



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



In the matter of:)
)
) ISCR Case No. 25-00692
)
Applicant for Security Clearance)

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel
For Applicant: *Pro se*

02/09/2026

Decision

HALE, Charles C., Administrative Judge:

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

Statement of the Case

Applicant submitted a security clearance application (SCA) on May 31, 2024. On July 14, 2025, the Department of Defense (DoD) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines H, E, and J. 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 August 11, 2025, and requested a decision on the written record without a hearing. Department Counsel submitted the

Government's written file of relevant material (FORM) on September 29, 2025. On October 2, 2025, a complete copy of the FORM was sent to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. He acknowledged receipt of the FORM on October 17, 2025, and did not provide a response. The case was assigned to me on February 2, 2026.

The SOR, Answer, and Government Exhibit (GE) 1, are the pleadings in the case. GE 2 through GE 8 are admitted into evidence without objection.

Findings of Fact

In Applicant's Answer to the SOR he admits SOR ¶¶ 1.a through 1.d, ¶¶ 2.a through 2.g, and ¶ 3.a, with explanations. His admissions are accepted as findings of fact.

Applicant is 32 years old. He has never married and has no children. He received his GED in May 2014. He has worked as a security officer for his employer since October 2022. Applicant completed an October 2019 security clearance application (SCA) and in Section 23 – Illegal Use of Drugs or Drug Activity, he marked "No" for all drug questions. (GE 2 at 31.) On his May 2024 SCA, he marked "Yes" and disclosed that while possessing a security clearance, he had used marijuana approximately 20 times to cope with childhood trauma and lack of sleep from period January 2016 to January 2021. (GE 3 at 30.)

Guideline H

SOR ¶ 1.a alleges that from July 2016 to December 2024, Applicant purchased and used marijuana with varying frequency. In his Answer he limited that to, "I admit. I purchased and used marijuana in July, October, and December 2024." He acknowledged his drug use during his January 2025 interview with a DoD investigator and in his response to Government interrogatories. (Answer; GE 3 at 30; GE 4 at 3, 12.) In his response to Government interrogatories, he estimated he used and purchased marijuana three times a week from 2016 until December 2024, and he listed August 2024 for when he became aware marijuana use was illegal under Federal law. (GE 4 at 12, 13.) He stated he has "no intentions of future use." (GE 4 at 12.)

SOR ¶ 1.b alleges that from on or about March 10, 2020, to on or about January 28, 2021, Applicant purchased and used marijuana while in a sensitive position, i.e., one requiring a security clearance. In his Answer, he admits the allegation and explains that "growing up in foster care from age seven until the age of 17 contributed to my ill-judged decision to use marijuana. I have since matured and thoroughly understand the consequences of my actions and the use of a controlled substance." His security clearance was adjudicated favorably on March 10, 2020. (Answer; GE 2; GE 3; GE 8.) He acknowledged his drug involvement during his January 2025 interview with a DoD investigator. (GE 4 at 3.) He indicated he was not aware his drug use was illegal until August 2024, when he was looking for work. (GE 4 at 13.)

SOR ¶ 1.c alleges that on or about February 5, 2021, Applicant tested positive for marijuana on a urinalysis test administered at the request of his employer based a complaint that he had a strong odor of marijuana while on the job. In his Answer, he admits the allegation and explains, “due to my poor judgement, I used marijuana the night prior to reporting to work at [my employer] the following day.” He acknowledged his positive drug test during his January 2025 interview with a DoD investigator. (Answer; GE 4 at 2, 14; GE 7 at 2-4.)

SOR ¶ 1.d alleges that on or about March 3, 2016, Applicant was arrested by a sheriff for working in a banned medical marijuana dispensary and for illegal possession of marijuana for sale. In accordance with his plea, he was convicted of working in a banned medical marijuana dispensary in April 2017 and was sentenced to 36 months of summary probation, 18 days of jail (credited as time-served), a fine of \$220, and 15 days of community service. He admitted the incident but explained he was working with his cousin at the dispensary and thought their employment was legitimate. He stated he was completely unaware that the dispensary was banned and operating illegally. He acknowledged the arrest and conviction during his January 2025 interview with a DoD investigator. (Answer; GE 4 at 3, 8.)

Guidelines E and J

SOR ¶ 2.a alleges that Applicant falsified material facts on a Questionnaire for National Security Positions (Standard Form 86), executed by him on May 31, 2024, on which he was required to reply 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.” Applicant answered “No” and deliberately failed to disclose that information as set forth in subparagraph 1.a., above. Applicant said in his Answer that he made a mistake in answering “no” to the question, stating he “was unaware that medical marijuana was a controlled substance in the same category as ‘schedule one’ drugs” and that he misread the question and provided an incorrect response. (Answer; GE 3.) See facts discussed above in SOR ¶ 1.a.

On Applicant’s 2024 SCA, Applicant repeatedly disclosed marijuana use throughout the SCA. In Section 13A, he disclosed a reprimand for in-home marijuana use. (GE 3 at 13, 14.) In Section 13C, he disclosed a termination for personal marijuana use because of childhood trauma. (GE 3 at 19.) In Section 23, he answered “yes” to marijuana use while possessing a security clearance and cited to his childhood trauma and lack of sleep for the reasons he used marijuana. (Answer; GE 3, 29.) In his interview with a DoD investigator in January 2025, he discussed his marijuana history without being confronted. (GE 4 at 2-3, 8.)

SOR ¶ 2.b alleges that Applicant falsified material facts on a Questionnaire for National Security Positions (Standard Form 86), executed by him on May 31, 2024, on which he was required to reply to the following question: “In the last seven (7) years, have you been involved in the illegal purchase, manufacture, cultivation, trafficking, production,

transfer, shipping, receiving, handling or sale of any drug or controlled substance?” He answered “No” and deliberately failed to disclose that information as set forth in subparagraph 1.a., above. Applicant in his Answer stated that he “mistakenly answered no to the questions in relation to the purchasing of marijuana as a ‘schedule one’ drug instead of an illegal substance.” In Section 23 of his SCA, he answered “yes” to marijuana use while possessing a security clearance and cited to his childhood trauma and lack of sleep for the reason he used marijuana. (Answer; GE 3 at 29.) See facts discussed above in SOR ¶¶ 1.a and his disclosures on his 2024 SCA and to the DoD investigator, discussed above in SOR ¶ 2.a.

SOR ¶ 2.c alleges that Applicant falsified material facts on a Questionnaire for National Security Positions (Standard Form 86), executed by him on May 31, 2024, on which he was required to reply to the following question: “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?” He answered “No” and deliberately failed to disclose that information as set forth in subparagraphs 1.b. and 1.c., above. Applicant in his Answer stated that he “mistakenly answered no to the question in relation to purchasing a ‘schedule one’ drug as it relates to marijuana as an illegal substance.” (Answer; GE 3.) See facts discussed above in SOR ¶¶ 1.b and 1.c and his disclosures on his 2024 SCA and to the DoD investigator discussed above in SOR ¶ 2.a.

SOR ¶ 2.d alleges that Applicant falsified material facts on a Questionnaire for National Security Positions (Standard Form 86), executed by him on October 29, 2019, on which he was required to reply 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 answered “No” and deliberately failed to disclose that information as set forth in subparagraph 1.a., above. Applicant in his Answer stated he “was unaware of marijuana being a schedule one drug when [he] answered no to the question.” (Answer; GE 2; GE 3; GE 4.) See facts discussed above in SOR ¶ 1.a and his disclosures on his 2024 SCA and to the DoD investigator discussed above in SOR ¶ 2.a.

SOR ¶ 2.e alleges that Applicant falsified material facts on a Questionnaire for National Security Positions (Standard Form 86), executed by him on October 29, 2019, on which he was required to reply to the following question: “In the last seven (7) years, have you been involved in the illegal purchase, manufacture, cultivation, trafficking, production, transfer, shipping, receiving, handling or sale of any drug or controlled substance?” He answered “No” and deliberately failed to disclose that information as set forth in subparagraph 1.a., above. Applicant in his Answer stated, “I admit. I misunderstood the question because the dispensary accepted prescriptions from a licensed provider.” (Answer; GE 2.) See facts discussed above in SOR ¶ 1.a and his disclosures on his 2024 SCA and to the DoD investigator discussed above in SOR ¶ 2.a.

SOR ¶ 2.f alleges that on or about February 11, 2021, Applicant was terminated from his employment at [company S] after he tested positive for marijuana on a urinalysis

test. Applicant admitted the allegation and cited to his SOR ¶ 1.c answer and stated that “due to my poor judgement I used marijuana the day prior to reporting to work at [Company S]. I thoroughly enjoy working at [Company T] and have reached a level of maturity and in which I fully understand the error of my ways. I look forward to a favorable resolution in my case without the need for further proceedings.” (Answer.) He disclosed his termination on his 2024 SCA and with the DoD investigator, as discussed above in SOR ¶ 2.a.

SOR ¶ 2.g and SOR ¶ 3.a (Guideline J) cross-alleges the information set forth under subparagraph 1 above. Applicant admits SOR ¶¶ 1.a through 1.d with explanations. He acknowledged he exercised “poor judgment regarding the illegal use of controlled substances” and understands “that such actions can raise questions about an [Applicant’s] reliability and trustworthiness...because it raises questions about a person’s ability or willingness to comply with laws, rules, and regulations.” He stated he has “matured significantly and will not make the same mistakes” and “will comply with all laws and policies as required.” (Answer.) See facts discussed above in subparagraph 1.

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 and the record establish the following disqualifying conditions under this guideline, as detailed in AG ¶ 25:

- (a) any substance misuse (see above definition);
- (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 and purchasing marijuana from 2016 until December 2024, and after receiving his security clearance. AG ¶¶ 25(a), 25(c), and 25(f) apply.

The following mitigating conditions are potentially applicable as detailed in AG ¶ 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

(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) is not established. Applicant's drug misuse was frequent, longstanding, and recent, and it did not occur under circumstances unlikely to recur. He admitted using and purchasing marijuana approximately three times a week from 2016 until December 2024. His use continued after being terminated for testing positive for marijuana, after completing his May 2024 SCA, and after being aware marijuana use was federally illegal. His recent and sustained drug misuse casts doubt on his current reliability, trustworthiness, and good judgment.

AG ¶ 26(b) is not established. Applicant admitted his drug use, and he has only recently changed his behavior. He has only abstained from illegal drug use since December 2024. His answers on his 2024 SCA and to the DoD investigator reflect he has his priorities straight. However, insufficient time has passed to establish the reliability of his statement of intent to abstain from all drug involvement to mitigate his lengthy history of marijuana use. The security concern regarding his drug involvement is not mitigated.

Guideline E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15, as follows:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions

about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

Applicant's failure to disclose the full extent of his marijuana involvement on his 2019 and 2024 SCAs raises the following disqualifying conditions, under AG ¶ 16:

(a): deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities; and

(c): credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information.

The following mitigating conditions, under AG ¶ 17, are potentially relevant:

(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and

(c): the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment.

AG ¶¶ 17(a) and 17(c) are established for SOR ¶¶ 2.a through 2.f. Applicant admitted he failed to fully disclose the full extent of his marijuana use on his 2019 SCA, but his 2024 SCA reflects the confusion cited in his Answer given his repeated disclosure of his marijuana use in various sections of the 2024 SCA. The evidence reflects that he made prompt and good-faith efforts to address his marijuana use without being confronted with the facts by the DoD investigator.

SOR ¶ 2.g cross-alleges Applicant's drug use and possession as detailed in SOR ¶¶ 1.a – 1.d as a personal conduct security concern. I find "For Applicant" with respect to SOR ¶ 2.g concerning SOR ¶¶ 1.a – 1.d because his illegal drug use is more appropriately and fully addressed under Guideline H. While I find that his involvement with marijuana raises issues concerning his judgment and willingness to comply with rules and regulations, this conduct is specifically addressed under Guideline H. Duplicative coverage of his illegal drug possession and use in my findings under Guideline E is not

warranted in this case.

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.

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

(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's misconduct is documented in his SCA's and by court records. The above disqualifying conditions apply. Concerning SOR ¶¶ 1.b – 1.c, because there is no evidence these are criminal offenses (use while in sensitive position and positive urinalysis) the possession and use alleged under SOR ¶¶ 1.b and 1.c is duplicative with SOR ¶ 1.a.

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

(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.

AG ¶¶ 32(a) and 32(d) do not apply to SOR ¶¶ 1.a and 1.d. Applicant's marijuana possession continued until December 2024. He knew his conduct was illegal under Federal law by his own admission in August 2024. As for SOR ¶ 1.d, Applicant's criminal conduct in 2016 combined with his continued marijuana possession and use casts doubt on his current reliability, trustworthiness, good judgment, and willingness to comply with laws, rules, and regulations. He needs to establish evidence of successful rehabilitation and a longer record of responsible behavior and compliance with rules, regulations, and the law before his criminal conduct can be considered mitigated.

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, E, and J 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. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003).

I considered that Applicant is applying for a security clearance for the second time. After weighing the disqualifying and mitigating conditions under Guidelines H, E, and J and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the concerns raised by his drug involvement and substance misuse and criminal conduct; however, he has mitigated the concerns raised by his personal conduct.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards maintaining a drug-free lifestyle and compliance with criminal laws, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

Formal Findings

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

Paragraph 1: Guideline H: AGAINST APPLICANT

Subparagraphs 1.a-1.d: Against Applicant

Paragraph 2: Guideline E: FOR APPLICANT

Subparagraphs 2.a - 2.g: For Applicant

Paragraph 3: Guideline J:

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