



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



In the matter of:	)	
	)	
	)	ISCR Case No. 25-00400
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government:  
Andre M. Gregorian, Esq, Department Counsel

For Applicant:  
*Pro se*

02/24/2026

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**Decision**

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CEFOLA, Richard A., Administrative Judge:

Applicant has mitigated the concerns raised under the Drug Involvement adjudicative guideline but has not mitigated the security concerns raised under the Personal Conduct guideline. National security eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a Questionnaire for Public Trust Positions on December 1, 2020 (2020 Questionnaire) and one for National Security Positions on June 11, 2024 (2024 Questionnaire). On April 25, 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) and Guideline E (Personal Conduct). The action was taken under Executive Order 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) effective within DoD after June 8, 2017.

On June 12, 2025, Applicant responded to the SOR in writing (Answer) and requested that the case be decided on the written record in lieu of a hearing. In his Answer, Applicant admitted each allegation. On June 27, 2025, Department Counsel submitted the Government's written case in a File of Relevant Material (FORM). A complete copy of the FORM, consisting of Government Exhibits (GE) 1 to 6 and the Government's arguments in support of the SOR, was received by the Applicant on July 10, 2025. He was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. He submitted an undated two-page statement (Response) received by DOHA on or about August 28, 2025. In the same statement, Applicant provided the name of a potential character witness with contact information, but no statement from the same. The Hearing Office declines the Applicant's offer to conduct additional investigation on his behalf. The case was assigned to me on February 18, 2026, and GE 1 to 6 were admitted without objection, as was the Response.

### **Findings of Fact**

Applicant is 28 years old and is presently employed as an operations consultant for a DoD contractor where he has worked since November 2020. He graduated from college in May 2020 with a bachelor's degree. He submitted the 2020 Questionnaire shortly after starting his employment with the DoD contractor after which time he was granted public trust eligibility on March 9, 2021. He then submitted the 2024 Questionnaire seeking a secret clearance in connection with his employment. He is unmarried and has no children. (GE 3 at 7, 14, 15; GE 4 at 10; GE 6 at 3)

#### **SOR Paragraph 1, Guideline E (Personal Conduct)**

The Government alleged that Applicant is ineligible for a security clearance because he had engaged in conduct that involved questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations. I find the following facts regarding this allegation:

**1.a. Falsification in 2024 Questionnaire by omitting reference to any drug use.** Applicant's answers to the 2024 Questionnaire Section 23 (Illegal Use of Drugs or Drug Activity) uniformly deny any drug involvement. As discussed *infra*, these answers were untrue. In his Answer, Applicant admitted to the allegation as drafted, however, and also acknowledged in his Response having intentionally provided false information on the 2024 Questionnaire. He was untruthful because he "was concerned it would reflect negatively on his character and conduct." (Answer at 1; Response at 1; GE 4 at 31; GE 5 at 12)

**1.b. Falsification in 2020 Questionnaire by omitting reference to any drug use.** Applicant's 2020 Questionnaire answers to Section 28 (Your Use of Illegal Drugs and Drug Activity) uniformly deny any drug involvement. As discussed *infra*, these answers were untrue. In his Answer, Applicant admitted to the allegation as drafted, however, and also acknowledged in his Response having intentionally provided false information on the 2020 Questionnaire. He was untruthful because "he did not feel (his

drug use) was relevant to the background investigation” and “could negatively impact his ability to get a job.” (Answer at 1; Response at 1; GE 3 at 30; GE 5 at 13)

**1.c. False statement to investigator during November 2024 interview.** Applicant’s initial responses to the investigator’s questions during his November 18, 2024, Subject Interview (SI) contained intentional falsehoods. Specifically, he denied the use of any illegal drugs, to include marijuana. He also denied having ever provided false statements on any official forms. As discussed *infra*, these answers were untrue. In his Answer, Applicant admitted to the allegation as drafted, but noted that he eventually told the investigator the truth. He also acknowledged in his Response as having intentionally provided false answers to the investigator. In addition, though not alleged, Applicant acknowledged having also failed to disclose his drug use to a previous interviewer in 2020 in part because “he had not taken the interview very seriously.” (Answer at 1; Response at 1; GE 5 at 1, 12-13)

## **SOR Paragraph 2, Guideline H (Drug Involvement and Substance Misuse)**

The Government alleged that Applicant is ineligible for a security clearance because he used cocaine over a four-year span – including while employed in a sensitive position. The Government also alleged lysergic acid psychedelic (LSD) use over a nearly three-year span, and marijuana use for approximately nine months. Based upon the evidence presented in the administrative record, I find the following facts regarding the history and status of Applicant’s drug use:

**2.a. Cocaine Use from August 2017 to July 2021.** In his Answer, Applicant admitted to the allegation as drafted, but clarified that he ingested cocaine on only three occasions during that timeframe. Two of the uses were during college parties and the final use was a year after graduation under circumstances Applicant did not disclose. (Answer at 2; GE 5 at 2, 7, 12)

**2.b. Cocaine use from August 2017 to July 2021 “while employed in a sensitive position.”** In his Answer, Applicant admitted to the allegation as drafted, but clarified that at the time of the use in July 2021, he was assigned duties working for a different, non-DoD government agency. The record evidence shows that at that time, the Applicant was granted public trust eligibility, not a security clearance. This issue is discussed further *infra*. (Answer at 2; GE 6 at 3).

**2.c. Marijuana use from August 2019 to May 2020.** In his Answer, Applicant admitted to the allegation as drafted, but clarified that he ingested marijuana on only two occasions at college parties during that timeframe. (Answer at 2; GE 5 at 2, 12)

**2.d. Purchase/use of LSD from May 2016 to May 2019.** In his Answer, Applicant admitted to the allegation as drafted, but clarified that he purchased and ingested LSD on only two occasions while in college during that timeframe. (Answer at 2; GE 5 at 2, 3, 12)

## **Whole Person and Mitigating Evidence**

Applicant submitted a personal statement as whole person/evidence in mitigation of the security concerns alleged in the SOR. This submission was reviewed in its entirety, as well the comments and explanations Applicant included in his Answer and Response. Also noted was his response to interrogatories wherein he made a statement of intent to not use federally illegal drugs in the future. (Answer, Response, GE 5 at 3).

### **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, "Any 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, "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, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 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, “Any 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**

### **SOR Paragraph 1 (Guideline E, Personal Conduct)**

The security concerns relating to the guideline for personal conduct are set out in AG ¶ 15, which states:

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 facts of this case establish the following potentially disqualifying conditions set forth in 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; 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 admitted to falsifying relevant facts on his 2020 and 2024 Questionnaires, as well as intentionally providing initially false answers to the investigator during his November 2024 interview. AG ¶¶ 16(a) and (b) are applicable; therefore, the burden shifts to Applicant to mitigate security concerns under Guideline E.

The guideline includes the following two conditions in AG ¶ 17 that could mitigate security concerns arising from Applicant's conduct:

(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; and

(d) the individual has acknowledged the behavior and obtained counseling to change the behaviors 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 reoccur.

Applicant eventually decided to be truthful with the investigator after his initial false statements. This is insufficient, however, to overcome the pattern of deception in which he engaged in two separate Questionnaires and six specific questions by the investigator about drugs and dishonesty. And as discussed *supra*, Applicant also failed to disclose his drug use to a different interviewer in 2020 because he – the Applicant – “did not feel that it was relevant.” As such, the behavior cannot be said to be infrequent or to have occurred under unique circumstances. Likewise, the frequency and recency of the behavior cannot be said to render it unlikely to reoccur, despite the remorse Applicant discussed in his Response. On several occasions, Applicant lied to the DoD to paint himself in a better light. Additionally, he also substituted his own judgment in deciding what was relevant information for the DoD to use when determining his security clearance eligibility. This self-serving decision-making reflects poorly on Applicant's reliability and trustworthiness. His personal conduct is not mitigated and continues to cast doubt on his currently reliability, trustworthiness, and good judgment. None of the mitigating conditions, individually or collectively, are sufficiently applicable to overcome Applicant's falsifications and self-serving conduct.

## **SOR Paragraph 2, Guideline H (Drug Involvement and Substance Misuse)**

The security concerns relating to the guideline for drug involvement and substance misuse are set out in AG ¶ 24, which reads as follows:

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 facts of this case establish the following potentially disqualifying condition set forth in AG ¶ 25:

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

Applicant admitted using marijuana, cocaine, and LSD. AG ¶25(a) is applicable; therefore, the burden shifts to Applicant to mitigate security concerns under Guideline H.

The guideline includes the following two conditions in AG ¶ 26 that could mitigate security concerns arising from Applicant's drug use:

(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 the 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.

The vast majority of Applicant's drug use was during college with the exception of his last use of cocaine – but that was still nearly five years ago. He has since moved on with his job and his life – and has expressed having no intention to use federally illegal drugs in the future. AG ¶26(a) and (b) apply.

Finally, it should be noted that the Government alleged an additional potentially disqualifying condition set forth in AG ¶ 25:

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

This condition is inapplicable here because the record evidence shows that Applicant had only been granted public trust eligibility at the time of the cocaine use – not a security clearance. It is conceivable that an Applicant’s duties while granted public trust eligibility could amount to a “sensitive position” as defined in Security Executive Agent Directive 4 (SEAD 4):

Any position within or in support of an agency in which the occupant could bring about, by virtue of the nature of the position, a material adverse effect on the national security regardless of whether the occupant has access to classified information, and regardless of whether the occupant is an employee, military service member, or contractor.

But as Public Trust Position is explained in 5 CFR §731.106:

Any position subject to risk designation under this section must also receive a sensitivity designation of Special-Sensitive, Critical-Sensitive, Noncritical-Sensitive, or Non-sensitive as appropriate.

The Government has failed to provide any evidence that Applicant’s job in 2021 was a “sensitive position.” Instead, the Government simply presumes that “Public Trust Position” equates to a “Sensitive Position” in all instances, *res ipsa loquitor*. It does not. And in the absence of any evidence in the record to support the Government’s stark claim in ¶2(b) of the SOR that Applicant was “employed in a sensitive position,” this allegation cannot be found against the Applicant.

In reviewing the facts of this case with respect to mitigation, I have considered the Security Executive Agent’s *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* (Dec. 2021) (Clarifying Guidance). This guidance provides, “particularly in response to the increase in the number of states and local governments legalizing or decriminalizing uses of marijuana” that prior “marijuana use by an individual may be relevant to adjudications but not determinative.” (Clarifying Guidance at 1-2.) The guidance emphasizes the importance of the Whole-Person Concept in marijuana cases in weighing the “variables in an individual’s life to determine whether the 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 adjudication determination.” (Clarifying Guidance at 2.) Accordingly, the analysis of this case must weigh both the above mitigating conditions and particularly the Whole-Person Concept. See ISCR Case No. 22-01865 at 4-5 (App. Bd. Jun. 17, 2025).

## Whole-Person Concept

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

Also, given the Applicant's admission of his failure to reveal his drug use to a different investigator in 2020 (which is not listed in the SOR) it is important to note the well-established premise that unalleged conduct may still properly be considered by the administrative judge (ISCR Case No. 03-20327 at 3 (App. Bd. Oct. 26, 2006)):

- a. To assess an applicant's credibility;
- b. To evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances;
- c. To consider whether an applicant has demonstrated successful rehabilitation;
- d. To decide whether a particular provision of the Adjudicative Guidelines is applicable; or
- e. To provide evidence for the whole person analysis.

Under AG ¶ 2(c), the ultimate determination of whether to grant national security 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 above whole-person factors and the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. I have given the appropriate weight to Applicant's Statement of Intent to Abstain in his response to interrogatories I have also considered the comments in both his Answer and Response.

I have resolved the allegation of use "while employed in a sensitive position" in Applicant's favor as I find it to be unsupported by the record evidence. In addition, I have resolved the other drug allegations in Applicant's favor as they are dated and occurred during his time in college. The remaining personal conduct issues cannot be resolved in Applicant's favor, however, and overall, the record evidence leaves me with questions and doubts as to Applicant's suitability for national security eligibility and a security clearance.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline E:	AGAINST APPLICANT
Subparagraphs 1.a through 1.c:	Against Applicant
Paragraph 2, Guideline H:	FOR APPLICANT
Subparagraphs 2.a through 2.d:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant national security eligibility. Eligibility for access to classified information is denied.

RICHARD A. CEFOLA  
Administrative Judge