



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



In the matter of: )  
)  
) ISCR Case No. 25-00900  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Cassie Ford, Esq., Department Counsel  
For Applicant: Aidan P. Connor, Esq.

03/04/2026

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**Decision**

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HOGAN, Erin C., Administrative Judge:

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

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on July 14, 2023. (Government Exhibit (GE) 1) The Defense Counterintelligence & Security Agency (DCSA) issued Applicant a Statement of Reasons (SOR) on August 18, 2025, 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 September 25, 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 December 3, 2025, and it was assigned to me on December 4, 2025. The hearing was scheduled for January 27, 2026, and held on that date. Department Counsel offered four exhibits which were marked and admitted as Government Exhibits (GE) 1-4 without objection. Applicant through his counsel offered three exhibits, which were marked and admitted as Applicant Exhibits (AE) A-C without objection. Applicant testified and called one witness during the hearing. The transcript (Tr.) was received on February 9, 2026.

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

### **Findings of Fact**

In Applicant's SOR response, he admitted the allegations in the SOR. His admissions are accepted as findings of fact.

Applicant is a 30-year-old employee of a DOD contractor since January 2023. He served on active duty in the United States Air Force from September 2018 to November 2022. He separated in the rank of Senior Airman (E-4) with an honorable discharge. He was first granted a secret security clearance when he was in the Air Force. He has a college degree and holds several computer certifications. He was born in the Philippines. His family moved to the United States in January 2004 and he became a naturalized U.S. citizen in April 2016. He is single and has no children. (Tr. 36-46, 62-63; GE 1; AE C, enclosure 3)

### **SOR Allegations**

The SOR alleges under Guideline H, Drug Involvement and Substance Misuse, that Applicant purchased and used marijuana with varying frequency from about January 2023 to about April 2023, while holding a sensitive position, i.e. one that requires a security clearance. (SOR ¶ 1.a: GE 1 at 38-40; GE 2 at 4,76; GE 4)

Under Guideline E, Personal Conduct, the allegations include that Applicant deliberately withheld material facts during a polygraph examination administered by a government agency on February 22, 2023, when he failed to disclose his drug use (SOR ¶ 2.a: GE 1 at 15; GE 2 at 7 – 9; GE 3) and that on or around 2023, he deliberately omitted or withheld material facts from a government agency during security processing when he

failed to disclose a foreign national contact with whom he had a romantic relationship in 2022. (SOR ¶ 2.b: GE 2 at 8)

### **Summary of the Facts**

Between February 2023 to about April 2023, Applicant purchased and used marijuana approximately two to three times a week. He purchased marijuana from a dispensary in a jurisdiction where the recreational use of marijuana was legal. He ingested marijuana via a vape pen. He would take approximately 10-20 puffs from a vape pen in order to feel the effects of marijuana. He used it alone in his apartment after work. At the time he started to use marijuana he was going through a hard time. His grandfather had suffered a heart attack. As a result, he drove to where his grandparents lived each weekend, so he could care for his grandmother. He was involved in a small car accident which caused him additional emotional distress. He used marijuana to deal with stress. (Tr. 47-54; GE 1 at 39; GE 2 at 7)

Applicant admits that it was very poor judgment for him to use marijuana. He held an active security clearance at the time he used marijuana. He was aware that he was not supposed to use marijuana while possessing a security clearance. He claims that stress clouded his judgment. During the time he used marijuana, he felt like everything was going wrong. (Tr. 55-56, 66-67; GE 2 at 7)

On February 22, 2023, Applicant attended a counter-intelligence polygraph with a government agency as part of a requirement for his job. On May 2, 2023, a second polygraph was scheduled. During the pre-test interview, he admitted that he had been using marijuana since the beginning of 2023. He told the polygrapher that he used marijuana ranging from daily to a couple times per week with his last use being three weeks prior to the polygraph. He also admitted that he did not disclose his marijuana use during his February 22, 2023, polygraph examination because he was afraid that it would affect his security clearance. As a result of his admissions, on May 25, 2023, the government agency removed his access to sensitive compartmented information (SCI) and reported the access suspension in the security clearance database. His access to classified information at the secret level was not removed pending additional investigation into the matter. He was reassigned to a position with a different customer of the DOD contractor. (Tr. 57, 67, 71-75, 84-86; GE 3)

On September 22, 2025, Applicant signed a statement of intent to abstain from using or purchasing illegal drugs in the future. He acknowledged any future drug involvement is grounds for the immediate revocation of his security clearance. He acknowledged his past drug use was a mistake. He regrets using and purchasing marijuana in the past and regrets using marijuana while holding a sensitive position. He has abstained from marijuana since April 2023. The stressors that contributed to his marijuana use have been fully resolved. He takes full responsibility for his actions and

sincerely apologizes. (AE C, encl 5) On January 14, 2026, Applicant provided a hair sample to test for illegal drugs in his body. The test results were negative. (AE B)

In approximately April 2022, Applicant met Ms. M. through a social media application. Ms. M. is a citizen of the Philippines who was residing in the U.S. She was a teacher who had a work VISA. In May 2022, Applicant traveled to the state where Ms. M. was living and they became romantically involved. After he returned from the trip, they communicated on a daily basis. Around June or July 2022, his girlfriend was arrested while they were in the middle of a Facetime call. She was charged with several criminal offenses which will not be mentioned in this decision for privacy purposes but can be found in the case file. Applicant was not aware of Ms. M.'s criminal conduct and was not involved in the crimes that she committed. (Tr. 76-79; GE 2 at 7-8)

Applicant continued to provide emotional support to Ms. M. while she was pending trial. He visited her around August or September 2022. On date unknown she was tried and convicted on two charges. Her sentence included jail time and house arrest. Applicant continued to be in a relationship with her until December 2022. He ended the relationship because he realized that it was not going anywhere. Ms. M. moved back to the Philippines after she served out her sentence. From December 2022 to around April or May 2023, Applicant had sporadic contact with her via Instagram direct messaging. He has not contacted her since May 2023 and felt foolish after learning of her criminal activity. (Tr. 76-79; GE 2 at 7-8)

During his personal subject interview on October 24, 2023, Applicant indicated that he had a TS/SCI security clearance while in the Air Force. When he was hired by his current employer in January 2023, his TS/SCI was still active. He was required to take a polygraph in order to work on a certain contract. He took a polygraph in February 2023, which he failed. He believed that he failed the polygraph because he failed to list all of his foreign contracts on his SF 86. He did not list Ms. M. because he was embarrassed. He did not list other foreign contacts because he was too lazy to list them. He was given a second polygraph in May 2023. He revealed his marijuana use during the pretest interview and his access to SCI was suspended. His security clearance was not suspended. He was transferred to another position in a different agency that did not require an SCI access. (GE 2 at 8-9)

Applicant's involvement with Ms. M. was never disclosed to the polygrapher. There is no documentation in the record from the polygrapher about the polygraph test. The record is unclear as to whether the polygrapher asked Applicant about his foreign contacts. Sometime after the polygraph, Applicant made a formal report of his contact with Ms. M., a foreign national, through his employer's website with the help of his supervisor. He also listed her and several other acquaintances as foreign contacts on his July 2023, SCA in response to "Section 19 – Foreign Contacts." While he was aware that

he needed to report foreign contacts, he learned that he needed to report all foreign contacts in the correct and proper manner. (Tr. 79-83; 87-94; GE 1 at 32-33)

### **Whole-Person Evidence**

Several people wrote letters on Applicants behalf, to include:

Mr. S.B. testified and wrote a letter on Applicant's behalf. He currently holds a security clearance at the level of TS/SCI. He and Applicant worked in the same unit when they were on active duty in the Air Force. At present, he works for the same DOD Contractor as Applicant, but they do not work in the same area. While working with him in the Air Force, he observed Applicant's technical capabilities and leadership qualities. He was awarded Airman of Quarter twice. He had no security violations and had a deep understanding of complex information systems. He was promoted to Staff Sergeant in under three years – which is a year ahead of the standard timeline. Being promoted early attests to Applicant's leadership, strong work ethic and technical expertise. (Tr.16-33; AE C, encl 4)

Mr. S.K. has known Applicant for five years. He is a friend and a former Air Force member. Applicant was a true friend and was a dependable coworker while in the Air Force. They worked together on a daily basis, and they handled some of the most sensitive information in the Air Force, to include top secret files as well as projects for the base commander. He said nobody worked harder than Applicant. He stayed completely focused and had your back. He supported Mr. S.K. during some challenging times. Applicant is a trustworthy person. (AE C, encl 4)

Mr. M.O. has known Applicant for over 15 years. They have been close friends since high school. He was also his roommate during the time he used marijuana. He was unaware of Applicant's marijuana use. He believes he used it in the privacy of his room. Applicant has taken steps to abstain from using marijuana. He disposed of his marijuana products. He avoids situations where marijuana may be involved. He is now focused on his professional life and more healthy ways to relieve stress. He described Applicant as trustworthy, hardworking, and an asset to any project he works on. (AE C, encl 4)

Applicant currently has several computer certifications. He received highly favorable feedback on his duty performance in his current job. (AE C, encl 3)

### **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 February 2023 to about April 2023. 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. 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 2023. He continued to use marijuana after his first polygraph on February 22, 2023. Not enough time has passed to conclude Applicant will fully abstain from illegal drug use. He purchased and used marijuana 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. For these reasons, security concerns remain about Applicant's reliability, trustworthiness and good judgment.

AG ¶ 26(b) partially applies. Applicant acknowledged his illegal drug use at the beginning of his second polygraph interview in May 2023. On September 22, 2025, he 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 was aware that the illegal purchase and use of marijuana 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.

Applicant claims he started to use marijuana to cope with the stress related to his grandfather's health issue, caring for his grandparents, and as a result of a car accident. While his stress was understandable, it does not mitigate his decision to purchase and use marijuana over a two-month period. He held a high-level security clearance at the time he purchased and used marijuana in February 2023 and was aware that using marijuana while holding a security clearance and handling classified information was unacceptable. 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(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(b) applies with regard to SOR ¶ 2.a. Applicant deliberately did not disclose his drug use during a polygraph investigation on February 22, 2023. While the record is not clear about whether he was questioned about illegal drug use during the polygraph, he admits that he deliberately failed to divulge his illegal drug use during the examination. AG ¶ 16(e) also applies because Applicant's decision to withhold information about his illegal drug use made him vulnerable to exploitation, manipulation or duress.

AG ¶ 16(b) potentially applies towards the allegation in SOR ¶ 2.b. Based on the facts; I find this allegation for Applicant. While Applicant did not fully disclose his relationship with Ms. M. during his February 2023 polygraph interview or during the second polygraph in May 2023, it is unclear that the polygrapher asked him about his foreign contacts during the polygraph interviews. After he admitted to using illegal marijuana in the pre-test interview during the second polygraph examination in May 2023, no further questions were asked and Applicant's SCI access was suspended. Considering he had broken up with Ms. M. in December 2022, I do not find it to be a material omission. While embarrassing to him, he was not involved in Ms. M.'s criminal conduct and it has no bearing on his security-worthiness. I note that he reported her as a foreign contract to his employer after the second polygraph with the help of his supervisor and that he listed her and other acquaintances as foreign contacts on his most recent SCA in July 2023. I find SOR ¶ 2.b for Applicant.

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; and

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

AG ¶ 17(a) applies. At the beginning of Applicant's second polygraph, he volunteered his past illegal marijuana use before the test started. AG ¶ 17(e) also applies because his disclosure of his illegal drug use reduced or eliminated any vulnerability to exploitation, manipulation or duress.

Considering all of the evidence, the security concerns under Personal Conduct are 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 under 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 Applicant's honorable service in the United States Air Force. I considered that he has worked for the same DOD contractor since January 2023. I considered the favorable comments of his Air Force colleagues and his superiors at his current position. I considered that he was highly praised for his knowledge and duty performance. I also considered that he was aware that the use and purchase of marijuana remained illegal under federal law even though it was legal under state law. I considered that he was aware that marijuana use and any drug involvement was not compatible with holding a security clearance, handling classified information or being employed in a sensitive position. He chose to purchase and use marijuana while he held a sensitive position and a security clearance. While he was under great stress at the time he began using marijuana, there were healthier ways to deal with his stress. His illegal drug use from February 2023 to April 2023 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 2023 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 Guideline E for Applicant, but the security concerns raised under Guideline H were not mitigated.

## 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
Subparagraph 1.a:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a - 2.b:	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.

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Erin C. Hogan  
Administrative Judge