



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



In the matter of:)
)
) ISCR Case No. 25-00367
)
Applicant for Security Clearance)

Appearances

For Government:
Aubrey De Angelis, Esquire, Department Counsel

For Applicant:
Sean Rogers, Esquire
National Security Law Firm

03/19/2026

Decision

ROSS, Wilford H., Administrative Judge:

Applicant mitigated the security concerns under Guideline H (Drug Involvement and Substance Misuse). Eligibility for access to classified information is granted.

Statement of the Case

On May 20, 2025, the Department of War (DOW) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline H. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*

(February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOW on June 8, 2017.

Applicant answered the SOR in writing (Answer) on August 12, 2025, and requested a hearing before an administrative judge. Department Counsel was prepared to proceed on September 2, 2025. The case was assigned to me on September 15, 2025. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on September 26, 2025. I convened the hearing as scheduled on December 15, 2025. The Government submitted Government Exhibits 1, 2, 5, and 6, which were admitted without objection. Government Exhibit 3 was admitted over Applicant's objection. Applicant's objection to Government Exhibit 4 was withdrawn and the exhibit was admitted. (Transcript (Tr.) 12, 38-51.) Applicant testified on his own behalf, called two additional witnesses, and submitted Applicant Exhibits A through T. His exhibits were admitted without objection. Applicant requested the record remain open for submission of additional documentation. No additional documentation was provided. DOHA received the transcript of the hearing on December 29, 2025. The record closed on January 10, 2026

Findings of Fact

Applicant is 29 years old and married in 2025. He has a bachelor's degree and a master's degree. He has been employed by a defense contractor since June 2018. He became a manager in about May 2025, and seeks to retain national security eligibility and a security clearance in connection with his employment. (Government Exhibit 1 at Sections 12, 13A, and 18; Applicant Exhibits D, G, I, and L; Tr. 19-21, 26, 51.)

Paragraph 1 (Guideline H, Drug Involvement and Substance Misuse)

The Government alleges in this paragraph that Applicant is ineligible for clearance because he has used illegal drugs.

1.a. Applicant admitted using cocaine twice in his life. Once was in November 2019 and the other in March 2021. On both occasions he was with work colleagues at a party. He was 23 and 24 years old when he engaged in this activity. He has not had any involvement with cocaine since March 2021. He evinces a credible intent not to use cocaine in the future. Applicant has submitted a signed statement to abstain from all drug involvement and substance misuse. (Government Exhibit 2 at Section 23, Exhibit 4 at 8; Applicant Exhibit C; Tr. 26-29, 57-59.)

1.b. As stated, Applicant admitted that he used cocaine twice, once in October 2019 and again in March 2021, while holding a sensitive position, i.e., one in which he

held a security clearance. He has stated that he will not use cocaine in the future. (Government Exhibit 5; Tr. 26-29.)

1.c. Applicant admitted that he used marijuana in various forms between March 2015 and August 2017, when he was in college. He denied using marijuana between 2017 and 2020. As stated, he started work in June 2018. He used a Tetrahydrocannabinol (THC) edible one additional time in February 2020, almost six years ago, at a house party. His marijuana use was primarily THC edibles, though he occasionally smoked. He realizes the negative impact continued marijuana use can have on his life and career. He was 24 years old when he last engaged in this activity. Applicant has not had any involvement with marijuana since February 2020. He evinces a credible intent not to use marijuana in the future. Applicant has submitted a signed statement to abstain from all drug involvement and substance misuse. (Government Exhibit 2 at Section 23, Exhibit 4 at 8; Applicant Exhibit C; Tr. 29-31, 33-34, 59-60.)

1.d. As stated, Applicant admitted that he used a THC edible one time in February 2020, while holding a sensitive position, i.e., one in which he held a security clearance. He has stated that he will not use marijuana in any form in the future. (Government Exhibit 5; Tr. 29-31.)

1.e. Applicant admitted using hallucinogenic mushrooms one time in February 2020. This was the same social occasion where he last used a THC edible. This was the only occasion where he used hallucinogenic mushrooms. He evinces a credible intent not to use hallucinogenic mushrooms in the future. Applicant has submitted a signed statement to abstain from all drug involvement and substance misuse. (Government Exhibit 2 at Section 23, Exhibit 4 at 8; Applicant Exhibit C; Tr. 31-33.)

Applicant received a substance abuse evaluation in June 2025. Applicant fully described his history of drug use to the evaluator, a psychotherapist. The therapist concluded, “[Applicant] does not meet the DSM-5 criteria for substance use disorder at this time.” (Applicant Exhibit F.)

Applicant provided a written statement of intent not to use marijuana or any other illegal drugs in the future. He has had several negative drug tests since issuance of the SOR. He avoids social situations where marijuana or other drugs are used. His friends know that he cannot be around illegal drugs. As stated, he evinces a credible intent not to use marijuana in the future. (Applicant Exhibits C, E, P, and Q; Tr. 60-61.)

Department Counsel indicated some concern that Applicant’s two-time use of cocaine, single use of a THC edible, and single use of hallucinogenic mushrooms after being employed was at odds with his previous written and oral statements about his future drug use. I have examined his minimal use, his statements, along with his testimony, the testimony of his witnesses, and have given them the appropriate weight. (Government Exhibit 2 at Section 23, Exhibit 4; Tr. 52-57.)

Applicant described his thought process when he stopped using marijuana or any other drug. He stated that he was concerned about the impact on his job and clearance if he continued to use marijuana. Applicant also acknowledged that the conduct was wrong and that he needed to be honest and forthcoming. He felt that his use occurred at a time when he was not suitably mature and occasionally susceptible to peer pressure. In the years since then he has been given more and greater responsibility at work, to the point that he is a manager of ten other engineers at the age of 29. In addition, he believes his recent marriage and a bout of cancer have also helped him mature and understand what is important. He has taken full responsibility for the actions of his past and worked to internalize life lessons. (Applicant Exhibits D and M; Tr. 26-29, 33-36, 63-68.)

Mitigation

Applicant is viewed as an outstanding employee by his supervisors. His performance evaluations show a driven and talented person who has advanced rapidly to an important leadership role while in his 20s. He is described as someone who always gets the job done. He has received numerous work awards and certificates. (Applicant Exhibits H, J, K, and R; Tr. 16-20.)

Two witnesses testified on Applicant's behalf and provided letters of recommendation. They were knowledgeable of the allegations in this case. Each testified about Applicant's considerable abilities. They also describe how he has grown into a person that the company and our country can have confidence in his ability to handle classified information. (Applicant Exhibits S and T; Tr. 58-59, 71-87.)

Applicant also supplied eleven letters of reference. The letter writers include his wife, mother, sister, a college professor, and work colleagues. They all recommend him for a position of trust while describing his personal and professional abilities. (Applicant Exhibit N.)

Policies

When evaluating an applicant's national security eligibility for a security clearance, 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

Paragraph 1 (Guideline H, Drug Involvement and Substance Misuse)

The security concern relating to Drug Involvement and Substance Misuse is set forth 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 examined the disqualifying conditions under AG ¶ 25 and especially considered the following:

- (a) any substance misuse (see above definition); and
- (f) any illegal drug use while granted access to classified information or holding a sensitive position.

Applicant used marijuana about 10 to 20 times between 2015 and 2017. He used marijuana in the form of an edible once while holding a sensitive position February 2020. He used cocaine twice, once in November 2019 and once in March 2021, while holding a sensitive position. He also used hallucinogenic mushrooms once in February 2020, while holding a sensitive position. Both of the stated disqualifying conditions have application to this case.

The following mitigating conditions under AG ¶ 26 have also been considered:

- (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.

In my analysis, I have taken administrative notice of the Security Executive Agent (SecEA) "Clarifying Guidance Concerning Marijuana for Individuals Eligible to Access

Classified Information or Eligible to Hold a Sensitive Position,” dated December 21, 2021. (Guidance.) In her Guidance, the SecEA noted the increased number of states that have legalized or decriminalized the use of marijuana and issued the Guidance to “provide clarifying guidance.” She reaffirmed SecEA’s 2014 memorandum regarding the importance of compliance with Federal law on the illegality of the use of marijuana by holders of security clearances. She provided further clarification of Federal marijuana policy, writing that “prior recreational marijuana use by an individual may be relevant to adjudications but [is] not determinative.” She noted that the adjudicative guidelines provided various opportunities for a clearance applicant to mitigate security concerns raised by his or her past use of marijuana.

Applicant’s marijuana, cocaine, and hallucinogenic mushroom use is almost five or six years in his past and has not been repeated. He explained at length that he thoroughly understands the consequences of any future drug use or exposure and has taken several steps to avoid it. He credibly testified and submitted a written declaration of his intent not to misuse drugs in the future. He also acknowledged that such misuse would be grounds for revocation of national security eligibility. His friends and family know that illegal drug use is no longer a part of his life. Viewing his illegal drug use in the context of the whole person, Applicant has mitigated the security significance of his past drug involvement. Security concerns under Guideline H are mitigated. Paragraph 1 is found for Applicant.

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.

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 potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Applicant has fully mitigated the security concerns of his prior drug use. As stated elsewhere in this decision, and supported by the evidence, Applicant is a talented and successful young engineer manager who has learned from his mistakes and has moved forward with his life without drugs. His conduct has earned him the privilege of being granted national security eligibility. Paragraph 1 is found for Applicant.

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 H: FOR APPLICANT

Subparagraphs 1.a through 1.e: 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 or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is granted.

WILFORD H. ROSS
Administrative Judge