



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



In the matter of: )  
)  
) ISCR Case No. 24-02160  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: Samir Nakhleh, Esq.

03/25/2026

**Decision**

GARCIA, Candace Le’i, Administrative Judge:

Applicant has not mitigated all the drug involvement and substance misuse security concerns at this time. Eligibility for access to classified information is denied.

**Statement of the Case**

On January 2, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline H (drug involvement and substance misuse). The action was taken under Executive Order (Exec. Or.) 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 DOD on June 8, 2017.

Applicant submitted a response to the SOR on January 8, 2025 (Answer) and requested a hearing before an administrative judge. The case was assigned to me on July 9, 2025. The Defense Office of Hearings and Appeals (DOHA) issued a notice on

August 7, 2025, scheduling the matter for a video teleconference hearing on September 9, 2025. I convened the hearing as scheduled.

At the hearing, I admitted in evidence without objection Government Exhibits (GE) 1 and 2. Applicant testified, he did not call any witnesses, and he submitted documentation that I marked as Applicant Exhibits (AE) A-F and admitted in evidence without objection. Neither Department Counsel nor Applicant requested I keep the record open, and the record closed at the conclusion of the hearing. DOHA received the hearing transcript (Tr.) on September 18, 2025.

This decision was delayed 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.

### **Findings of Fact**

Applicant admitted all the SOR allegations in his Answer. He is 25 years old, unmarried, and he does not have any children. He lived in state A from 2014 to June 2024, when he moved to state B. (GE 1; Tr. 14-15, 30, 41)

Applicant graduated from high school in 2018. He attended college from 2018 to May 2024 and obtained a Bachelor of Science degree in mechanical engineering. During the summers he was in college, he worked as a part-time engineering intern for Company A, a defense contractor, from May 2020 to August 2020, May 2021 to August 2021, and June 2022 to August 2022, and for Company B, another defense contractor, from May 2023 to August 2023. Company B offered him full-time employment in November 2023, at the end of his summer internship, which he accepted. In connection with his prospective employment with Company B, he completed a security clearance application (SCA) in November 2023. He worked part time for another company during his last year in college from August 2023 to May 2024. Since July 2024, he has worked as an Associate Professional Staff I for his employer, Company B. He has never held a security clearance. (GE 1-2; AE A; Tr. 5-6, 14-19, 32, 35)

Applicant disclosed information about his use of illegal drugs and misuse of prescription drugs on his SCA, during his July 2024 background interview, and in his December 2024 response to interrogatories. (GE 1; Tr. 28, 38, 41) He used hallucinogenic mushrooms on various occasions between approximately April 2017 and June 2024. (SOR ¶ 1.a) He used them around seven to eight times between 2017 and 2019, and he tried them again with friends while camping in 2023. He was in social environments and wanted to have a good time. He purchased hallucinogenic mushrooms three times from an acquaintance between 2017 and 2019. (GE 1-2; Tr. 21-23, 32, 38) In his SCA, he described the effects of the hallucinogenic mushrooms as “very intense” and stated he no longer wanted to experience them. (GE 1; Tr. 38) After completing his SCA, he used hallucinogenic mushrooms on two more occasions, in March 2024 and in June 2024. In March 2024, he used hallucinogenic mushrooms with friends while camping during spring break because he wanted to have fun. He acknowledged he made a poor decision while in a peer pressure environment. In June 2024, he used hallucinogenic

mushrooms while visiting the Netherlands, where it is legal. He purchased them from a store there and he used them with a friend. Since it was legal in the Netherlands, he stated he was not entirely sure when he used them there whether it would potentially be problematic for his ability to obtain a security clearance. (GE 2; Tr. 38-41, 43)

Applicant used marijuana on various occasions between approximately 2016 and September 2023. (SOR ¶ 1.b) During his background interview, he indicated his belief he was addicted to marijuana from 2016 to 2023, while in high school and college, because of the frequency with which he was using it. (GE 2; Tr. 36) He used it socially or while at parties. He smoked marijuana with friends weekly throughout high school from 2016 to 2018 and in college from 2018 to 2022, but he did not use it in the summers of 2020 to 2022 when he worked as an intern for Company A; he used it monthly while in college from 2022 to 2023, but he did not use it in the summer of 2023 when he worked as an intern for Company B; he refrained from using marijuana from November 2022 to August 2023; he used it around 20 times between the end of August 2023 and September 2023, and he last used it in September 2023. (GE 1-2; Tr. 22-25, 29, 32-37)

Applicant did not use marijuana in the summers of 2020 to 2022 when he worked as an intern for Company A because he understood he should refrain from using marijuana while working for that company. He also did not use marijuana from November 2022 to August 2023, to include when he worked as a summer intern for Company B from May 2023 to August 2023, because he was looking for jobs and understood that marijuana use would potentially inhibit his ability to obtain one, especially one that would require him to have a clearance. He resumed usage after his summer internship with Company B ended in August 2023 because he returned to school and was amongst the same friends with whom he used marijuana. (GE 1-2; Tr. 22-25, 29, 32-37)

Applicant mostly obtained the marijuana for his personal use from friends. He also purchased it about once monthly from a friend, when he was underage and in high school, and then from another friend while in college between 2016 and 2023. When it became legal in state A in 2021, where he then lived, he purchased it from dispensaries in that state. He stopped using marijuana primarily because his school workload increased, and he was job searching. He knew he had to quit for employment reasons, so he did so. (GE 1-2; Tr. 22-25, 29, 32-37)

Applicant used cocaine twice between approximately May 2018 and May 2023. (SOR ¶ 1.c) He used cocaine out of curiosity. He used it the first time in May 2018 when it was offered to him at a high school party, and he used it the second time in May 2023 when it was offered to him while out with friends. He did not feel the cocaine's effect when he first used it, and he got sick the second time, so he did not want to use it again. (GE 1-2; Tr. 25, 32)

Applicant used MDMA in approximately August 2020. (SOR ¶ 1.d) He used it once during a concert in 2020. He stated in his SCA he also used a different stimulant, 5-MeO-MiPT (Moxy), once in 2019 with a friend at a party. During his background interview, he indicated he used both stimulants while at a friend's house. He wanted to try these

stimulants out of curiosity, and they were too much for him to handle so he did not want to use them again. (GE 1-2; Tr. 25, 32)

Applicant used LSD on various occasions between approximately 2017 and 2018. (SOR ¶ 1.e) He tried LSD around 10 times between 2017 and 2018 while in high school. He was in social environments and wanted to have a good time. He purchased it three times from an acquaintance between 2017 and 2018. (GE 1-2; Tr. 25-26, 32) In his SCA, he described the effects of LSD as “very intense” and stated he no longer wants to experience them. (GE 1)

Applicant used prescription drugs that were not prescribed to him, to include codeine, Xanax, and a steroid inhaler, on various occasions between 2017 and 2019. (SOR ¶ 1.f) He took a codeine pill once in 2019 while hanging out with friends. A friend who had a prescription offered him the pill, he tried it out of curiosity and thought it would be fun, and it made him very sick instead. He also took two Xanax pills offered to him by a friend at a concert in 2017. He wanted to try them in a party setting. It made him sick and caused memory loss of the night, so he did not want to try it again. He also used his friend’s inhaler three times over three days when he was sick in 2017 while in high school. His friend offered it to him so he could get better. (GE 1-2; Tr. 26-27, 32)

Applicant stated no one has ever expressed any concerns about his drug use, he has never received drug-related counseling or treatment, and he has never received a drug-related diagnosis. (GE 2; Tr. 28, 36-37, 46-47) He testified, “Through all my [drug] usage, I never felt that it was a problem in my life. I was still achieving the things I wanted to, I became an Eagle Scout, I got good grades, finished my degree, played on different sports teams, had great relationships.” (Tr. 29) He tested negative for illegal drugs when he was drug tested by his employer in November 2023, upon accepting Company B’s offer of employment. He did not believe his employer had a random drug testing policy. (GE 2; Tr. 37, 45-46) He voluntarily submitted to a drug test in August 2025, and he tested negative for illegal drugs. (AE E; Tr. 29, 45-46)

Applicant stated he understood marijuana remains federally illegal and that security clearance holders are prohibited from using illegal drugs, to include marijuana, despite it being legal under certain state laws. He stated he does not use illegal drugs and has no future intentions of doing so, due to his lifestyle change since graduating from college, his security clearance, and his current job position. While he testified he severed ties with anyone who uses illegal drugs since moving to state B, he had previously indicated during his background interview that he continued to associate with friends who use and purchase illegal drugs, and he testified that his last contact with any of these individuals was just four to five months prior to his hearing date. (GE 2; AE F; Tr. 27-30, 42-44, 48-51) He stated he would remove himself from any situation in which illegal drugs were being used in his presence. (Tr. 47-48) He provided a statement of intent in February 2025, and again in August 2025, to abstain from all drug involvement and substance misuse, and he acknowledged that any future involvement or misuse is grounds for revocation of his security clearance. (AE D, F; Tr. 29, 48-51)

Applicant stated he recognizes the seriousness of his past actions. He attributed his drug involvement to a period of immaturity in his life while he was in high school and college, when he exercised poor judgment because he was not fully aware of the consequences of his actions. He testified it was common to see an array of drugs at the college he attended in state A, especially since marijuana is legal under that state's law. He stated he has grown and matured significantly since then, he is committed to a healthy and law-abiding lifestyle, and he is mindful of maintaining an environment that aligns with his commitment to sobriety and well-being. (AE F; Tr. 24-25, 27, 30-31)

In April 2025, Applicant was rewarded for his outstanding contributions at work during a critical period. (AE B; Tr. 44-45) The award noted, "The way [Applicant] stepped up to the task demonstrated exemplary initiative and leadership skills and underscored his tremendous value to the team." (AE B) He also received a weekly award shortly thereafter. (Tr. 44-45) He provided a letter of support from his section supervisor, who vouched for his character and attested to his reliability, trustworthiness, judgment, and willingness to comply with rules and regulations. (AE C; Tr. 19-20) The supervisor wrote, "I have overseen his performance during his time at [Company B]. Since joining in May 2023, [Applicant] has demonstrated professionalism, dedication, a strong work ethic, and a positive attitude." (AE C) The supervisor further noted, "[Applicant's] work is always of the highest integrity, and he has become a valuable member of our team." (AE C)

### **Policies**

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(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 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 Exec. Or. 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* Exec. Or. 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 the following applicable conditions that could raise security concerns under AG ¶ 25:

(a) any substance misuse . . . ; and

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

Applicant misused prescription drugs not prescribed to him between 2017 and 2019. He used LSD between 2017 and 2018, MDMA in 2020, cocaine in 2018 and 2023, marijuana between 2016 and 2023, and hallucinogenic mushrooms between 2017 and 2024. AG ¶¶ 25(a) and 25(c) apply.

AG ¶ 26 provides the following potentially relevant mitigating conditions:

(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;

(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.

Applicant has an extensive history of drug involvement. His use of LSD from 2017 to 2018 occurred while he was in high school, and his isolated misuse of prescription drugs not prescribed to him in 2017 and 2019 also occurred while he was in high school and during his early college years. He used MDMA once, in 2020 also during his early college years, and he used cocaine twice, with his first use occurring in 2017 while he was in high school and his second use in May 2023, while he was still in college and had not yet received the offer of full-time employment from Company B or completed his SCA in connection with that employment in November 2023.

The same cannot be said for Applicant's use of marijuana from 2016 to September 2023 and his use of hallucinogenic mushrooms from 2017 to June 2024. He used marijuana as frequently as weekly to monthly, and he indicated his belief during his July 2024 background interview that he was likely addicted to it during the period in which he used it because of the frequency with which he was using it. He also used hallucinogenic mushrooms as recently as March and June 2024, after he had accepted Company B's offer of employment and completed the SCA in connection with that employment in November 2023, wherein he stated he no longer wanted to use them. He understood he had completed an SCA in connection with obtaining a security clearance for his employment with Company B, and that illegal drug use could affect not only his employment but also his ability to obtain a clearance. He also understood that despite marijuana being legal under the law in state A, where he then lived, it remained federally illegal. Yet, he succumbed to peer pressure when he used hallucinogenic mushrooms in March 2024, and he exercised poor judgment when he decided to use it again in June 2024 because it was legal in the country he was visiting.

Applicant's statements of intent to abstain from any future use of illegal drugs from February 2025 and August 2025 must be considered alongside his extensive and recent illegal drug use. He also acknowledged he only severed his ties with the individuals with whom he used illegal drugs as recently as four to five months before his hearing date. He

needs more time to establish a period of abstinence from the use of marijuana and hallucinogenic mushrooms. I find that AG ¶¶ 26(a), 26(b)(1), 26(b)(2), and 26(b)(3) are established for SOR ¶¶ 1.c-1.f but they are not established for SOR ¶¶ 1.a-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 considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline H in my whole-person analysis. Applicant was candid and credible at the hearing. However, more time is needed for him to establish a period of abstinence. Overall, the record evidence leaves me with questions and doubts about his eligibility and suitability for a security clearance. I conclude he did not mitigate all the drug involvement and substance misuse security concerns at this time.

### **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
Subparagraphs 1.a-1.b:	Against Applicant
Subparagraphs 1.c-1.f:	For Applicant

## **Conclusion**

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

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Candace Le'i Garcia  
Administrative Judge