



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



In the matter of:	)	
	)	
	)	ISCR Case No. 25-00622
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government:  
Carroll Connelley, Esquire, Department Counsel

For Applicant:  
Matthew J. Thomas, Esquire, Applicant's Counsel

02/23/2026

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**Decision**

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CEFOLA, Richard A., Administrative Judge:

**Statement of the Case**

On March 3, 2022, and again on May 1, 2024, more than two years later, Applicant submitted security clearance applications (e-QIPs). On May 20, 2025, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guidelines H and E. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security*

*Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense on June 8, 2017.

Applicant answered the SOR in writing (Answer) on June 10, 2025, and requested a hearing before an administrative judge. The case was assigned to me on September 10, 2025. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on November 24, 2025. I convened the hearing as scheduled on January 22, 2026. The Government offered Government Exhibits 1 through 3, which were admitted without objection. Applicant testified on his own behalf, called three witnesses, and offered Applicant Exhibits (AppXs) A through I. The record closed at that time. DOHA received the transcript of the hearing (TR) on February 9, 2026.

### **Findings of Fact**

Applicant admitted to the allegations in SOR ¶¶ 1.a, 1.b, and 1.d. He denied SOR allegations ¶¶ 1.c, 1.e, 2.a. and 2.b. SOR ¶¶ 1.c. and 1.e. were subsequently withdrawn by Department Counsel. (TR at page 6 lines 15~20.) After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 26-year-old employee of a defense contractor. He was employed with the defense contractor from May 2022 through August 2022 as an Optical Engineering Intern. Since August of 2023 he has been employed by that same contractor as an Optical Engineer. He has held a security clearance since June 2022. Applicant is unmarried and has no children. (TR at page 5 lines 5~18, at page 60 line 24 to page 65 line 24, and GX 1 at pages 14, 16, 25~26 and 46.)

### **Guideline H - Drug Involvement and Substance Misuse**

1.a. Applicant admits that he used marijuana, with varying frequency, from about October 2017 to about March 2022. He used it in social settings, for example with college fraternity brothers, “a couple times a week.” Applicant ceased his marijuana usage when he realized its impact on his security clearance application. Applicant has made a declaration of intent against future usage, has taken drug courses, and tested negative for illegal drug usage in June 2025 and January 2026. A state licensed psychologist opined: “at this time [May 2025], it is the evaluator’s professional opinion that there are no concerns regarding judgment, trustworthiness, or reliability.” I agree with this finding. (TR at page 85 line 14 to page 89 line 17, GX 1 at page 40, and AppXs A~D.)

1.b. Applicant admits that he used cocaine, with varying frequency, from about March 2019 to about October 2022. He again used it in social settings, for example with college fraternity brothers, “every couple months . . . to a few times a month.” Applicant’s

use ceased in spring of 2021, except for a one-time usage in October 2022. Applicant made a declaration of intent against future usage, has taken drug courses, and tested negative for illegal drug usage in June 2025 and January 2026. A state licensed psychologist opined: “at this time [May 2025], it is the evaluator’s professional opinion that there are no concerns regarding judgment, trustworthiness, or reliability.” I agree with this finding. (TR at page 89 line 18 to page 90 line 12, GX 1 at page 41, and AppXs A~D.)

1.c. has been withdrawn.

1.d. Applicant admits that he used LSD, “twice with friends in college,” once in February 2020 and again in August 2020, more than five years ago. Applicant made a declaration of intent against future usage, has taken drug courses, and tested negative for illegal drug usage in June 2025 and January 2026. A state licensed psychologist opined: “at this time [May 2025], it is the evaluator’s professional opinion that there are no concerns regarding judgment, trustworthiness, or reliability.” I agree with this finding. (TR at page 95 lines 9~11, GX 1 at pages 41~42, and AppXs A~D.)

1.e. has been withdrawn.

### **Guideline E - Personal Conduct**

2.a. Applicant denies that he falsified his March 2022 e-QIP when he answered “No,” to “Section 23 – Illegal Use of Drugs or Drug Activity.” He failed to disclose his use of cocaine and LSD, as noted in subparagraphs 1.b. and 1.d, above. Applicant avers, credibly, that his answer was based on, in hindsight, bad advice given to him by his father, which is confirmed by his father. He was a 22-year-old intern at the time of the alleged falsification; however, Applicant disclosed all his past drug use on his May 2024 e-QIP. (Without this disclosure, the Government would have known nothing about his past-drug usage.) I find this to be misguided, but not to be a deliberate, willful falsification. (TR at page 66 line 1 to page 70 line 25, at page 91 line 2 to page 92 line 5, at page 92 lines 12~23, GX 1 at page 41, GX 2 at page 35, and AppX I.)

2.b. Applicant denies that he falsified his March 2022 e-QIP when he answered “Yes” to “Section 23 – Illegal Use of Drugs or Drug Activity . . . In the Last seven (7) years.” He disclosed he used marijuana from October 2017 until “10/2021 (Estimated).” This does not comport with the “03/2022” end date noted on his May 2024 e-QIP. Applicant avers these were his best estimates; at the times he filled out his e-QIPs. This is but a five-month difference in the end date of an admitted four-plus years of marijuana usage. I find this not to be a deliberate, willful falsification. (TR at page 61 line 1 to page 68 line 17, GX 1 at page 40, and GX 2 at page 35.)

## Policies

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. I have not drawn inferences based 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 the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person applying for national security eligibility seeks to enter 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of Executive Order 10865, "[a]ny determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned."

See *also* Executive Order 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 relating to the guideline for Drug Involvement and Substance Misuse is set forth at 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.

The guideline at AG ¶ 25 contains seven conditions that could raise a security concern and may be disqualifying. One condition is established:

(a) any substance misuse (see above definition).

Appellant used marijuana, cocaine and LSD in social settings while attending college. Therefore, AG ¶ 25 (a) is established.

The guideline at AG ¶ 26 contains four conditions that could mitigate security concerns. Two conditions may be 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.

Applicant's cocaine, marijuana and LSD usages were three, four and five years ago, respectively. He no longer lives in a fraternal college environment, and signed a statement of intent to abstain from future drug involvement. Drug Involvement and Substance Misuse is found for Applicant.

#### **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 will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

- (a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, cooperation with medical or psychological evaluation, or polygraph examination, if authorized and required; and

(b) refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. Two are potentially applicable 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; and

(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.

Applicant falsified his March 2022 e-QIP. Therefore, AG ¶ 16 (a) is established.

AG ¶ 17 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 17 including:

(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; and

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

AG ¶ 17 (c) is applicable. Applicant's non-disclosure of his past-use of cocaine and LSD occurred under unique circumstances. He relied on the misguided advice of his father. Applicant corrected this error in judgment when he executed his subsequent May 2024 e-QIP. Although not prompt, it was a good-faith effort to correct his prior, now realized error in judgment. As to his admitted use of marijuana on his March 2022 e-QIP, his end date was "Estimated." Applicant disclosed his last use of marijuana, as best he could recollect, when he executed his e-QIPs. Personal Conduct is found for Applicant.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's national security eligibility 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.

According to AG ¶ 2(c), the ultimate determination of whether to grant national security eligibility must be an overall commonsense judgment based upon careful consideration of the applicable guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. I have incorporated my comments under Guidelines H and E in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment.

Applicant has a distinguished history of working in the defense industry and is respected by the three witnesses who testified on his behalf. He performs well at his job. (TR at page 15 line 19 to page 60 line 2, and AppX F and G.)

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the Drug Involvement and Substance Misuse, and the Personal Conduct security concerns.

## **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of the Directive, are:

Paragraph 1, Guideline H:	FOR APPLICANT
Subparagraphs 1.a, 1.b. and 1.d:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a. and 2.b:	For Applicant

## **Conclusion**

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

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Richard A. Cefola  
Administrative Judge