



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



In the matter of:	)	
	)	
	)	ISCR Case No. 25-00646
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Andre M. Gregorian, Esq., Department Counsel  
For Applicant: *Pro se*

02/10/2026

**Decision**

BORGSTROM, Eric H., Administrative Judge:

Applicant mitigated the security concerns arising from her drug involvement and substance misuse. Eligibility for access to classified information is granted.

**Statement of the Case**

On June 24, 2025, the Defense Counterintelligence and Security Agency (DCSA) 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; Department of Defense (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 July 14, 2025 response to the SOR (Answer), she admitted, with explanations, all three allegations. She attached a copy of the Directive and no other documentary evidence. She requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. (Answer)

On July 31, 2025, the Government was ready to proceed to a hearing. I was assigned this case on September 30, 2025. On September 16, 2025, a notice was issued scheduling the hearing for October 7, 2025. This case was delayed when all administrative judges were furloughed from October 1 through November 12, 2025.

On November 19, 2025, a notice was issued scheduling the hearing for December 17, 2025, 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 testified and submitted three exhibits, which I admitted as Applicant Exhibits (AE) A through C, without objection. At Applicant's request, I left the record open until January 16, 2026, to provide her an opportunity to supplement the evidentiary record. DOHA received the hearing transcript (Tr.) on December 29, 2025. On January 13, 2026, Applicant submitted five additional documents, which I admitted as AE D through H, without objection. By email dated January 16, 2026, she confirmed that she had no further submissions for the record. The record closed on January 16, 2026.

### **Findings of Fact**

Applicant is 27 years old. She graduated from high school in June 2016, and she earned a bachelor's degree in May 2020. She has never married, and she does not have any children. From June 2020 to October 2024, she was employed as a systems engineer for a DOD contractor. She was granted eligibility for a secret clearance on September 27, 2020, and she signed a non-disclosure agreement on October 1, 2020. Since October 2024, she has been employed as a systems engineer for a different DOD contractor. She currently is applying for eligibility for a top secret clearance. (GE 1, GE 4; Tr. 21-25)

On June 29, 2020, Applicant certified and submitted an Electronic Questionnaire for Investigations Processing (e-QIP). Under Section 23 – Illegal Use of Drugs or Drug Activity, she reported that she used marijuana once in March 2020 and that she did not intend to use marijuana in the future. (GE 1)

On July 16, 2020, Applicant was interviewed by an authorized investigator on behalf of the Office of Personnel Management (OPM). She confirmed her one-time use of marijuana in March 2020 while attending a party during college. She inhaled once, coughed, and felt no effects. (GE 3)

On October 15, 2024, Applicant submitted an updated e-QIP. Under Section 23 – Illegal Use of Drugs or Drug Activity, she reported that she had used marijuana three times between March 2020 and April 2024 – once in college (2020), once in a state that permitted recreational marijuana use, and once in a foreign country that permitted recreational marijuana use. She admitted that she used marijuana “while possessing a security clearance” and denied any intent to use marijuana in the future. Under Section 25 – Investigations and Clearance Record, she reported that she had been granted a secret clearance in September 2020. (GE 2)

On February 26, 2025, Applicant was interviewed by a different investigator on behalf of the OPM. She admitted using marijuana three times in her life – in March 2020, October 2022, and April 2024. In October 2022, she was on vacation with friends in a state where recreational marijuana was permitted under state drug laws. She consumed two edible gummies. In April 2024, she was visiting a foreign country with friends. Marijuana use was permitted in that foreign country, and she consumed a baked product infused with marijuana. She became very sick after she ingested the baked good. During the OPM interview, she admitted that she was aware that marijuana use was prohibited while possessing a security clearance and violated federal drug laws. She expressed her intent to abstain from all illegal drugs in the future.

In Applicant's May 26, 2025 response to DOHA interrogatories, Applicant adopted the summaries of the two OPM interviews without any corrections or revisions pertaining to her marijuana use. She admitted that she continued to associate with individuals whom she believed used illegal drugs; however, she noted they no longer used illegal drugs in her presence. She stated she removed herself from uncomfortable situations if they ever arose. She passed a pre-employment drug test in 2024, and she is subject to random drug tests with her current employer. (GE 3)

At the hearing, Applicant admitted using marijuana three times – in March 2020, October 2022, and April 2024 – and detailed the circumstances of her marijuana use consistent with her prior disclosures. She acknowledged having reported in her 2020 e-QIP that she did not intend to use marijuana in the future. She admitted that she had been aware, at the time of her marijuana use in 2022 and 2024, that federal drug laws prohibited the possession of marijuana, that marijuana use was prohibited by clearance holders, and that her then employer had a drug-free workplace policy. She noted that because some of her cleared colleagues at the previous DOD contractor used marijuana, she mistakenly diminished the seriousness of illegal drug use by clearance holders. She also acknowledged some confusion, back in 2022, as to the impact of state laws permitting recreational marijuana use. She accepted full responsibility for her lapses in judgment when she used marijuana while possessing a security clearance. She now clearly understands that she is prohibited from any illegal drug use, independent of changes in state laws. She held a clearance and had minimal interaction with classified information at the first DOD contractor. She testified that she believed that the two individuals with whom she used marijuana in 2022 and 2024 no longer used marijuana. To her knowledge, she does not associate with anyone who uses illegal drugs. She has never misused prescription drugs. (Tr. 24-33, 37-38, 49)

At the hearing, Applicant noted some life changes that have been a catalyst for her changed outlook and increased maturity. She has garnered greater responsibilities with her new employer, and she has purchased a house in August 2024. Her sister recently was married, and Applicant will be an aunt soon. She was promoted once at her previous employer, and she is very invested in her career with her current employer, where she has increased her job responsibilities and mentored junior employees. She testified that she passed pre-employment drug screenings in 2020 and October 2024. (Tr. 32, 35, 38, 39)

On December 29, 2025, Applicant participated in a drug urinalysis screening, and she tested negative for marijuana. After the hearing, Applicant submitted a signed statement of intent to abstain from illegal drugs in the future. (AE D, AE H)

## **Whole Person**

Applicant submitted feedback from her current colleagues, who praised her as “a great mentor,” a “jack of all trades” with great leadership and organizational skills, thorough, and an “exceptional” performer. Her colleagues recognized her contributions by awarding points. Similarly, she received positive feedback from her previous employer and colleagues. (AE A, AE C, AE E)

Applicant’s current supervisor submitted two character-reference letters. He praised her “exceptional integrity, responsibility, and teamwork,” and he is aware of her marijuana use while possessing a security clearance. Applicant’s job responsibilities include keeping a multidisciplinary team of 25 engineers organized and accountable. She also serves on the test and development teams. (AE B, AE F, AE G; Tr. 36, 41)

## **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.<sup>1</sup>

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 on three occasions, including twice while she possessed a secret clearance, i.e. while she held a “sensitive position.” 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:

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<sup>1</sup> *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.

(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.

Applicant was truthful and candid during both background security investigations, and I found her testimony to be sincere and credible throughout. Her marijuana use in October 2022 and April 2024 is exacerbated by two factors – her concurrent possession of a security clearance and her knowledge that such conduct was prohibited by clearance holders, her employer's drug-free workplace policy, and federal drug laws. See ISCR Case No. 20-01772 at 3 (App. Bd. Sept. 14, 2021) (The DOHA Appeal Board has "long held that applicants who use marijuana after having been placed on notice of the security significance of such conduct may be lacking in the judgment and reliability expected of those with access to classified information.")

Notwithstanding the seriousness of Applicant's marijuana use while possessing a security clearance, she has acknowledged her lapses in judgment and having misjudged the security significance of marijuana use in light of marijuana use by other clearance holders and the allowance of recreational marijuana use in some states and foreign nations. I considered her very limited marijuana use, the passage of nearly two years since her most recent use of marijuana, and the tangible changes in her life and career. She has purchased a home, is preparing to be an aunt, and has been entrusted with significant job responsibilities and a mentorship role with new employer. The friends with whom she previously used marijuana no longer use marijuana, and she has disassociated herself from any drug-using associates and environments. She has progressed and matured in both her personal and professional lives. She has expressed her intent to abstain from any illegal drug involvement – acknowledging her past, unfulfilled expressions to the same – and understands that any further lapse may result in the revocation of her clearance eligibility. Taken in its entirety, the record evidence has established AG ¶¶ 26(a) and 26(b).

### **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 current supervisor and colleagues attested to Applicant's exceptional work performance, leadership, and integrity, and she has disclosed her marijuana use while possessing a clearance to her supervisor. She has thrived with her new employer and has been entrusted with increased job responsibilities and mentorship opportunities. She has purchased a home. Nearly two years have passed since her most recent marijuana use, and she has acknowledged her lapses in judgment. Notwithstanding the seriousness of Applicant's misconduct, she has mitigated the drug involvement and substance misuse security concerns. Eligibility for access to classified information is granted.

### **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:	FOR APPLICANT
Subparagraphs 1.a.-1.b.:	For Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, I conclude that it is clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Eric H. Borgstrom  
Administrative Judge