



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



In the matter of: )  
)  
) ISCR Case No. 24-02078  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Tovah Minster, Esq., Department Counsel  
For Applicant: Samir R. Nakhleh, Esq.

02/13/2026

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**Decision**

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LAFAYE, Gatha, Administrative Judge:

Applicant failed to mitigate security concerns raised under Guidelines H (drug involvement and substance misuse) and E (personal conduct). Eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on April 3, 2024. On December 23, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) alleging security concerns under Guidelines H and E. Applicant answered the SOR on February 18, 2025 (Answer) and requested a hearing before an administrative judge. The case was assigned to me on August 1, 2025.

On August 22, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing for September 18, 2025. The hearing was held as scheduled. At the hearing, the Government offered four exhibits, Government Exhibit (GE) 1 through GE 4, which were admitted in evidence without objection.

Applicant testified and offered 12 exhibits, Applicant Exhibit (AE) A through AE L, which were admitted in evidence without objection. DOHA received the hearing transcript (Tr.) on September 29, 2025. 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**

In his Answer, Applicant admitted all allegations in the SOR, ¶¶ 1.a, 2.a, and 2.b. His admissions are incorporated in my findings of fact. After thorough review of the evidence, I make the following additional finding of facts.

Applicant is 36 years old. He earned his high school diploma in June 2008, enrolled in college in August 2008 and earned a bachelor's degree in engineering in May 2012. He enrolled in a graduate program in August 2012 and earned a master's degree in engineering in May 2014. He recently married his girlfriend with whom he had resided since September 2023. He does not have children. (GE 1 – 4; Tr. 15-18)

Applicant performed well academically and succeeded as a student-athlete during college. He is a *summa cum laude* graduate and earned an academic excellence award for achieving the highest-grade point average (GPA) of all student-athletes in academic year 2010-2011. (Tr. 16-17; AE H) Throughout college, he sought a broad array of professional engineering experiences through internships with defense contractors and other private companies. Though he completed his first SCA in February 2010, he accepted an internship with a private, non-defense company which did not require a security clearance. He said he understood after completing his SCA in 2010 that illegal drug use and involvement is a security concern for security clearance eligibility. (GE 1 at 30-31; Tr. 32-33)

In November 2013, Applicant said he was offered an entry-level, associate engineering position working for a defense contractor, which he ultimately accepted. After finishing his master's degree program, he submitted his second SCA in June 2014 and was granted eligibility for access to classified information, at the secret level, a few months later. He has been employed with the same defense contractor for over 11 years, achieving success. He has been promoted to engineering positions of increased responsibility four or more times since he was hired in August 2014. (GE 3; Tr. 18-19, 46-47; AE D)

From August 2014 to about 2018, Applicant worked as an associate engineer, level one. In about 2018, he said he was promoted to associate engineer, level two and worked successfully in the position. He was promoted again, this time to senior staff engineer, level one, a management position. A few years later around 2024, he was promoted to section supervisor, senior staff engineer, level one, a supervisory position that includes managing a team of four associate engineers. His current supervisory position requires a higher-level security clearance, and he completed his most recent SCA in April 2024. (GE 3, Tr. at 17-22; AE D)

In his April 2024 SCA, Applicant admitted he illegally used marijuana from July 2014 to December 2023, in response to questions in Section 23, Illegal Use of Drugs or Drug Activity, which asked whether, in the last seven years, he had illegally used any drugs or controlled substances; and while possessing a security clearance. In the same section, he denied having an intent to use illegal drugs or controlled substances in the future and confirmed his assertion at the hearing and in his signed statement of intent. (GE 3 at 29-30; Tr. 26-40; AE A)

Under Guideline H, the SOR alleges that Applicant used marijuana while working in a sensitive position, *i.e.* one requiring a security clearance, between July 2014 and December 2023 (SOR ¶ 1.a). Under Guideline E, the SOR cross-alleges SOR ¶ 1.a (SOR ¶ 2.a) and separately alleges that Applicant falsified material facts in his response to Government interrogatories by failing to disclose his illegal drug use prior to February 2018 (SOR ¶ 2.b).

Regarding SOR ¶ 2.b, Applicant said he made a mistake while completing his response to Government interrogatories by not listing his July 2014 marijuana use and he described this as an error of omission, and not a deliberate intent to falsify information that he voluntarily disclosed in his April 2024 SCA. He also discussed his July 2014 marijuana use with a DOD investigator during his background interview. (GE 3, 4; Tr. 22, 28-29) In his Answer, completed in February 2025, Applicant admitted to using marijuana between March 2014 and December 2023, vice July 2014 to December 2023 as discussed throughout the administrative record. An administrative error was made in the Answer.

Applicant stated his knowledge and understanding that using marijuana is illegal under federal law. (Tr. at 24) He said he first tried marijuana in July 2014 and did not use it again until March 2018. From March 2018 to early 2020, he said he used marijuana “a few times a year,” and estimated six to ten times at the hearing. (Tr. 22 -23) From 2020 to his last use in December 2023, he said he did not use marijuana often and “maybe a total of 3-ish times that I can recall.” (Tr. at 23) In his July 2024 background interview with a DOD investigator, he said he used marijuana about 20 times in total. (GE 4 at 6)

Applicant said he used marijuana “typically with friends if they were having a get together, a party” and if they had marijuana, they would share it with him. He smoked marijuana in cigarette form and ingested marijuana through edibles. When asked why he used marijuana in the first place, he testified about his July 2014 marijuana use:

So, I would say 2014 was more of a, well just a one-time thing. Obviously looking back, it wasn't worth trying [marijuana], but I just wanted to at the time, just wanted to see what it was about. I didn't even, I probably had maybe a couple puffs. I didn't get high [in 2014]. (Tr. at 24)

Applicant provided similar testimony in response to the Government's questions about his July 2014 marijuana use, which occurred a month after he completed his second SCA:

I believe at the time I was curious about [marijuana] and I had never prior to, used it. And, it just seemed like at the time, that it would probably be the main chance that I would have to just try it to see what it was about before I start becoming a professional. And like I mentioned, I didn't even smoke enough to get high. It was just the obviously looking back, something that I should not have done. (Tr. at 35-36)

When asked about his decision to use marijuana from March 2018 to December 2023, Applicant testified:

2018 was more so on the state level, things were starting to get decriminalized and again, obviously in hindsight it still wasn't the correct thing to do, but I was feeling less hesitant to try, and to use it. And then, more recently I haven't had nearly as much exposure as well as just less interest in using it. (Tr. at 24)

Applicant testified similarly to the Government's question regarding his decision to use marijuana from March 2018 to December 2023:

Well, I'll start by saying again looking back, it wasn't the correct decision to do. I think at that point, with the marijuana uses becoming less, or becoming decriminalized, I was feeling more comfortable with the use. Obviously, that shouldn't have impacted my decision because I was still having a clearance. But that was my thinking during that time. (Tr. at 37)

During this period, Applicant said he used marijuana more frequently and used enough marijuana to get high but claimed he did not get high every time he used marijuana. He used marijuana with friends and alone "on his own." He never purchased marijuana but said his friends would cross state lines to buy marijuana in a state that had legalized the recreational use of marijuana, and then bring the marijuana to him in his home state. He no longer socializes with some of the friends he used marijuana with but admitted a few of his social friends, though they have matured, still use marijuana but they respect his decision to abstain. He confirmed he held a secret security clearance at the time and that he has never disclosed his marijuana use to his employer. (Tr. 25-25, 38-40)

Applicant expressed awareness of his employer's drug use policy and said the policy prohibits the use of illegal drugs or controlled substances "while working or on campus." (Tr. at 36) He denied his employer operates a random drug urinalysis testing program and said he has never been called to participate in a random drug urinalysis test. He passed his employer's pre-employment drug urinalysis test conducted in June 2014. He said he did not use marijuana between August 2014 and February 2018. (GE 4 at 11-13; Tr. at 36)

Applicant submitted substantial evidence to support his case in mitigation. (AE A through AE L). He submitted a signed statement of intent to abstain from using illegal drugs and controlled substances in the future and acknowledged that any use is grounds for revocation of national security eligibility. (AE A) He also submitted results of drug urinalysis tests taken in January, March, and September 2025; and all tests were negative for illegal drugs. (AE B, K, L) He submitted character letters attesting to his integrity, reliability, trustworthiness, strong moral character, and his capacity to lead. A former supervisor attested to his professionalism, dedication to duties, and loyalty to the United States. A co-worker who has worked with him for 10 years attested to his professional dedication to getting the job done and professionalism. All favorably endorsed his security clearance application. (AE C) He partners as a long-time community volunteer, teaching and mentoring students in science, technology, and engineering. He recently took on more significant duties and responsibilities to help students acquire knowledge, experience, and opportunities in science. (AE G)

### **Policies**

This case is adjudicated 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), which became effective on June 8, 2017.

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(c), the entire process is a conscientious scrutiny of several 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 classified information enters 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 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 and substance misuse is described 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.

AG ¶ 25 describes conditions that could raise a security concern and may be disqualifying. Those that are potentially applicable are:

(a) any substance misuse (see above definition); and

(f) any illegal drug use while granted access to classified information or holding a sensitive position.

Applicant admitted he used marijuana between at least July 2014 and December 2023 and his use of marijuana occurred while working as a defense contract employee in a sensitive position, *i.e.* one that requires a security clearance. His admissions are also supported by other evidence in the record. AG ¶¶ 25(a) and 25 (f) apply.

AG ¶ 26 provides conditions that could mitigate security concerns. 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.

AG ¶¶ 26(a) and 26(b) are not fully established to mitigate security concerns alleged in SOR ¶ 1.a. Applicant admitted he used marijuana from July 2014 through December 2023. Nearly all his marijuana use occurred while he worked in a sensitive position and after he was granted a secret security clearance. He acknowledged his awareness and understanding, since completing his first SCA in 2010, that illegal drug use, including marijuana use, is a security concern for security clearance eligibility. Despite this, he used marijuana for nine years while working in a sensitive position with a secret security clearance.

Applicant violated security clearance rules and regulations every time he used marijuana, which creates doubts about his reliability, trustworthiness, and judgment. Though he acknowledged his marijuana use, refrained from using marijuana for 26 months, and completed a statement of intent acknowledging that any future involvement with illegal drug and substance misuse are grounds for revocation of national security eligibility, he has not fully disassociated from his friends who use marijuana, nor has he avoided the environment where illegal drugs were used, e.g. parties and get-togethers with friends who use marijuana. Applicant's evidence is insufficient to mitigate drug involvement and substance misuse security concerns in this case.

### **Guideline E, Personal Conduct**

The security concern under this guideline is described in AG ¶ 15:

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 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 ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(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;

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes: (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing.

Applicant's illegal drug use as described in SOR ¶ 1.a, cross-alleged under this guideline in SOR ¶ 2.a, created a vulnerability to exploitation, manipulation, or duress as it could affect his professional standing. AG ¶ 16(e) applies. However, Applicant's failure to disclose his illegal drug use before February 2018 in his November 2024 response to Government interrogatories was not a deliberate omission or an attempt to falsify or mislead. He successfully established through his evidence, including his voluntary disclosure of his drug use before February 2018 in his April 2024 SCA, that his omission was inadvertent and not intentional. AG ¶¶ 16(a) and 16(b) are not established and SOR ¶ 2.b is refuted.

AG ¶ 17 provides conditions that could mitigate security concerns. The following are potentially applicable:

(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;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

AG ¶¶ 17(c) and 17(d) are not established for the conduct alleged in SOR ¶ 2.a. Comments made under Guideline H are incorporated here. Applicant's use of marijuana over a nine-year period while working in a sensitive position with a secret security clearance is a significant violation of security clearance rules and regulations. He has known and understood that illegal drug use, including marijuana use, is a security concern for security clearance eligibility since 2010. He completed his second SCA in June 2010 and a month later, in July 2014, he decided to use marijuana, taking a few puffs but not getting high. He was curious about marijuana and viewed this as an opportunity to try marijuana to "see what it was about" before becoming a professional. He did not use marijuana again until after February 2018.

In March 2018, Applicant said he felt "less hesitant" about using marijuana and he decided to use marijuana to experience getting high. He continued to use marijuana, as he saw fit, at get-togethers and parties, with friends, and alone. His friends supplied him with marijuana cigarettes and edibles. He continued to use marijuana, as he saw fit, throughout 2018, 2019, 2020, 2021, 2022, and through December 2023 when he decided to stop.

Applicant exercised poor judgment by using marijuana while working in a sensitive position with a secret security clearance. He damaged the trust and confidence the Government placed in him by continuing and even escalating his use of marijuana over time, as he simultaneously performed significant, high-level engineering work in a sensitive position that impacts national security. His conduct has created a vulnerability to exploitation, manipulation, and duress, which casts doubt on his current reliability, trustworthiness and judgment, and demonstrates an unwillingness to comply with federal rules and regulations. Though he is credited with acknowledging his illegal drug use and taking other positive steps to stop using marijuana, he never disclosed his marijuana use, over a period of nine years, to his employer. AG ¶ 17(e) is not established. Personal conduct remains a security concern in this case.

### **Whole-Person Concept**

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. 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 and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under Guidelines H and E and evaluating all evidence in the whole-person context, I conclude Applicant has not mitigated the security concerns raised under Guideline H (drug involvement and substance misuse) and under Guideline E (personal conduct).

### **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
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	For Applicant

### **Conclusion**

It is not clearly consistent with the national interest to grant or continue Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Gatha LaFaye  
Administrative Judge