



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



In the matter of: )  
)  
) ISCR Case No. 24-00990  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Daniel O’Reilly, Esq., Department Counsel  
For Applicant: Lea Trojanowski, Esq.

02/10/2026

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**Decision**

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BENSON, Pamela C., Administrative Judge:

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

**Statement of the Case**

On October 24, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines H, J, and E. 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 29, 2025, Applicant provided a response to the SOR (Answer). He admitted all the SOR allegations (SOR ¶¶ 1.a through 1.c, 2.a, and 3.a through 3.c.) He 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 notice on August 13, 2025, scheduling the hearing for September 10, 2025. The hearing proceeded as scheduled via online video conferencing.

Department Counsel submitted Government Exhibits (GE) 1 through 3; Applicant testified and offered Applicant Exhibits (AE) A through I; all exhibits were admitted into evidence without objection. DOHA received the hearing transcript (Tr.) on September 16, 2025. This decision was delayed when all administrative judges were furloughed from October 1 to November 12, 2025, during a federal government shutdown due to a lapse in federal funding.

### **Findings of Fact**

Applicant is 39 years old. In December 2009, he earned a bachelor's degree in business administration. In May 2015 he earned a master's degree in education, and in May 2021 he earned a master's degree in public policy and business administration. He is currently married with no children. He enlisted in the United States Air Force (USAF) Reserves in October 2016, he served active duty until September 2022, and he was honorably discharged in 2024. He has held a Secret security clearance since October 2016. His primary employment is with a federal contractor he started working for in July 2022 as a senior consultant. Since 2021, he has also been teaching at a university as an adjunct professor. In 2023 his primary employer sponsored Applicant for a Top Secret security clearance. (GE 1; AE A, H, I; Tr. 16-18, 21-23, 37)

### **Drug Involvement and Substance Misuse**

Applicant used marijuana from about May 2016 to about July 2023. (SOR ¶ 1.a) Applicant admitted he used marijuana on four occasions total. He stated that he first used marijuana in 2016 at the age of 30. At the time he was employed as a middle school teacher. He ingested half of a marijuana gummy given by a college friend who had just gotten married. The second time Applicant used marijuana occurred in October 2020. It was during the pandemic and Applicant and his girlfriend were struggling with their relationship. They decided to get marijuana gummies. He purchased two gummies from a store in the area (SOR ¶ 1.c), and once again he ingested half of a marijuana gummy. He ended up having a panic attack, and his girlfriend had to call for emergency medical assistance, but he was not hospitalized. Applicant admitted that he held a Secret security clearance at the time as an USAF reservist, and stated, "I realized how much of a mistake that was to partake in that while holding a clearance." (Tr. 23-27, 30, 49)

SOR ¶ 1.b alleges Applicant used marijuana from about October 2020 to about July 2023, while holding a sensitive position, i.e., one in which he held a security clearance. Applicant testified during the hearing that the third time he tried marijuana occurred in January 2022, however, it was later determined to have actually occurred in January 2023. He was with a friend, and they ingested marijuana infused gummies for

recreational use. Applicant consumed one-half of a gummy. The fourth and final time he ingested marijuana occurred in July 2023. A woman he was dating was opening a private club for women to use marijuana. She offered a marijuana gummy product she intended to sell in her business, and Applicant ingested half of a marijuana gummy. He suffered another panic attack, but he did not require medical assistance. He admitted that both times he used marijuana in 2023 he held a Secret security clearance from his current employer and as an USAF reservist. (Answer; Tr. 23-30, 50-55, 64-65)

### **Criminal Conduct**

SOR ¶ 2.a crossed referenced the information, as set forth above, as also applicable to criminal conduct security concerns.

### **Personal Conduct**

SOR ¶ 3.b alleges Applicant falsified material facts on a security clearance application (SCA), executed by him on April 26, 2021, in response to the following question: "Section 23 – Illegal Use of Drugs or Drug Activity – Illegal Use of Drugs or Controlled Substances – 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 this question with a negative response. He deliberately failed to disclose that he used marijuana illegally, from May 2016 to about October 2020, as set forth in subparagraph 1.a, above.

SOR ¶ 3.c alleges Applicant falsified material facts on a security clearance application (SCA), executed by him on April 26, 2021, in response to the following question: "Section 23 – Illegal Use of Drugs or Drug Activity – Illegal Use of Drugs or Controlled Substances – In the last seven (7) years, have you been involved in the illegal purchase, ...receiving, handling or sale of any drug or controlled substance?" Applicant responded, "No," and deliberately failed to disclose his purchase of marijuana-infused gummies in October 2020, as set forth in subparagraph 1.c., above.

Applicant admitted that he did not disclose information about his illegal marijuana use and purchase on his April 2021 SCA. He believed that his involvement with marijuana was so insignificant that it would not raise concerns as to his reliability, judgment, or trustworthiness. At that time, he had only used marijuana on two occasions and had purchased marijuana once. He admitted during the hearing he was aware that using marijuana was prohibited by federal law and DOD policy. When asked why he deliberately failed to disclose his past involvement with marijuana when he answered the drug-related questions on the April 2021 SCA, he stated, "I think that I just didn't understand the gravity, um, of -- of not disclosing that information. It wasn't [my] intention to -- I didn't have any intent to hide. I just -- yeah, it just was a mistake on my part." (Answer; Tr. 30-31, 34-35)

SOR ¶ 3.a alleges Applicant falsified material facts on a security clearance application (SCA), executed by him on September 18, 2023, in response to the following question: “Section 23 – Illegal Use of Drugs or Drug Activity – Illegal Use of Drugs or Controlled Substances – In the last seven (7) years, have you been involved in the illegal purchase, ...receiving, handling or sale of any drug or controlled substance?” Applicant responded, “No,” and deliberately failed to disclose his purchase of marijuana-infused gummies in October 2020, as set forth in subparagraph 1.c., above.

Applicant admitted in his Answer that he made a mistake by not reporting his illegal drug usage on the 2021 SCA. In an effort to correct his past mistake, he voluntarily reported on his September 2023 SCA three instances he had used marijuana, but he forgot the time he had used marijuana with his friend in about January 2023. He later recalled this incident, and he self-reported his January 2023 use of marijuana when he completed the DOD interrogatory in July 2025. (Answer; Tr. 23-30; GE 3)

Applicant has made lifestyle changes and no longer associates with anyone who uses illegal drugs. In August 2025 he participated in a voluntary drug test that came back negative. He signed a January 2025 statement of intent to never use illegal drugs in the future. If he is ever found to be in violation of the illegal drug policy, he consents to automatic revocation of his security clearance. (AE D, G; Tr. 31-33)

During cross examination, Applicant was asked,

**Department Counsel:** Did you intentionally omit your drug use on your 2021 e-QIP?

**Applicant:** I -- I realize that it was a mistake, and I did not take the reporting requirements as seriously as I should have and that was a mistake for me. That was a huge mistake.

**Department Counsel:** That's not exactly what I asked. Did you intentionally omit the drug use on your 2021 e-QIP?

**Applicant:** Yes.

**Department Counsel:** You're a smart guy. Don't split hairs on this, right? Did you intentionally omit your onetime drug use on your 2016 e-QIP?

**Applicant:** Yes.

**Department Counsel:** Did anyone advise you not to disclose your drug use on your 2021 e-QIP?

**Applicant:** No.

**Department Counsel:** Has anyone advised you [not] to disclose your drug use on your 2023 e-QIP?

**Applicant:** No.

**Department Counsel:** Was the 2023 e-QIP completed in order to obtain a Top Secret clearance?

**Applicant:** Yes.

**Department Counsel:** And with that Top Secret clearance, a TS/SCI clearance, in fact, did you anticipate having to undergo a polygraph in the future?

**Applicant:** Yes.

**Department Counsel:** Is that why you disclosed your drug use on your 2023 e-QIP?

**Applicant:** No. I wanted to make sure that the record was -- was clear that I was fully -- had full disclosure. (Tr. 58-60)

Although not alleged in the SOR, Applicant admitted that he had not disclosed his one-time illegal use of marijuana on the October 2016 SCA he completed when he enlisted in USAF Reserves. He also did not self-report to his USAF commander his use and purchase of marijuana gummies in October 2020. After he ingested marijuana in January and July 2023, he admitted that he did not report his use of marijuana to either his employer's facility security officer or to his USAF commander because "it wasn't always clear to me how to report on the usage...." Applicant admitted during further questioning that he participated in annual security briefings, and that he was aware of, but had not consulted, his employer's facility security officer. The new, unalleged information will only be considered to assess Applicant's credibility, mitigation, and the whole-person factors. It will not be considered for disqualification purposes. (Tr. 49-60, 66, 72)

### **Character Evidence**

Applicant submitted positive employee performance reviews for the years 2022 through 2025 from his employer, and he provided ten character reference letters. The general theme from Applicant's character references is that he has dedicated his life to service, he is trustworthy, and since 2023, he has been fully transparent about his past involvement with marijuana. All of his references recommended Applicant be granted the requested security eligibility. (AE B, C)

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

Applicant admitted he used marijuana on four occasions from about May 2016 to July 2023. He purchased marijuana in October 2020. He has possessed a Secret security clearance and held a sensitive position since approximately October 2016, and he used marijuana once in 2020 and twice in 2023. 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 admitted he had used marijuana on four occasions, and three of those occasions occurred while he possessed a Secret security clearance and held a sensitive position with the government. He deliberately did not disclose his illegal use of marijuana to the government for a variety of reasons. I find the most basic reason is that he did not want the government to become aware of it. He initially stated during the hearing that he did not know how to self-report his illegal marijuana usage and purchase, but then he admitted his participation in annual security briefings that included requirements about an employee's obligation to self-report adverse information to appropriate security officials. Overall, Applicant was not a credible witness. It is clear that from his actions that he wanted to conceal from the government his illegal involvement with marijuana.

In about September 2023 when Applicant became aware his employer was sponsoring him for a Top Secret security clearance, he also became aware that he may have to participate in a polygraph examination, to include answering questions about illegal drug use. Applicant had used marijuana on two occasions just months before he was sponsored for a Top Secret security clearance in September 2023. It is important to note that it was at this point in time Applicant decided that he was going to be completely transparent about his past involvement with marijuana. His newfound resolve to be honest about his past use and purchase of marijuana, however, occurred under self-serving circumstances. His claims that he has changed his lifestyle, removed himself from associating with drug users, and that he provided a statement of intent to never use illegal drugs in the future are all tainted and undermined by his repeated and deliberate cover up made in a security context concerning his past illegal drug involvement.

Overall, Applicant's actions demonstrate he does not possess the candor, good judgment and reliability required by individuals entrusted with protecting classified and sensitive information. Although Applicant's marijuana use was not frequent, it was recent, with two occurrences in 2023 and months before his employer sponsored him for a Top Secret security clearance. None of the mitigating conditions apply. The drug involvement and substance misuse security concerns are not mitigated.

### **Guideline J: Criminal Conduct**

The security concern for criminal conduct is set out in AG ¶ 30:

Criminal activity creates doubt about an Appellant'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.

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying. The following is potentially applicable:

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

Applicant used marijuana from approximately May 2016 to July 2023. He possessed marijuana before he used it. Possession of marijuana is a federal criminal offense and is listed on Schedule I of the Controlled Substances Act. See 21 U.S.C. § 812(c); Drug Enforcement Administration listing at <https://www.dea.gov/drug-information/drug-scheduling>. Applicant admitted that he was aware that the use of marijuana was federally illegal and against DOD policy. The above disqualifying condition is applicable.

Conditions that could mitigate criminal conduct security concerns are provided under AG ¶ 32. The following are potentially applicable:

(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.

The discussion above under drug involvement and substance misuse applies equally here. I do not find sufficient evidence of successful rehabilitation, and Applicant's misconduct continues to cast doubt on his reliability, trustworthiness, and good judgment. More time is needed before successful rehabilitation is established, and more time is necessary in order to consider Applicant reliable and trustworthy. AG ¶¶ 32(a) and 32(d) are not applicable. Criminal conduct security concerns are not mitigated.

### **Guideline E: Personal Conduct**

AG ¶ 15 expresses the security concern for personal conduct:

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

provide truthful and candid answers during national security investigative or adjudicative processes. ...

AG ¶ 16 describes conditions that could raise a security concern and be disqualifying. The following is potentially applicable under the established facts in this case:

(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.

The record evidence establishes that Applicant deliberately failed to disclose on his April 2021 SCA his use, possession, and purchase of marijuana, and he failed to disclose on his September 2023 SCA his purchase of marijuana in 2020. The disqualifying condition listed above applies.

The guideline also includes conditions that could mitigate security concerns arising from personal conduct. The following under AG ¶ 17 are potentially applicable:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense is so minor or so much time has passed, or the behavior is so infrequent, or 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; and

(d) the individual 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.

Applicant provided several reasons why he failed to disclose adverse information on his SCA, as required. He did not think his minimal use of marijuana warranted disclosure to the government; it was a mistake on his part; he did not understand the

gravity of his failure to provide full disclosure; and he was not trying to hide this information from the government. He has minimized his behavior; his explanations are self-serving and demonstrate that Applicant continues to struggle to be honest and forthright with the government regarding his conduct. His explanations for concealing and providing inconsistent details about his behavior cast doubt on his reliability, trustworthiness, and good judgment.

I did not find Applicant's testimony credible. He has not made prompt, good-faith efforts to correct omissions, misconceptions, or falsifications until he was sponsored for a Top Secret security clearance in late 2023. He made deliberate choices to keep the government in the dark regarding his behavior, raising the concern that he is untrustworthy and calling into question his willingness to comply with security rules and regulations. None of the mitigating conditions apply. Personal conduct 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 Guidelines H, J, and E 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, his off-duty conduct or circumstances can have security significance and may be considered in evaluating the applicant's national security eligibility.

Applicant made poor choices to use and purchase marijuana and intentionally hide that relevant information from the government for many years. After using marijuana in October 2020, he admitted "how much of a mistake that was to partake in that while holding a clearance." Despite that statement, he used marijuana twice more in 2023 and months before he was sponsored for a Top Secret security clearance. Accordingly, Applicant has not carried his burden of showing that it is clearly consistent with the interests of national security of the United States to grant him 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
Subparagraphs 1.a through 1.c:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraphs 3.a through 3.c:	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 national security to grant or continue Applicant's national security eligibility. Eligibility for access to classified information is denied.

Pamela C. Benson  
Administrative Judge