



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



In the matter of:)
)
) ISCR Case No. 24-02111
)
Applicant for Security Clearance)

Appearances

For Government: Brian Farrell, Esq., Department Counsel
For Applicant: Matthew Thomas, Esq.

02/20/2026

Decision

HOGAN, Erin C., Administrative Judge:

Applicant did not mitigate the security concerns under Guideline H, Drug Involvement and Substance Misuse, and Guideline E, Personal Conduct. Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on December 13, 2023. (Government Exhibit (GE) 1) The Defense Counterintelligence & Security Agency (DCSA) issued Applicant a Statement of Reasons (SOR) on December 23, 2024, detailing security concerns under Guidelines H and E. DCSA acted under Executive Order (Exec. Or.) 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 Security Executive Agent Directive 4, *National Security Adjudicative Guidelines*, effective within the DOD as of June 8, 2017.

On March 17, 2025, Applicant answered the SOR and elected a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The DOHA Hearing Office received the case on April 7, 2025, and it was assigned to me on August 8, 2025. The hearing was originally scheduled for October 16, 2025. The hearing was continued when all administrative judges were furloughed from October 1, 2025, through November 12, 2025, during a federal government shutdown due to a lapse in funding. The case was rescheduled for hearing on December 18, 2025. The hearing was held on that date. Department Counsel offered three exhibits which were marked and admitted as GE 1 - 3 without objection. Applicant through his counsel offered eight exhibits, which were marked and admitted as Applicant Exhibits (AE) A – H without objection. Applicant testified and called one witness during the hearing. The transcript (Tr.) was received on December 29, 2025.

Several names and other facts have been modified to protect Applicant's privacy interests. More detailed facts can be found in the record.

Procedural Matter

During the hearing, Department Counsel motioned to amend the SOR in accordance with DODD 5220.6, paragraph E3.1.17. The amendment reads:

SOR ¶ 2.d: You falsified material facts during an April 10, 2024, interview with an authorized investigator for the U.S. Department of Defense when you disclosed purchasing marijuana legally at dispensaries in Maryland and Washington D.C., when, in fact, you intentionally failed to disclose that you purchased marijuana from your friends illegally.

Applicant did not object to the amendment and the motion was granted. (Tr. 74-75)

Findings of Fact

In Applicant's SOR response, he admitted allegations in SOR ¶¶ 1.a, 1.b, and 2.c and denied the allegations in SOR ¶¶ 2.a and 2.b. Applicant's admissions are accepted as findings of fact.

Applicant is a 33-year-old employee of a DOD contractor since January 2015. He was first granted a secret security clearance in 2015 and has held a security clearance continuously since that time. He has no military service. He is a high school graduate and has some college credits. He is single and has no children. (Tr. 24-28; GE 1; GE 3)

SOR Allegations

The SOR alleges under Guideline H that Applicant purchased and used marijuana with varying frequency from about 2019 to about April 2024, to include while holding a sensitive position; i.e., when he held a security clearance (SOR ¶¶ 1.a: GE 2 at 11; GE 3); and he purchased and used psilocybin (hallucinogenic mushrooms) in approximately July 2023 while holding a sensitive position, i.e., one in which he held a security clearance. (SOR ¶¶ 1.b: GE 2 at 6, 11).

Under Guideline E, Personal Conduct, the allegations include that Applicant falsified material facts on an e-QIP application executed by him on December 13, 2023, in response to the following question: “Section 23 – Illegal Use of Drugs or Drug Activity - 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?” when he answered “Yes” and stated that he used marijuana (THC) one time in July 2023 but deliberately failed to disclose the totality of his drug use as set forth in subparagraphs 1.a and 1.b above. (SOR ¶¶ 2.b: GE 1 at 25; GE 2 at 6,11)

SOR ¶¶ 2.b alleges Applicant falsified material facts in his response to DOHA Interrogatories, executed by him on November 27, 2024, in response to the following instruction: “Complete this chart below regarding any illegal drug use under federal law within the past seven (7) years. Include illegal use of any narcotic, depressant, stimulant, hallucinogen, (to include LSD or PCP), and/or misuse of any prescription medication.” He listed marijuana use on three occasions between March 10, 2021, and June 2022; and a one-time use of psilocybin/mushrooms in April 2021. It is alleged that he deliberately failed to disclose the full extent of his illegal drug use as alleged in SOR ¶¶ 1.a and 1.b. (GE 2 at 6)

SOR ¶¶ 2.c cross alleges the allegations under Guideline H, SOR ¶¶ 1.a and 1.b. (GE 1 at 25; GE 2 at 6-11; GE 3) Finally, SOR ¶¶ 2.d was amended to conform with the evidence during the hearing as mentioned in the Procedural Matter section above. (Tr. 35, 56-59, 62)

Summary of the Facts

On his December 2023 SCA, Applicant listed that he used marijuana on one occasion in July 2023, in response to questions under Section 23 – Illegal Drugs or Drug Activity. He wrote he only used it once on a trial basis. He admitted that he held a security clearance at the time that he tried it. He mentioned that he does not intend to use marijuana in the future. He wrote, “i control my life not drugs.” (GE 1 at 25)

Applicant began using marijuana in late 2019. He claims he began to use marijuana in order to deal with stress, depression and anxiety. The COVID-19 pandemic also created more stress. He used marijuana on the weekends until April 2024. He said that it helped with his clarity, and it took the edge off. He did not have a medical prescription for marijuana. During his personal subject interview in April 2024, he indicated that he used marijuana between 10 and 20 times starting in 2019 to April 2024. He claimed he used marijuana about three to four times a year. He admits he was aware that the use of marijuana was illegal under federal law. He also admits he possessed a security clearance during the timeframe that he used marijuana. (Tr. 31-36, 42, 45-56; GE 2 at 11) In response to DOHA interrogatories on November 27, 2024, he listed that he illegally used marijuana on three occasions between March 10, 2021, to June 2022. (GE 2 at 6)

Applicant initially testified that he purchased marijuana from state dispensaries. He admitted using marijuana before his state and neighboring states legalized marijuana for personal use and that he initially illegally purchased marijuana from friends. Once the use and purchase of marijuana became legal under state law, he purchased it from state-approved marijuana dispensaries. He admits that he did not tell the investigator conducting his background investigation that he purchased marijuana illegally from friends. In the investigator's summary of the Applicant's unsworn personal subject interview, the investigator wrote that Applicant told him he intended to use marijuana in the future even though he knew it was federally illegal. He wanted to keep using marijuana even though he had a security clearance because it helped with his clarity. (Tr. 56-58; GE 2 at 11)

Applicant told the investigator during his April 2024 background investigation interview that he illegally used psilocybin on one occasion in the summer of 2023. He purchased the psilocybin in another jurisdiction. He was aware the sale of psilocybin was illegal in the jurisdiction where he purchased it. He used it by himself when he was home alone. During the hearing, he admitted not listing his purchase and use of psilocybin on his December 2023 security clearance application in response to Section 23 – Illegal Use of Drugs and Drug Activity. He said that he has no excuse for not listing it on the security clearance application. He hoped to clear it up during his security clearance investigation. (Tr. 40-42; 62-63)

In his November 2024 response to DOHA Interrogatories, Applicant wrote on a chart that he illegally used marijuana on three occasions between March 10, 2021, and June 2022; and that he illegally used psilocybin/mushrooms one occasion between March 10, 2021, to April 2021. (GE 2 at 6) The interrogatory also included a copy the investigator's summary of Applicant's April 2024 personal subject interview which included his admissions of illegally purchasing and using marijuana between 2019 to April 2024; and illegally purchasing and using psilocybin/mushrooms on one occasion in July 2023. Applicant was asked to review the summary of his personal subject interview. The

interrogatory then asked “Does the report accurately reflect the information that you provided during the interview?” Applicant answered, “Yes.” (GE 2 at 3) Several pages later, the interrogatory asks Applicant “Subject to any corrections, additions, or deletions indicated above or on the attached report, do you agree with and adopt the report as an accurate summary of your interview?” He answered, “No.” (GE 2 at 5) During the hearing, Applicant admitted the personal subject interview was an accurate summary of what occurred during his interview. (Tr. 52; GE 2 at 11-12)

While the dates Applicant provided during his April 2024 personal subject interview and on the November 2024 chart that he completed in his interrogatory response do not match, his omission of his illegal drug use on the chart appears to be inadvertent. The full extent of his illegal drug use was previously provided to the investigator during his April 2024 personal subject interview. In the same November 2024 response to interrogatory where Applicant completed the chart, he indicated that the summary of his personal interview was accurate. I do not find the discrepancy to be a material falsification or deliberate. I find SOR ¶ 2.b for Applicant.

On October 7, 2025, Applicant signed a pledge to abstain from all illegal drugs. He acknowledged that any future use of illegal drugs will be grounds for revocation of his security clearance and any national security eligibility. (AE B) He provided samples of his hair for hair follicle tests for illegal drug use on March 11, 2025, and October 9, 2025. He tested positive for marijuana and marijuana metabolites on the March 2025 hair analysis test. He tested negative on his October 2025 hair analysis test. (AE A) He testified that he is not sure why his hair tested positive during the March 2025 test because he had not used marijuana since April 2024. (Tr 42-43) (Aside from the hair follicle test results, no additional information was provided about the meaning of the hair follicle test results. For this reason, I do not give the hair follicle test results much weight.)

Applicant completed a Drug and Alcohol Awareness Class in March 2025. (AE D) He also attended counseling with a counselor he found through his employer’s Employee Assistance Program (EAP). Ms. R.S., one of his EAP counselors, indicated he completed six sessions. The sessions focused on his accepting responsibility for his marijuana use and learning healthier coping strategies and better ways to cope with stress. She stated that he accomplished these goals and has remained drug free. (AE C) During the hearing, Applicant indicated that the EAP program has helped him. He learned healthier approaches to deal with stress to include meditation, relaxation and breathing techniques. He also learned to write in a journal and to spend more time on his hobbies. (Tr. 37-39, 67-71)

Whole-Person Evidence

Mr. J.S. testified on Applicant’s behalf. He has held a security clearance since 2013. He worked for the same DOD Contractor and worked with Applicant for 13 years.

Mr. J.S. changed jobs in late November 2025. He was terminated for failure to return to the work site. He was working remotely in another state and did not want to return to the office. He describes Applicant as reliable, hardworking, and highly proficient. Customers repeatedly sought him because he does a good job. He would rank him among the top performers in his area of expertise. He is aware of Applicant's marijuana use and use of mushrooms and the issues it raised with his security clearance. He is also aware that Applicant suffered with depression. He is aware of their employer's drug policy and that marijuana remained illegal under federal law. He never suspected that Applicant was under the influence of drugs when he worked with him. Sometime before April 2024, Applicant came to him for advice when the issues arose with his security clearance. He advised him to get an attorney. Applicant told him that he stopped using marijuana. He trusts him and recommends that he be allowed to retain his security clearance. (Tr. 13-23)

Mr. J.M. has worked at the DOD Contractor where Applicant works for over 22 years. He holds a top-secret clearance. Among his duties, he is the section supervisor of the office where Applicant has worked over the past year. Applicant is the lead technician on the program. He has become a critical member of the team. He is an indispensable resource and has a strong work ethic and positive outlook when facing challenges. He also has taken the initiative to mentor his less experienced colleagues. Most of Applicant's work is performed in closed labs that are certified to hold secret information. He has never failed to properly follow the specific procedures to properly open or close those labs. He has never compromised national security. He supports Applicant being granted continued access to classified information. (AE H at 1-2)

Mr. N.M., Applicant's assistant group supervisor and program manager, has worked with him for over a year and a half. Applicant's job requires meticulous attention to detail and skill. He has demonstrated a high level of professionalism and dedication to the lab. In January 2025, Applicant told him that he had been using marijuana and mushrooms to self-medicate to manage stress. Mr. N.M. was surprised because he never suspected that he was under the influence of drugs or alcohol while at work. Applicant is taking this situation very seriously and is committed to making the necessary corrective actions. He is a skilled and valuable member of his team. He recommends his security clearance be retained. (AE H at 3)

Mr. R.O. works with Applicant. He describes him as a conscientious and reliable worker who takes obvious pride in the quality of his work. He consistently completes tasks in a timely manner while maintaining high standards of quality. He accomplishes his work with minimal supervision. He is highly regarded by others in the workplace. He takes security rules and regulations seriously. He recommends him for a security clearance without reservation. (AE H at 4-5)

Applicant's mother wrote a letter on his behalf. She wrote that from an early age Applicant has demonstrated unwavering loyalty to those around him. He is deeply trustworthy and has a strong work ethic. She is confident that he would be a valuable asset in any environment he chooses to be a part of. (AE H at 6)

Applicant received numerous awards from his employer. (AE G) He also provided a copy of his resume. (AE F) He has several hobbies to include fly fishing, hiking, and nature photography. (Tr. 24)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

The adjudicative 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 access to classified information will be resolved in favor of the 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 avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must 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 as to obtaining 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 that an applicant may deliberately or inadvertently fail to safeguard classified information.

Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

DOD and Federal Government Policy on Marijuana Use

On October 25, 2014, the Director for National Intelligence issued a memorandum titled, “Adherence to Federal Laws Prohibiting Marijuana Use” addressing concerns raised by the decriminalization of marijuana use in several states and the District of Columbia. The memorandum states that changes to state and local laws do not alter the existing National Security Adjudicative Guidelines. “An individual’s disregard for federal law pertaining to the use, sale, or manufacture of marijuana remains adjudicatively relevant in national security determinations.”

On May 26, 2015, the Director of the United States Office of Personnel Management (OPM) issued a memorandum titled, “Federal Laws and Policies Prohibiting Marijuana Use.” The Director of OPM acknowledged that several jurisdictions have decriminalized the use of marijuana, allowing the use of marijuana for medicinal purposes and/or for limited recreational use but states that Federal law on marijuana remains unchanged. Marijuana is categorized as a controlled substance under Schedule I of the Controlled Substances Act. Thus, knowing or intentional marijuana possession is federally illegal, even if the individual has no intent to manufacture, distribute, or dispense marijuana.

On December 21, 2021, the Director of National Intelligence signed the memorandum, *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*. It emphasizes that federal law remains unchanged with respect to the illegal use, possession, production, and distribution of marijuana. Individuals who hold a clearance or occupy a sensitive position are prohibited by law from using controlled substances. Disregard of federal law pertaining to marijuana (including prior recreational marijuana use) remains relevant, but not determinative, to adjudications of eligibility. Agencies are required to use the “whole-person concept” stated under SEAD 4, to determine whether the applicant’s behavior raises a security concern that has not been mitigated.

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 and substance misuse under AG ¶ 25 and the following are potentially applicable:

AG ¶ 25(a) any substance misuse;

AG ¶ 25(c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and

AG ¶ 25(f) any illegal drug use while granted access to classified information or holding a sensitive position.

The record evidence shows Applicant illegally purchased and used marijuana at various times from about 2019 to about April 2024. He was aware that marijuana remained illegal under federal law, even if it was made legal under state law. He admits that he was employed in a sensitive position with a DOD contractor and that he purchased and used marijuana while he possessed a security clearance and handled classified information. Applicant also illegally purchased and used psilocybin on one occasion in July 2023. He was aware that it was illegal and admits that he possessed a security clearance at the time he used it. AG ¶ 25(a), AG ¶ 25(c), and AG ¶ 25(f) apply to Applicant's case.

The Government's substantial evidence and Applicant's admissions raise security concerns under Guideline H. The burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the security concerns. (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. Sept. 22, 2005))

The guideline also includes examples of conditions that could mitigate security concerns arising from drug involvement and substance misuse. The following mitigating conditions under AG ¶ 26 potentially apply:

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

AG ¶ 26(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) does not apply. Applicant's last use of marijuana was in April 2024 the same month that he was interviewed for his background investigation and after he submitted his December 2023 SCA in which he stated his intent to not use marijuana in the future. Not enough time has passed to conclude Applicant will fully abstain from illegal drug use. He admits to purchasing and using marijuana at least ten times between late 2019 and April 2024 and to purchasing and using psilocybin once in July 2023. He used marijuana and psilocybin while he possessed a security clearance, held a sensitive position and while actively handling classified information. He was fully aware that illegal drug use, including marijuana use, was prohibited. He was aware that marijuana use remained illegal under federal law. His conduct raises questions about his reliability, trustworthiness and good judgment. Not enough time has passed to conclude he has fully stopped marijuana use based on his history. He was fully aware that marijuana use was not compatible with holding a security clearance and if discovered, could jeopardize his career yet he illegally used and purchased marijuana for more than four years and illegally purchased and used psilocybin in July 2023. For these reasons, security concerns remain about Applicant's reliability, trustworthiness and good judgment.

AG ¶ 26(b) partially applies. In October 2025, Applicant provided a statement of intent to abstain from illegal drug involvement and substance misuse. He acknowledged that any future illegal drug involvement may result in the revocation of his security clearance. However, this mitigation is given less weight because he previously indicated his intent to abstain from illegal drug use on his December 2023 SCA but he continued to use marijuana until April 2024. Applicant's was aware that the illegal purchase and use of marijuana and psilocybin was not compatible with working in a sensitive position and holding a security clearance. He chose to purchase and abuse illegal drugs despite these concerns.

Overall, I found Applicant did not mitigate the security concerns raised under Guideline H, Drug Involvement and Substance Misuse.

Guideline E – Personal Conduct

The security concern relating to the guideline for Personal Conduct is set out 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.

The following disqualifying conditions under AG ¶ 16 potentially apply to Applicant's case:

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;

AG ¶ 16(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 national security eligibility determination, or other official government representative; and

AG ¶ 16(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.

AG ¶ 16(a) applies with regard to SOR ¶ 2.a. Applicant deliberately failed to list the extent of his illegal purchase and use of marijuana and psilocybin on his December 2023 security clearance application in response to Section 23 – Illegal Drugs or Drug Activity. He listed that he only used marijuana one time in July 2023 and omitted his purchases and uses of marijuana between 2019 to about April 2024. The specific allegation in SOR ¶ 2.a focused on being “involved in the illegal purchase, manufacture, cultivation, trafficking, production, transfer, shipping, handling or sale of any drug or controlled substance?” The applicable conduct in the above sentence is being involved in the “illegal purchase.” For reasons unclear in the record, the allegation did not include the language about Applicant's minimization of his “illegal use” of marijuana and psilocybin. I find Applicant deliberately omitted his illegal purchases of marijuana and psilocybin on his December 2023 security clearance application. While I find Applicant deliberately minimized the extent of his illegal drug use on his December 2023 security clearance application, it was not properly alleged in the SOR. As such, I will only consider

the minimization of his illegal marijuana and psilocybin use under matters of extenuation and mitigation, credibility and under the whole person.

AG ¶¶ 16(a) and 16(b) potentially apply towards the allegation in SOR ¶ 2.b. Based on the facts, I found this allegation for Applicant. While Applicant minimized the extent of his marijuana use and provided the wrong date of his one-time psilocybin use on the chart he was required to complete in his response to DOHA Interrogatories executed by him on November 27, 2024, he previously provided the full extent of his illegal marijuana use and psilocybin use during his April 2024 background investigation interview. I find the incorrect information provided by Applicant on the chart to be immaterial, because the government was aware of the full extent of his illegal drug use since April 2024. I also considered that both the chart and the summary of the April 2024 background investigation interview were included in Applicant's November 2027 response to DOHA interrogatories. I do not find the discrepancy to be a deliberate falsification. I find SOR ¶ 2.b for Applicant.

SOR ¶ 2.c cross alleges the Guideline H allegations in SOR ¶¶ 1.a and 1.b. I find these concerns were appropriately alleged under Guideline H. SOR ¶ 2.c is found for Applicant.

SOR ¶ 2.d alleges that Applicant falsified material facts during an April 10, 2024, interview with an authorized investigator for the DOD when he disclosed that he purchased marijuana at dispensaries that were legal under the state jurisdictions where they were located when he intentionally failed to disclose that he purchased marijuana illegally from his friends. While Applicant initially told the investigator that he purchased marijuana from dispensaries, he admitted during the hearing that before marijuana became legal in the jurisdictions where he purchased marijuana, he would purchase marijuana illegally from his friends. While relevant, I don't find the distinction to be material. Marijuana remained illegal under federal law even though it was legalized under state law. SOR ¶ 2.d is found for Applicant.

AG ¶ 16(e) applies with regard to Applicant's deliberate failure to list his illegal drug purchases as alleged in SOR ¶¶ 1.a and 1.b on his December 2023 security clearance application. His omission made him vulnerable to exploitation, manipulation or duress because it could potentially adversely affect his professional standing.

Under Guideline E, the following mitigating conditions potentially apply in Applicant's case:

AG ¶ 17(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

AG ¶ 17(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(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

AG ¶ 17(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

AG ¶ 17(a) does not apply. Applicant deliberately falsified his December 2023 security clearance application by minimizing his illegal drug purchases. As a matter of extenuation and mitigation, I also considered that he minimized his illegal drug use on his December 2023 SCA. He was concerned that his illegal drug involvement could jeopardize his career. He did not disclose the extent of his illegal drug use until his background investigation interview in April 2024. His disclosure cannot be considered prompt. He continued to use marijuana after he submitted his December 2023 SCA until April 2024 just before his personal subject interview. The Government expects individuals who are granted access to classified information to always be truthful and straight forward. Intentional falsifications cut to the heart of the security clearance process. A person who lies during the security-clearance process is not trustworthy. They cannot be relied upon to report a security infraction or violation. This mitigating condition does not apply.

AG ¶ 17(c) does not apply. Applicant has been entrusted with a security clearance since 2015. He was aware that the purchase and use of illegal drugs, to include marijuana and psilocybin, was not compatible with holding a security clearance. He was aware that marijuana use remained illegal under federal law even though it became legal under state law. He started using marijuana in 2019 and did not stop until April 2024. Applicant's behavior was not minor. It was relatively recent and casts doubt on his current reliability, trustworthiness and good judgment.

AG ¶ 17(d) partially applies because Applicant has acknowledged his illegal drug use. He has attended counseling to deal with his stress and anxiety. However, it is too soon to conclude that Applicant will no longer abuse illegal drugs. His most recent confirmed illegal drug use occurred in April 2024, several months after declaring his intent not to use illegal drugs in the future on his December 2023 SCA and less than two years ago.

AG ¶ 17(e) applies because Applicant has now fully disclosed his past illegal drug abuse. He is no longer vulnerable to exploitation, manipulation, or duress.

Considering all of the evidence, the security concerns under Personal Conduct 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 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 Guidelines H and E and the AG ¶ 2(d) factors in this whole-person analysis.

I considered that Applicant has worked for the same DOD contractor since 2015. I considered that he has received four promotions based on his work performance. I considered the favorable comments from his friends and colleagues. Applicant's superiors and customers highly praised his work knowledge and duty performance. He was held in high esteem and had a wonderful career ahead of him. He chose to violate their trust by purchasing and using illegal drugs on various occasions between late 2019 and April 2024. His use occurred while he held a sensitive position and a security clearance. I considered that he initially minimized his illegal use and purchase of marijuana and did not list his illegal use and purchase of psilocybin in July 2023 on his December 2023 security clearance application. While he eventually disclosed his illegal drug use during his April 2024 background investigation interview, his disclosures are not considered prompt. His illegal drug use over more than a four-year period while employed by a DOD contractor and possessing a security clearance indicates Applicant did not respect the rules and violated the trust given to him for handling classified information.

While he stopped using marijuana in April 2024 and stated his intent to not use illegal drugs in the future, it is too soon to conclude Applicant will follow through on his intentions.

After weighing the disqualifying and mitigating conditions under Guidelines H and E and evaluating all the evidence in the context of the whole person, I conclude Applicant did not mitigate the security concerns raised by his 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
Subparagraphs 1.a – 1.b:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	For Applicant
Subparagraph 2.c:	For Applicant
Subparagraph 2.d:	For Applicant

Conclusion

In light of all of the circumstances presented, it is not clearly consistent with the interests of national security to grant Applicant's eligibility for access to classified information. Eligibility for access to classified information is denied.

Erin C. Hogan
Administrative Judge