proposed for, or occupying, sensitive national security positions.

In 2021, the Security Executive Agent (SecEA) promulgated clarifying guidance concerning marijuana-related issues in security clearance adjudications. It states in pertinent part:

[Federal] agencies are instructed that prior recreational marijuana use by an individual may be relevant to adjudications but not determinative. The SecEA has provided direction in [the adjudicative guidelines] to agencies that requires them to use a "whole-person concept." This requires adjudicators to carefully weigh a number of variables in an individual's life to determine whether that individual's behavior raises a security concern, if at all, and whether that concern has been mitigated such that the individual may now receive a favorable adjudicative determination. Relevant mitigations include, but are not limited to, frequency of use and whether the individual can demonstrate that future use is unlikely to recur, including by signing an attestation or other such appropriate mitigation. Additionally, in light of the long-standing federal law and policy prohibiting illegal drug use while occupying a sensitive position or holding a security clearance, agencies are encouraged to advise prospective national security workforce employees that they should refrain from any future marijuana use upon

initiation of the national security vetting process, which commences once the individual signs the certification contained in the Standard Form 86 (SF-86), Questionnaire for National Security Positions.¹

The guideline notes several conditions that could raise security concerns under AG ¶ 25. 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
- (f) any illegal drug use while granted access to classified information or holding a sensitive position.

Applicant admitted using marijuana approximately four to six times a year (or 16 to 24 in the aggregate) between April 2019 and about May 2023. He further admitted that he used marijuana approximately six times while he possessed a secret clearance and held a sensitive position. He purchased marijuana on at least one occasion, and he used MDMA on one occasion. AG ¶¶ 25(a), 25(c), and 25(f) apply.

Conditions that could mitigate the drug involvement security concerns are provided 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 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.

¹ *Security Executive Agent Clarifying Guidance Concerning Marijuana for Agencies Conducting Adjudications of Persons Proposed for Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, dated December 21, 2021 (SecEA Clarifying Guidance), at p. 2.

Applicant admitted that he was aware that marijuana purchase, use, and possession were prohibited by federal drug laws and prohibited for clearance holders under DOD policies. He also admitted that he believed his two employers at the time prohibited illegal drug use. He acknowledged that he did not grasp the severity of violating the drug laws and DOD policy. Applicant's miscalibration does not reduce or diminish the gravity of his lapses in judgment and his repeated and knowing violations.

I have considered that Applicant has not used any illegal drugs since about May 2023, has provided a statement of intent to abstain from all drug involvement and substance misuse, has disassociated himself from any known drug-using associates, and the stressor of his partner's cancer diagnosis and treatment has abated. He credibly and sincerely testified that he now understands the significance of the drug laws and DOD policies against illegal drug possession and use and that he is committed to abstaining from such conduct. AG ¶¶ 26(a) and 26(b) apply in part. Despite some evidence in mitigation, Applicant's repeated illegal drug possession and use, in knowing violation of federal drug laws and DOD policies, continue to cast doubt on his judgment, reliability, and adherence to rules and regulations. He did not mitigate the drug involvement and substance misuse security concerns.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for access to classified information 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 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. I have incorporated my comments under Guideline H and the factors in AG ¶ 2(d) in this whole-person analysis.

Applicant's supervisors, friends, and partner praised his honesty, reliability, trustworthiness, proficiency, professionalism, and volunteerism; however, there is no evidence that they were aware of his falsifications during the background security investigations. Notwithstanding the favorable whole-person evidence and the partial

applicability of two mitigating conditions, Applicant's falsifications warrant further discussion in the context of the whole-person analysis.

Applicant was aware that his illegal drug use, including while possessing a clearance, might jeopardize his clearance eligibility. He deliberately falsified his 2023 e-QIP responses and then falsely confirmed these responses during his July 23, 2024 security interview. Although he later disclosed his drug involvement and described his omissions as "bad judgment," he did not fully admit his deliberate falsifications until his hearing. These falsifications were not alleged in the SOR, and they will not be considered as disqualifying. However, they will be considered in the evaluation of an applicant's evidence in mitigation; as to whether an applicant has demonstrated successful rehabilitation; and in the whole-person analysis. See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006) (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See *also* ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). Applicant's repeated falsifications significantly undermine his favorable evidence in mitigation, rehabilitation, judgment, trustworthiness, and reliability.

Applicant has acknowledged his lapses in judgment – both in his illegal drug use and in his falsifications. Nonetheless, these falsifications strike at the heart of the security clearance process. See ISCR Case No. 09-01652 (App. Bd. Aug. 8, 2011). An applicant who deliberately fails to give full, frank, and candid answers to the government in connection with a security clearance investigation or adjudication interferes with the integrity of the industrial security program. See ISCR Case No. 01-03132 at 3 (App. Bd. Aug. 8, 2002). Taken as a whole, Applicant's illegal drug use and falsifications do not reflect the responsibility and good judgment of one entrusted to safeguard sensitive and classified information. Eligibility for access to classified information is denied.

This decision should not be construed as a determination that Applicant cannot obtain a security clearance in the future. With candor and forthrightness throughout the clearance process and continued abstinence from possession and use of illegal drugs, Applicant may overcome the aforementioned concerns.

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
Subparagraphs 1.a.-1.e.:	Against 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 the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Eric H. Borgstrom
Administrative Judge