



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



In the matter of:)
)
) ADP Case No. 25-00024
)
Applicant for Public Trust Position)

Appearances

For Government: John Renehan, Esq. Department Counsel
For Applicant: *Pro se*

02/20/2026

Decision

DRISKILL, A. M., Administrative Judge:

This case involves trustworthiness concerns raised under Guidelines H (Drug Involvement and Substance Misuse) and E (Personal Conduct). Eligibility for access to sensitive information is denied.

Statement of the Case

On June 11, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant citing trustworthiness concerns under Guidelines H and E. DOD acted under DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016), for all adjudicative decisions on or after June 8, 2017.

Applicant answered the SOR on July 14, 2025, and requested a decision on the written record in lieu of a hearing. The Government's written case was submitted on August 28, 2025. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on

September 17, 2025. He timely submitted documentation, which I labeled as Applicant's Exhibit (AE) A. The case was assigned to me on February 5, 2026. The Government exhibits included in the FORM and AE A are admitted in evidence without objection.

Findings of Fact

The SOR alleges that Applicant used marijuana from about October 2015 to the present (SOR ¶ 2.a); that he purchased marijuana from about January 2016 to the present (SOR ¶ 2.b); that he used and purchased marijuana from about October 2020 to the present, after completing a security clearance application (SCA) (SOR ¶¶ 2.c, 2.d, 1.c); that he used and purchased marijuana from about January 2021 to the present, including while employed in a sensitive position (SOR ¶¶ 2.e, 2.f, 1.c); that he intends to continue to use marijuana in the future (SOR ¶ 1.g); that he used psychedelic mushrooms in 2018 or 2019 (SOR ¶ 1.h); that he falsified material facts on his SCA in 2024 when he failed to disclose his marijuana use and purchase, including use and purchase while possessing a security clearance (SOR ¶ 1.a); and that he falsified material facts on his SCA in 2020 when he failed to disclose his psychedelic mushroom use (SOR ¶ 1.b). In his Answer, Applicant admitted all the allegations except SOR ¶ 1.g (alleging an intent to use marijuana in the future).

Applicant is 29 years old. He has never married and does not have children. He earned a bachelor's degree in 2020 and did not serve in the military. He has been employed with a defense contractor since August 2020. He was found eligible for a security clearance in September 2022 at the secret level.¹ (Items 3, 4, 6)

Applicant first completed an SCA in October 2020. When asked whether he had used any illegal drugs or controlled substances in the last seven years, he answered "yes," and disclosed marijuana use from October 2015 to about March 2020. He stated that he did not have an intention to use marijuana in the future. When asked whether he had purchased any illegal drugs or controlled substances in the last seven years, he answered "yes," and disclosed marijuana purchases from about January 2016 to about February 2020, with no intention to purchase again in the future. (Item 3)

Applicant was interviewed by a background investigator in November 2020. He verified the SCA information and stated that, during that period of use, he smoked marijuana about once a week with friends and purchased it about once a month. He explained that he stopped smoking marijuana because he was beginning to have a professional career and outgrew marijuana when he left college. He stated that he had no intention to use marijuana in the future. (Item 5)

¹ Under "Eligibility Determination," Item 6 states, "Favorable made on 2022-09-15 by DoD CAF" and it lists the "Eligibility Level" as "Secret." SOR ¶¶ 2.e and 2.f cite January 2021 as the beginning of Applicant's employment in a sensitive position. January 19, 2021 is listed twice on the second page of Item 6 next to the name of a government agency. It is unclear from Item 6 what the January 2021 date is supposed to indicate. However, I find it unlikely he would have been cleared for any sensitive position until the 2020 investigation was completed in September 2022. Notably, although the FORM does not amend the SOR, it puts greater emphasis on the September 2022 eligibility determination in its argument regarding use and purchase of marijuana while in a sensitive position. Out of an abundance of caution, I will consider the September 2022 date to be the date upon which Applicant began working in a sensitive position.

After the marijuana discussion, the investigator asked Applicant if he had used any other drugs within the past seven years. Applicant replied, "no." The interviewer asked the question a second time, at which point Applicant disclosed that he used illegal psychedelic mushrooms in either 2018 or 2019. He admitted that he intentionally excluded this drug use and purchase from his SCA "because it was intimidating and didn't seem like a good thing." He stated he only used the mushrooms once after purchasing them from a friend. He told the investigator he had no intention to purchase or use psychedelic mushrooms in the future. (Item 5)

In July 2024, Applicant completed a second SCA. When asked whether he had used or purchased any illegal drugs or controlled substances in the last seven years, he answered "no." He also answered "no" when asked whether he had ever illegally used or illegally been involved with a drug or controlled substance while possessing a security clearance. (Item 4)

Applicant was interviewed by a background investigator in November 2024. When questioned, he volunteered his use of marijuana, which continued to the date of the interview. He stated he did not list his marijuana and psychedelic mushroom involvement on his 2024 SCA due to "oversight and rushing the form." He stated he was not attempting to conceal the information. He told the investigator that he continued using marijuana after his 2020 investigation but has not used mushrooms or any other drugs. He uses marijuana about twice a month at home. He purchases marijuana every two to three months from dispensaries in a neighboring state. He understands that marijuana is illegal under both federal law and in the state in which he resides, and he knows he takes a risk by leaving the state to procure marijuana and driving it back to his state. He described marijuana as a "crutch for stress management" and argued that he is not hurting anyone. He stated that he did not know what he was waiting for in order to quit marijuana. He told the investigator that he is likely to use it going forward but would be willing to stop if it impacted his job or resulted in a criminal charge. (Item 5)

In his May 8, 2025 response to Government interrogatories, Applicant reported marijuana use from 2020 to April 2025, a "couple times a month." Under "Intentions of Future Use," he wrote, "Diminishing." He did not report his psychedelic mushroom use. He reported marijuana purchases from September 2015 to March 2025 once every other month. He checked the "No" box when asked whether he intended to continue to use any illegal drugs in the future and wrote "Something that I want to get away from" underneath his response. When asked, "What is your future intent regarding illegal drug involvement and substance misuse?" he wrote, "This is something i [sic] want to minimize to help further my professional career." (Item 5)

In his October 2025 response to the FORM, Applicant submitted a written statement in which he declared that he will not be using marijuana in the future and that his last use date was May 21, 2025. (AE A)

Policies

The standard set out in the adjudicative guidelines for assignment to sensitive duties is that the person's loyalty, reliability, and trustworthiness are such that assigning the person to sensitive duties is clearly consistent with the interests of national security. SEAD 4, ¶ E.4. A person who seeks access to sensitive information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information.

When evaluating an applicant's suitability for a public trust position, the administrative judge must consider the disqualifying and mitigating conditions in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. The administrative judge's overarching adjudicative goal is a fair, impartial and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The protection of the national security is the paramount consideration. Under AG ¶ 2(b), any doubt will be resolved in favor of national security. The Government must present substantial evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.14. Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. 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. Sep. 22, 2005). An applicant has the ultimate burden of demonstrating that it is clearly consistent with national security to grant or continue eligibility for access to sensitive information.

Analysis

Guideline H, Drug Involvement and Substance Misuse

The concern under this guideline is set out in AG ¶ 24:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. *Controlled substance* means any "controlled substance" as defined in 21 U.S.C. 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed above.

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 (see above definition);

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

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

AG ¶ 25(g): expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.

Applicant used and purchased marijuana for almost ten years, stopping less than one year ago. He also used illegal psychedelic mushrooms several years ago. AG ¶¶ 25(a) and 25(c) apply. In his first investigation, he stated that he did not intend to use and purchase marijuana in the future, but in fact he continued doing so for several years. AG ¶ 25(g) applies.

Applicant also used drugs while employed in a sensitive position. The Appeal Board has held that the definition of “sensitive position” in SEAD 4, ¶D.8 is “designed to be inclusive and encompass a wide range of positions, including those that require eligibility for access to classified information (*i.e.*, a security clearance).” ISCR Case No. 22-01661 at 4 (App. Bd. Sep. 21, 2023). Applicant was found eligible for a security clearance in September 2022, and I find that he has been employed in a sensitive position since that time. AG ¶¶ 25(f) applies.

I find SOR ¶¶ 2.c and 2.d for Applicant, which alleged that he used and purchased marijuana from at least October 2020 to the present, after completing an SCA in October 2020. While these are relevant facts that I have considered in my decision, there is no relevant disqualifying condition that relates to these allegations.

The following mitigating conditions are potentially applicable:

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;

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) is established for Applicant's psychedelic mushroom use. The one-time use occurred seven or eight years ago while he was attending college and has not recurred since that time. SOR ¶ 2.h is found for Applicant.

AG ¶ 26(a) is not established for the marijuana allegations (SOR ¶¶ 2.a, 2.b, 2.e, 2.f). Applicant's involvement was recent, frequent, and did not occur under circumstances making recurrence unlikely. He is a regular user and purchaser of marijuana and has used it consistently for years. His last use of marijuana was less than one year ago, several years after he began working in a sensitive position. He was aware of the illegality of marijuana use and purchase but continued its use and purchase despite that knowledge, which directly casts doubt on his ability or willingness to comply with laws, rules, and regulations. He has not met his burden to establish that his marijuana use and purchase does not cast doubt on his current reliability, trustworthiness, and good judgment.

AG ¶ 26(b) is not fully established for the marijuana allegations (SOR ¶¶ 2.a, 2.b, 2.e, 2.f). Applicant acknowledged his drug involvement and substance misuse but has provided little evidence showing efforts made to overcome the problem. Most significantly, there is insufficient evidence of an established pattern of abstinence in this case. He initially stated in his 2020 investigation that he did not intend to use or purchase marijuana in the future, but he continued using and purchasing it for many years thereafter. It is unclear if there was ever a period of abstinence around the time of the first investigation. During his 2024 investigation, he was noncommittal about ceasing his use and purchase of marijuana, stating he would be willing to stop if it impacted his job. In response to Government interrogatories, he indicated he was trying to "minimize" and "get away from" marijuana while also indicating he had no intent for future use or purchase. He eventually stopped using marijuana two weeks after responding to the Government's interrogatories, approximately nine months ago. Given this history, it seems that he did not decide to stop using until it was clear that his behavior would affect his job, which further calls into question his commitment to abstinence.

Guideline E, Personal Conduct

The security concern 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 guideline notes several conditions that could raise security concerns under AG ¶ 16. The following are potentially applicable in this 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 security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and

AG ¶ 16(c): credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information.

Applicant admitted both falsification allegations, and his admissions are supported by the underlying evidence. AG ¶ 16(a) applies to SOR ¶¶ 1.a and 1.b.

Applicant was a regular user and purchaser of marijuana for almost a decade, but his decision to continue to use drugs while working in a sensitive position is of particular concern. The Appeal Board has consistently held that after being adequately placed on notice that such conduct was inconsistent with holding a security clearance, an applicant who continues to use marijuana demonstrates a disregard for security clearance eligibility standards, and such behavior raises substantial questions about the applicant's judgment, reliability, and willingness to comply with laws, rules, and regulations. *See, e.g.*, ISCR Case No. 21-02534 at 4 (App. Bd. Feb. 13, 2023). AG ¶¶ 16(c) applies to SOR ¶ 1.c.

AG ¶ 17 provides conditions that could mitigate personal conduct security concerns. 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; and

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.

Applicant's voluntary disclosures in his 2024 interview are only partially mitigating for SOR ¶ 1.a because he has an established pattern of dishonesty about his drug use. He admitted he chose to omit his psychedelic mushroom use on his 2020 SCA, and the admission in his 2020 interview only came after persistent questioning. He repeatedly stated that he would no longer use marijuana, but he continued using for years. Although he said he failed to list his drug use on his 2024 SCA due to "oversight and rushing the form," this explanation is not believable given that, at that point in his career, he knew the heightened stakes of using drugs while in a sensitive position, and he was regularly using drugs during the period he completed his SCA. His voluntary admissions in his 2024 interview do not sufficiently mitigate the larger concerns about Applicant's candor and honesty. AG ¶ 17(a) does not fully apply to SOR ¶ 1.a.

AG ¶ 17(c) is not established for SOR ¶ 1.a and 1.b. Applicant's deliberate falsifications of material facts on his SCAs were recent, occurred more than once, and did not occur under unique circumstances. They were not minor, because they undermined the integrity of the adjudication of his most recent SCA. Falsification of an SCA "strikes at the heart of the security clearance process." ISCR Case No. 09-01652 (App. Bd. Aug. 8, 2011.)

For the same reasons as set forth above in my Guideline H analysis, I find that AG ¶¶ 17(c) and (d) are not established for SOR ¶ 1.c.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a public trust position must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. In applying the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a public trust position by considering the totality of the applicant's conduct and all relevant circumstances. An 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.

I have incorporated my comments under Guidelines H and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003).

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 has not mitigated the trustworthiness concerns raised by his drug involvement and substance misuse and personal conduct. Accordingly, I conclude Applicant has not carried his burden of showing that it is clearly consistent with national security to grant him eligibility for a public trust position.

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 E (Personal Conduct): AGAINST APPLICANT

Subparagraphs 1.a-1.c: Against Applicant

Paragraph 2, Guideline H (Drugs/Misuse): AGAINST APPLICANT

Subparagraphs 2.a-2.b: Against Applicant

Subparagraphs 2.c-2.d: For Applicant

Subparagraphs 2.e-2.f: Against Applicant (only from September 2022)

Subparagraphs 2.g-2h: For Applicant

Conclusion

I conclude that it is not clearly consistent with the interests of national security to grant Applicant eligibility for a public trust position. Eligibility for a public trust position is denied.

A. M. Driskill
Administrative Judge