



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



In the matter of: )  
)  
) ISCR Case No. 25-00488  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Brian L. Farrell, Esq., Department Counsel  
For Applicant: *Pro se*

01/21/2026

---

**Decision**

---

HALE, Charles C., Administrative Judge:

Applicant did not mitigate the security concerns under Guideline H (drug involvement and substance misuse). Eligibility for access to classified information is denied.

**Statement of the Case**

On April 25, 2025, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline H. Applicant responded to the SOR on May 16, 2025, and initially requested a decision on the written record. After a query from the Administrative Judge assigned, Applicant amended her request and requested a hearing before an Administrative Judge. The hearing was scheduled for November 6, 2025, and then assigned to me and rescheduled when all Administrative Judges were furloughed from October 1 through November 12, 2025, during a federal government shutdown due to a lapse in federal funding.

The hearing convened as scheduled on December 10, 2025. Government Exhibits (GE) 1 through 6 and Applicant Exhibits (AE) A and B were admitted without objection. The record was held open until December 23, 2025. Applicant timely submitted AE C, a certification for the use of medical cannabis products for 2021, 2022, and 2023, which I admitted without objection. I received the transcript (Tr.) on December 19, 2025.

### **Findings of Fact**

Applicant is a 47-year-old former employee of a defense contractor, with whom she was employed from October 2023 until she was laid off in October 2025. She seeks to retain a security clearance, which she has held since about 2019. She earned a bachelor's degree in 2003. She was married for almost ten years, divorced in 2018, and remarried in 2021. She has one child from her previous marriage still living at home. (Tr. 21, 26, 27-28; GE 1.)

Applicant admitted her marijuana use as alleged (SOR ¶ 1.a) but clarified the actual windows in her Answer, Response, and testimony, which involved use in college (1999-2003); a single use in 2018, in a state where it was legal; and from July 2021 until January 2025, pursuant to a medical marijuana card. She admitted that from about February 2022 to about January 2025, she "used marijuana with varying frequency while holding in a sensitive position" (SOR ¶ 1.b). She denied that she intended to continue to use marijuana in the future (SOR ¶ 1.c). (Tr. 30-31, 32-33, 45-48, Answer.)

Applicant went to work for a defense contractor (not her current employer) in June 2018. She applied for a security clearance and was granted one in about May 2019. Applicant stated on the 2018 Questionnaire for National Security Positions (SF-86) that she had used marijuana between 1999 and 2018. (Tr. 28; GE 1; GE 2; GE 6.) When she changed companies, she submitted a June 2021 SF-86 and, as part of her background investigation, she was interviewed by a DoD investigator concerning her 2021 SF-86. On her June 2021 SF-86, she did not report her marijuana use. However, in her interview with a DoD investigator in September 2021, she discussed her medical marijuana use. She told the investigator that she had a state-issued medical marijuana card to deal with issues with anxiety and post-traumatic stress disorder (PTSD). (Tr. 53-54, GE 1; GE 4 at 6-7; AE C.)

Applicant testified she did not believe her 2021 SF-86 had prepopulated her answers from her 2018 SF-86, or that she had a paper copy of her 2018 SF-86 with her when she completed the 2021 SF-86. There were two answers on her respective SF 86s, which were identical. The first was a 2012 employment response and the other addressed foreign travel. (Tr. 39-43; GE 1 at 17, 27; GE 2 at 15, 26.)

Applicant admitted she used marijuana while in a sensitive position and detailed the periods when she accessed classified material. She estimated she accessed classified material three to four times a year for the job she held from 2019 until March 2024. In October 2024, she took a senior position with a company, and she regularly handled classified material. She held this position until October 2025. (Tr. 21, 24-25; GE

6.)

Applicant testified she knew marijuana use was illegal under Federal law when she completed her 2018 SF-86. (Tr. 40-41.) However, in 2021 she was confused because she had received a medical marijuana card from her state. She stated:

Yes, it can be confusing when you are being told by one government entity that it's fine and then being told by another government entity that it's not. And at the end of the day I'm just trying to follow my doctor's advice, and take care of myself. (Tr. 41.)

Applicant testified she used medical marijuana to deal with stress from a traumatic experience at a prior employer she described as “phenomenally abusive.” (Tr. 45) She sought treatment from a mental health professional, and that psychiatrist suggested medical marijuana. She and her doctor discussed other medications, but Applicant had a family member become addicted to pain medications that ended in death. She strenuously sought to avoid using addictive drugs and told her doctor she was “reticent to go on medication.” (Tr. 34, 67.)

Applicant explained the process for getting a state-approved medical marijuana card and the marijuana. Her marijuana card required her to renew it annually and go through a vetting process. She estimated she had renewed her marijuana card three or four times. AE C shows she received a “certification for the use of cannabis oil” on May 31, 2021; “certification for the use of cannabis products” on May 2, 2022; and “certification for the use of medical cannabis products” on May 8, 2023. It has been a few years since she saw the psychiatrist who suggested marijuana. She explained that this doctor was the last person she had “seen from a therapist or psychiatrist capacity” because she had “been doing well.” (Tr. 51-53, 68-70; AE C; Response.)

Applicant testified she did not hide the fact she had a medical marijuana card, and her peers and senior employees were aware. She told her “boss” in 2021 of her medical marijuana card. She stated:

I told her the situation, and what I had discussed, and basically was like I'm planning to do this, do you see this as being an issue? And of course it could be an issue, but it was my decision ultimately, and she said you have to do what you have to do, it's not her decision to make to tell me otherwise. She didn't say not to, but I just wanted to be open in case anything came up, nobody would be what happened, what's going on? So, she knew. Who she told I don't know, but it's not like I'm like keep it a secret, never. (Tr. 57.)

Applicant stated she never thought to inform her facility security officer (FSO) in 2021 or when she was put in for a higher clearance in 2024. She testified her peers and senior employees were aware at her next two companies. As her security clearance investigation progressed for a higher clearance, she stated her FSO asked for her prescription. The trigger for this was when her supervisor had told her colleagues she had

a medical marijuana card and after meeting with her “head of HR” she voluntarily provided a copy of her “prescription” to her FSO. (Tr. 56-59, 69--75; Response.)

Applicant stated she had not used marijuana since January 2025. She explained how she now deals with the stress of past trauma:

It's been interesting. It's a very infrequent use for me, right? So, it's not something that I was using weekly, or even daily, or anything like that, it was very situational based, so I'm fortunate for that. It's not like I had to deal with not being able to have something that I was using frequently. Honestly just -- it's going to sound really silly, but when I get really that kind of anxiety, that feeling or whatever, my wife read about these alternative treatments and stuff.

And she literally can take my hand, and there are certain pressure points and stuff that I don't know if it's placebo, I don't care, it seems to actually help just bring everything down. So, she does that for me, and other than that I just kind of deal. It's not something so severe that I couldn't -- I can't be without it, clearly, it's been almost a year.

But it's just people have to deal with a lot worse, and that's kind of how I look at it, and that helps me get through my feelings a little bit, and the hand thing, who knew. But yeah, thanks to her. (Tr. 68-69.)

In her FORM response, Applicant unequivocally states that she does not intend to use marijuana, which the Government accepted as a statement of intent to abstain from any further drug use. (Tr. 76.) A colleague of five years noted that Applicant “demonstrated high standards, discretion, and respect for our Government customers.” Her colleague states Applicant’s handling of sensitive information had “always been responsible and conscientious.” (AE A.)

## **Policies**

This case is adjudicated 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), which became effective on June 8, 2017.

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant’s eligibility for access to classified information.

These 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(c), 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 national security eligibility will be resolved in favor of the national security."

Under Directive ¶ E3.1.14, the Government must 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." The applicant has the ultimate burden of persuasion to obtain 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

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

The security concern for drug involvement and substance misuse 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 25. The following are potentially applicable in this case:

- (a) any substance misuse (see above definition);
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and
- (f) any illegal drug use while granted access to classified information or holding a sensitive position.

Applicant admitted she used marijuana with varying frequency from about June 1999 to January 2025. AG ¶¶ 25(a) and 25(c) are applicable. She admitted she held a sensitive position and a security clearance when she used marijuana from February 2022 to January 2025. AG ¶ 25(f) is applicable.

AG ¶ 26 provides conditions that could mitigate security concerns. The following are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment; and
- (b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to: (1) disassociation from drug-using associates and contacts; (2) changing or avoiding the environment where drugs were used; and (3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

On October 25, 2014, the Director of National Intelligence (the Security Executive Agent (SecEA)) issued DNI Memorandum ES 2014-00674, “*Adherence to Federal Laws Prohibiting Marijuana Use*,” which states:

[C]hanges to state laws and the laws of the District of Columbia pertaining to marijuana use do not alter the existing National Security Adjudicative Guidelines . . . . An individual’s disregard of federal law pertaining to the use, sale, or manufacture of marijuana remains adjudicatively relevant in national security determinations. As always, adjudicative authorities are

expected to evaluate claimed or developed use of, or involvement with, marijuana using the current adjudicative criteria. The adjudicative authority must determine if the use of, or involvement with, marijuana raises questions about the individual's judgment, reliability, trustworthiness, and willingness to comply with law, rules, and regulations, including federal laws, when making eligibility decisions of persons proposed for, or occupying, sensitive national security positions.

On December 21, 2021, the SecEA promulgated clarifying guidance concerning marijuana-related issues in security clearance adjudications. It states in pertinent part:

[Federal] agencies are instructed that prior recreational marijuana use by an individual may be relevant to adjudications but not determinative. The SecEA has provided direction in [the adjudicative guidelines] to agencies that requires them to use a "whole-person concept." This requires adjudicators to carefully weigh a number of variables in an individual's life to determine whether that 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 adjudicative determination. Relevant mitigations include, but are not limited to, frequency of use and whether the individual can demonstrate that future use is unlikely to recur, including by signing an attestation or other such appropriate mitigation. Additionally, in light of the long-standing federal law and policy prohibiting illegal drug use while occupying a sensitive position or holding a security clearance, agencies are encouraged to advise prospective national security workforce employees that they should refrain from any future marijuana use upon initiation of the national security vetting process, which commences once the individual signs the certification contained in the Standard Form 86 (SF-86), Questionnaire for National Security Positions.

Applicant's testimony, along with her FORM Response, that she does not intend to use illegal drugs in the future was sincere and credible. AG ¶ 26(b) applies to SOR ¶ 1.c.

Applicant was granted a security clearance in about April 2019 and testified to how she regularly dealt with classified material in various jobs. She made a deliberate decision to use marijuana between about February 2022 into January 2025, while holding a sensitive position that required her to hold a security clearance. Regardless of her informing her supervisors, she knew marijuana use was prohibited by federal law and security clearance policies. Applicant's decision to use marijuana while holding a sensitive position is an indication she lacks "the qualities expected of those with access to national secrets." See ISCR Case No. 17-03191 at 3 (App. Bd. Mar. 26, 2019) (citing ISCR Case No. 17-04198 at 2 (App. Bd. Jan. 15, 2019) ("An applicant's misuse of drugs after having been placed on notice of the incompatibility of drug abuse with clearance eligibility raises questions about his or her judgment and reliability")). AG ¶ 26(b) does not fully apply to SOR ¶ 1.a or SOR ¶ 1.b.

Applicant's recreational marijuana use prior to 2021 is mitigated by time. AG ¶ 26(a) applies. Her willful misconduct, in which she used marijuana from about July 2021 to about January 2025, much of this period while in a sensitive position, is not mitigated by time. After previously disclosing marijuana use on her September 2018 SF-86, she did not disclose her marijuana use on her September 2021 SF-86. She acknowledged marijuana was prohibited under Federal law in 2018 but claimed confusion after receiving a medical marijuana card. She did not turn in her medical marijuana card until it became an issue in her security clearance investigation. This casts doubt on her reliability, trustworthiness, and good judgment. Her marijuana use is recent. AG ¶ 26(a) does apply to the remainder of SOR ¶ 1.a or SOR ¶ 1.b.

### **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 have incorporated my comments under Guideline H in my whole-person analysis. I also considered Applicant's favorable character evidence and her candor in her testimony. However, insufficient time has passed since her last use of drugs to overcome the extent and seriousness of her conduct.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of true reform and rehabilitation necessary to be eligible for a security clearance. The determination of an individual's eligibility and suitability for a security clearance is not a once in a lifetime occurrence, but is based on applying the factors, both disqualifying and mitigating, to the evidence presented. Under Applicant's current circumstances, a clearance is not warranted. In the future, she may well demonstrate persuasive evidence of her security worthiness.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the security concerns under Guideline H.

## 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, except for the language "June 1999," which is found for Applicant and substituting "July 2021."
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant

## Conclusion

It is not clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Charles C. Hale  
Administrative Judge