



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



In the matter of:)
)
) ISCR Case No. 24-01374
)
Applicant for Security Clearance)

Appearances

For Government: Carol Connelly, Esq., Department Counsel
For Applicant: *Pro se*

03/13/2026

Decision

HARVEY, Mark, Administrative Judge:

Security concerns arising under Guidelines D (sexual behavior), E (personal conduct), and M (use of information technology) are mitigated. However, Guidelines I (psychological conditions), H (drug involvement and substance misuse), and J (criminal conduct) security concerns are not mitigated. Eligibility for access to classified information is denied.

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Statement of the Case

Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance application (SCA) on February 10, 2021. (Government Exhibit (GE 1)) On September 13, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) alleging security concerns under Guidelines I, H, D, E, M, and J. (Hearing Exhibit (HE) 2) The 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 the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), which became effective on June 8, 2017.

On February 6, 2025, Applicant answered the SOR, and on February 7, 2025, he requested a hearing before an administrative judge. (HE 3) On April 3, 2025, Department Counsel amended the SOR and changed or added allegations under Guidelines I, H, and E. (HE 4) On April 24, 2025, Applicant responded to the amended SOR. (HE 5) On April 29, 2025, Department Counsel was ready to proceed, and on August 14, 2025, the case was assigned to me.

On August 21, 2025, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that his hearing was scheduled to be conducted by video teleconference on October 1, 2025. (HE 1A) All administrative judges were furloughed from October 1 through November 12, 2025, during a federal government shutdown due to a lapse in federal funding. On November 28, 2025, DOHA rescheduled the hearing for December 3, 2025. (HE 1B) On December 10, 2025, DOHA rescheduled the hearing for February 12, 2026. (HE 1C) The hearing was convened as rescheduled on February 12, 2026.

Department Counsel offered five exhibits; Applicant did not offer any exhibits; and all proffered exhibits were admitted into evidence without objection. (Tr. 13, 17-19; GE 1-GE 5) On February 24, 2026, DOHA received the transcript of the hearing. Applicant did not request that the record remain open after the hearing. (Tr. 84-85)

Statement of Facts

In Applicant’s answer to the SOR, he admitted in whole or in part and denied in part the allegations in SOR ¶¶ 1.a through 1.d, 2.a through 2.f, 3.a, 3.b, 4.a, 4.b, 4.c, 5.a, and 6.a through 6.d. His admissions are accepted as findings of fact. He also provided extenuating and mitigating information. (HE 3, HE 5)

Applicant is a 34-year-old information technology network manager who has worked for the same employer for almost six years. (Tr. 6, 9) In 2009, he graduated from high school, and he has completed about three years of college. (Tr. 6-7) He has not served in the military. (Tr. 7) He was married from 2014 to 2019. (Tr. 7) He married his current spouse in 2021. (Tr. 8) He has access to sensitive but not classified information. (Tr. 77) He will be able to work more effectively for his employer if he has a security clearance. (Tr. 22)

Psychological Conditions, Drug Involvement, and Substance Misuse

SOR ¶ 1.a alleges under the psychological conditions guideline that in approximately April 2020, Applicant was “diagnosed with Attention-Deficit Hyperactivity Disorder, combined type, Dysthymic Disorder, Anxiety Disorder, unspecified and Mixed obsessional thoughts and acts.”

SOR ¶ 1.b alleges under the psychological conditions guideline that in approximately “August 2022, psychologist [G], Ph.D., summarized [Applicant’s] diagnosis as Attention-Deficit/Hyperactivity Disorder, History of Obsessive-Compulsive Disorder, and History of Major Depressive Disorder.”

SOR ¶¶ 1.c and 2.e under the psychological conditions and drug involvement and substance misuse guidelines, respectively, allege the following information:

[Applicant was] evaluated by Clinical Psychologist Dr. [N] in about March 2024. Based on the clinical interview and test results, [his] diagnoses were **Cannabis Use Disorder**, mild, in early remission, Obsessive-Compulsive Disorder - probable, Attention-Deficit Hyperactivity Disorder, inattentive type, and Cluster B traits. [Dr. N] noted [Applicant’s] history of modifying or discontinuing [his] psychiatric medications without consulting the prescriber. [Dr. N] opined that [Applicant’s] prognosis is poor and that [his] **history of Cannabis Use Disorder, endorsement of recreational drug use**, probable Cluster B personality traits, and preoccupation with pornography, particularly [his] morbid curiosity for violent pornography, raises significant concerns about [his] judgment, reliability, trustworthiness, and ability to safeguard sensitive information. (emphasis added)

In his SOR response, for SOR ¶ 1.a, Applicant stated: “I sought treatment for these issues and have gained greater awareness and control with clarity over my thoughts.” For SOR ¶ 1.b, he said: “I continue to manage these conditions through therapy and healthier lifestyle choices.” For SOR ¶ 1.c, he said: “I do NOT agree with the characterization that I was actively ‘preoccupied’ with violent pornography.” In his SOR response for SOR ¶ 1.d and in his conclusion for SOR ¶ 1, he said:

My mention of disturbing content stemmed from a period earlier in life when I accidentally encountered it and silently attempted to cope by desensitizing myself. It is no longer an issue in my life. While I acknowledge these diagnoses, I have significantly improved my mental health through ongoing

treatment. - Life Changes Since 2021: I have undergone major personal and professional transformations. My mental health and behavior have improved significantly, and I believe my current lifestyle demonstrates reliability and trustworthiness. - Treatment and Counseling: I continue to maintain my mental health through therapy and lifestyle changes.

On March 21, 2024, Dr. N issued a report evaluating Applicant's mental health at the request of the DCSA. Dr. N considered the following information for his report: an interview of Applicant; a self-report questionnaire; his background records; mental health treatment records; and a statement from his supervisor at his current employer. (GE 2 at 2) Dr. N's evaluation concluded:

During the consultation, the examiner considered the influence of multiple key variables (e.g., personal history, current mental status, personality, situational factors, and DSM-V diagnosis) on [Applicant's] personality and psychological functioning. It is the undersigned provider's opinion [he] poses significant concerns regarding his judgment, reliability, and trustworthiness due to various factors.

Firstly, his history of cannabis use includes unsuccessful efforts to cut back coupled with little incentive to do so given he considers marijuana to be a healthy and reliable means to cope with stress, clarify his priorities and decisions, and expand his thinking. This raises concerns about his ability to make sound decisions, particularly in sensitive or high pressure situations that may arise within the context of national security. Regular cannabis use can impair cognitive function, including decision-making abilities and judgment. If an individual relies on cannabis to cope with stress, it suggests a potential dependency on the substance to manage difficult situations. Moreover, [Applicant's] espousal of the benefits of recreational drug use, specifically cannabis and psilocybin, as indicated on his security clearance questionnaire, suggests a potential disregard for the legal and ethical implications associated with drug use, further calling into question his judgment and reliability. In the least, it shows questionable judgment in that he advocates such a position in that kind of context.

Additionally, there are indications of probable Cluster B personality traits, such as impulsivity, impatience, and a lack of empathy. These traits are evidenced by his history of work terminations for disregarding company policies and regulations, as well as his frequent need for reassurance and dramatic descriptions of personal transformation that may not align with subsequent difficulties experienced. Furthermore, [Applicant's] erratic moods, agitation, and need for intervention by his current supervisor due to impatience with coworkers and work directives raise concerns about his ability to maintain stable and appropriate behavior in professional settings. This also includes his unilateral modification or discontinuation of controlled substances that are prescribed to him, doing so without consultation with his prescribing doctor and expecting support for his decisions.

Furthermore, [Applicant's] preoccupation with pornography, particularly his morbid curiosity for pornographic themes of violence and rape, suggests potential issues with judgment and reliability, as well as concerns about his ability to adhere to societal norms and standards of conduct. This preoccupation may also raise questions about his respect for the privacy and autonomy of others, which is essential for maintaining trustworthiness in positions involving national security.

In summary, [Applicant's] history of Cannabis Use Disorder, endorsement of recreational drug use, probable Cluster B personality traits, and preoccupation with violent pornography collectively raise significant concerns regarding his judgment, reliability, trustworthiness, or his ability to safeguard sensitive information. (GE 2 at 12-13)

SOR ¶ 1.d alleges under the psychological conditions guideline that “in approximately August 2024, psychologist [G], Ph.D., summarized [Applicant's] diagnosis as Attention-Deficit/Hyperactivity Disorder, Combined Type, History of Obsessive-Compulsive Disorder, and History of Major Depressive Disorder.”

Applicant's medical records indicate that in the spring of 2020, he said that he had intrusive thoughts that manifested themselves through harming others, harming himself, and a pornography addiction. (Tr. 28-29) He said:

And to give you a very specific example, actually, my wife was standing next to me, and I opened up a cabinet, you know, or a wardrobe, and I see, you know, my ax, you know, for chopping wood, and the first thought that went through my mind was just, you know, a pretty horrific scene, you know, with my wife. (Tr. 29)

At his hearing, Applicant said he received relief and peace through therapy from such thoughts. (Tr. 30)

In 2020, Applicant told Dr. G that he had or previously had a longstanding obsession with pedophilia. (Tr. 34) At his hearing, Applicant said he had some “intrusive thoughts that have deeply disturbed me, and it's actually those intrusive thoughts that led to my taking the action of getting a vasectomy.” (Tr. 34) He said he obtained a vasectomy when he was 20 years old because “I was so deeply disturbed and did not trust myself.” (Tr. 35) He related that a “little girl, a close family friend, [was] sitting on my lap, and that's where, you know, an intrusive thought came in,” which was deeply disturbing, and he could not trust himself. (Tr. 34) He said he has been transformed through therapy and the intrusive thoughts still occur; however, they do not have any power over him. (Tr. 37) He is able to handle and move past his intrusive thoughts about harming others, suicide, and pedophilia. (Tr. 37-38)

In 2020, Applicant reduced his Lamictal consumption without consulting his prescribing physician. (Tr. 37-38) He made this choice because he “always tried to

experiment with myself. I challenge myself regularly. I try not to do anything habitually.” (Tr. 39) His goal was to eliminate his use of Lamictal. (Tr. 39)

In 2021, Applicant told Dr. G that he was concerned about his “ongoing addiction to pornography.” (Tr. 41) He found that using Adderall reduced his interest in pornography to “zero.” (Tr. 41)

The most recent mental-health diagnosis is by Dr. G as indicated in SOR ¶ 1.d in August of 2024. (Tr. 48, 72; GE 3 at 13) Applicant was unsure about the diagnosis of depressive disorder. (Tr. 49)

At his hearing, Applicant said that the frequency of intrusive thoughts is currently reduced. (Tr. 41) Until June of 2025, he was attending counseling with Dr. G every two weeks and as needed, which at times was on a weekly basis. (Tr. 50) He stopped going to counseling around June of 2025 because his health insurance would not pay for it. (Tr. 49)

In Dr. G’s August 22, 2024, treatment summary, she said:

[Applicant] has developed significant insight into the nature of his symptoms, grown in his acceptance of the presence of symptoms, and increased his use of skillful behavior. He has adapted and practiced new coping skills and strategies for responding more effectively to anxiety, irritability, and conflict. He continues to work towards consistent use of healthy coping strategies when faced with conflict and stress at home. The current focus of treatment is managing stress associated with life transitions, including marriage, becoming a parent and moving. (GE 4 at 2)

In June of 2025, Applicant began seeing Dr. W, his current treating physician, once a month. (Tr. 51) Dr. W prescribed Adderall, bupropion, and citalopram for him. (Tr. 39-40, 48) He is currently receiving treatment for depression. (Tr. 41)

Drug Involvement, Substance Misuse, and Criminal Conduct

SOR ¶ 2.a alleges under the drug involvement and substance misuse guideline that Applicant “used marijuana with varying frequency from about April 2011 to about November 2023.” SOR ¶ 2.b alleges under the drug involvement and substance misuse guideline that Applicant “purchased marijuana from about April 2011 to about December 2022.”

SOR ¶ 2.c alleges under the drug involvement and substance misuse guideline that Applicant “used psilocybin with varying frequency from about January 2019 to about November 2023.” SOR ¶ 2.d alleges under the drug involvement and substance misuse guideline that Applicant “purchased psilocybin with varying frequency from about June 2020 to about December 2022.”

SOR ¶ 2.f under the drug involvement and substance misuse guideline that Applicant “used LSD on at least one occasion between April 2019 and April 2020.”

Applicant’s DCSA background interview on March 14, 2021, states “Subject confirmed all details on the case papers pertaining to his hallucinogen use of LSD. Subject used LSD from 8/19 to 4/20. Subject used the drug only at his home and with friend [name omitted], **1 time per month for a total of 5 or 6 uses.**” (GE 3 at 18 (emphasis added))

In his February 10, 2021 SCA Applicant described his marijuana use as follows.

In his SCA, Applicant said his marijuana use was “[d]aily, moderate use. Not a habit, but a routine. I can go days without, but I deliberately choose to use it as a reward. I often smoke or eat THC/CBD mint tablets and go think. I’ll process everything and actually organize my thoughts and life. . . I actually love the way marijuana [a]ffects me. I am more kind, compassionate, caring, loving, patient, considerate, focused, and very often, even more aware. With these benefits in mind, I strategically use it to improve and benefit my life. I use it as a tool, not as a means of escape. I will easily defend this notion and many of my friends (I hope and assume) will concur with that. I’ve learned people’s anxieties crowd their ability to have self-awareness, and are generally very self-absorbed, disregarding everything around them, including people. I feel that Alcohol enlarges this issue, whereas marijuana diminishes this while providing the ability to cope. I believe marijuana has actually improved my life by allowing me to lower my anxiety threshold and therefore think clearly and so I can operate during the day without marijuana and still be effective. If for any reason that I may be denied for marijuana use, I have no problem removing it from my life. However, I do intend to continue if it is not a problem. Although, I would easily defend marijuana over alcohol with what behavior it helps create. (GE 1 at 37)

In his SOR response and during his DCSA background interview, Applicant said he used marijuana from about April 2011 to about November 2023. (Tr. 23-25, 53; GE 1 at 37; GE 3)

Applicant also said in his SCA that he used lysergic acid diethylamide (LSD) once between April 2019 and April 2020; however, he did not feel any effects from it. (Tr. 25-26; GE 1 at 37; GE 3) At his hearing, he said he received an LSD sticker, which he put in his coffee. (Tr. 64) He believed the sticker had LSD on it. (Tr. 64) He did not receive any effects from the LSD, and now he does not believe it was LSD. (Tr. 64)

In his SOR response, for SOR ¶ 2.a, Applicant said: “I DENY the dates. I first used marijuana in Apr 2019, not 2011. I was born in 1991, and my earliest marijuana use began in 2019.” For SOR ¶ 2.b, he said: “I DENY the dates. Purchases occurred from Apr 2019 to Dec 2022. Similarly, 2011 is incorrect; I did not begin using or purchasing marijuana until 2019.” For SOR ¶ 2.c, he said: “I used psilocybin as part of personal self-exploration and to cope with past traumas.” For SOR ¶ 2.d, he said: “As with use, this was motivated

by attempts to address mental and emotional health.” For SOR ¶ 2.e, he said: “See my explanation under SOR 1.c. regarding diagnoses and context.”

In his response to DOHA interrogatories, and his SOR response, he said he started using and purchasing marijuana in 2019. (Tr. 24, 53; GE 3; HE 3) He used psilocybin mushrooms about 10 to 12 times between January 2019 and November of 2023. (Tr. 60) He had some positive experiences from using marijuana. (Tr. 54-55) He loved the way marijuana affects him, and it makes him feel more aware. (Tr. 57) It gives him a different perspective on how to look at things he is dealing with such as projects at work. (Tr. 57-58) The uses of psilocybin mushrooms were uncomfortable but insightful for him. (Tr. 60)

In his response to DOHA interrogatories, Applicant said, “The reported usage of THC and Psilocybin have resulted in permanent cognitive improvements as well as effective navigation of OCD / ADHD mental tendencies. - I do not use and no longer have THC or Psilocybin substances of any kind, nor do I seek them out or have friends who engage in such. - All ‘Illegal Drug Use’ occurred between 2019 to 2021.” (GE 3 at 3)

At his hearing, Applicant said that he currently uses marijuana every other day or every couple of days. (Tr. 57) He most recently used marijuana the day before his hearing. (Tr. 56) He has a marijuana medical card that permits him to purchase marijuana at dispensaries. (Tr. 56) He recognizes that his marijuana possession and use is inconsistent with federal law and holding a security clearance. He is willing to quit using marijuana at some time in the future. (Tr. 59)

Sexual Behavior and Criminal Conduct

SOR ¶ 3.a alleges under that sexual behavior guideline that Applicant “engaged in habitual pornography viewing habits since about 1999 which at times include a preoccupation of pornography including violence and rape.”

SOR ¶¶ 3.b and 6.c allege under the sexual behavior and criminal conduct guidelines, respectively, that Applicant “hired an escort for a sexual encounter prior to [his] divorce in about June 2019.”

SOR ¶ 3.a alleges under the sexual behavior guideline that Applicant has “been addicted to pornography since about 1999, which at times has included a preoccupation with pornography including violence and rape.”

In his SOR response, for SOR ¶ 3.a, Applicant said: “I ADMIT the general pornography use, but note I was 8 years old in 1999. I discovered pornography at a very young age during the early growth of the internet. I also encountered shocking content around 2003-2004 which disturbed me greatly. My usage in adulthood has significantly changed, and this no longer impacts my judgment or reliability”; and for SOR ¶ 3.b, he said: “My marriage was extremely turbulent, involving a severe brain injury of my then-wife, religious constraints . . . , and her affair with my best friend. I made this regrettable choice to finalize the marriage’s end due to religious rules on infidelity.”

Applicant began viewing pornography when he was a child. (Tr. 46-47) He viewed pornography as a means to relieve stress. (Tr. 46-47) As for his viewing of rape pornography, Applicant said, "But the concept of rape, I would say, is something that yeah, sure, I've enjoyed. I've even engaged with it with my own wife. But it's not actually, like, a rape scene, essentially, where it's non-consent. That's not the case at all." (Tr. 44) It is a depiction of rape but not actually a rape. (Tr. 44)

Applicant occasionally viewed pornography at work; however, he used his personal cell phone to view it. (Tr. 76) He reduced his involvement with pornography through therapy with Dr. G in May of 2021. (Tr. 46) He continues to view pornography; however, it is less frequent than in the past. (Tr. 44) Dr. A, his treating psychiatrist, recommended that he join a support group to resist his urges to view pornography; however, Applicant did not comply with that recommendation. (Tr. 45)

As to SOR ¶¶ 3.b and 6.c, in 2019, Applicant met an escort at a hotel. (Tr. 65) He paid the escort to engage in sexual activity with him, and they engaged in sexual activity. (Tr. 65-66) The next morning he disclosed the adultery to his spouse. (Tr. 66-67) His spouse's reaction was to attempt to salvage their relationship. (Tr. 67) Applicant insisted on a divorce shortly thereafter. (Tr. 66-67) He disclosed his activity with the escort to multiple people. (Tr. 68)

Personal Conduct and Use of Information Technology

SOR ¶¶ 4.a alleges under the personal conduct and use of information technology guidelines that Applicant was "fired from [his] employment at [T] in about September 2014 for not following remote work policy and procedure."

In his SOR response, for SOR ¶ 4.a, Applicant said: "I misused remote work privileges. I have learned from this error and grown more diligent since." At his hearing, Applicant said he was authorized to work from home. (Tr. 68) He worked primarily from home for three years. (Tr. 68) He said he "pushed the envelope." (Tr. 69) His employer said he abused the work-at-home policy by excessively working from home, and his employer fired him in September of 2014. (Tr. 68-69)

SOR ¶¶ 4.b and 5.a allege under the personal conduct and use of information technology guidelines that Applicant was "fired from [his] employment at [C] in about December 2017 for not following information technology policy and procedure."

In his SOR response, for SOR ¶¶ 4.b and 5.a and in his conclusion, Applicant said:

I ADMIT and DENY. I acknowledge the policy breach but also note I resolved a critical issue that benefited customers. - Explanation/Mitigation: My intent was to restore service quickly, not to circumvent security protocols. I have learned from this experience and take compliance and procedure seriously. I have learned first hand when to act and when not to act. Commitment to Compliance: I respect the importance of national

security regulations and workplace policies, and I no longer engage in the behaviors listed above.

Applicant said he used initiative to repair an outage. (Tr. 70) He failed to submit a change-approval request. He “wanted to alter a setting and because it was a live outage in the moment, [he] made the change knowing that [he] needed a change approval. But because of the emergency scenario, [he] did it anyway.” (Tr. 77-78) He said that he had a moment of being immature and taking shortcuts. (Tr. 70) He did what he wanted with little regard for the policies at that time. (Tr. 70) He was terminated for making a change without proper authorization. (Tr. 70)

SOR ¶ 4.c alleges under the personal conduct guideline that Applicant “deliberately falsified material facts during a March 2024 evaluation with a psychologist working on behalf of the U.S. Government by stating that [he] had last used psilocybin (mushrooms) about a year earlier. In truth, [his] last use of psilocybin occurred in November 2023,” as set forth in SOR ¶ 2.c.

Applicant admitted he did not provide accurate information about the extent of his use of psilocybin mushrooms to Dr. N during his mental-health evaluation. Dr. N’s report states Applicant emailed Dr. N and said, “Regarding psilocybin use, my notes reveal 11/20/2023 as my last and final consumption, roughly four months ago, to which I deceived by alluding to upwards of a year. While I did not know the date when questioned, I chose to downplay with a longer forecasted date than was reasonably truthful.” (GE 2 at 8)

At his hearing, Applicant admitted that he lied to Dr. N during his evaluation. (Tr. 62) About two days later, he emailed Dr. N and disclosed that he was not truthful about his psilocybin mushroom use. (Tr. 62) He apologized, and he provided accurate information to Dr. N. (Tr. 62-63)

SOR ¶ 4.d cross alleges under the personal conduct guideline that information in SOR ¶¶ 1.a through 1.d, 2.a through 2.d, 2.f, 3.a, 3.b, and 6.d.

Criminal Conduct

SOR ¶¶ 6.a through 6.c allege under the criminal conduct guideline the following information: in SOR ¶ 6.a the information in 2.a and 2.b (marijuana offenses); in SOR ¶ 6.b the information in 2.c and 2.d (psilocybin mushroom offenses); and in SOR ¶ 6.c the information in 3.b (involvement with an escort).

SOR ¶ 6.d alleges under the criminal conduct guideline that, in about May of 2015, Applicant was “charged with reckless driving, hit and run, failure to remain at the scene. [he was] given probation before judgment.”

In his SOR response, for SOR ¶ 6.a, Applicant said: “I ADMIT my marijuana use (with correct dates: 2019-2023). - Explanation/Mitigation: I have since taken steps to comply with the law and reduce any risk factors.” For SOR ¶ 6.b, he said: “I acknowledge

the legal and security implications and have worked to address underlying issues.” For SOR ¶ 6.c, he said: “See explanation under SOR 3.b.” For SOR ¶ 6.d, he said: “I was 24, acted out of anger in a provoked road-rage situation, and regrettably left the scene. I have maintained a flawless driving record since completing my probation before judgment.”

In May of 2015, Applicant said he became upset at another driver. He said:

I went overboard. I was pretty anger, or angry, and I sped around the woman and got in front of her, and I reversed, almost as an attempt to, you know, scare her. And I noticed that my trailer hitch had just touched her front bumper. And after that moment, I essentially just left. So that's where I fled the scene. (Tr. 33)

Applicant described the accident as an embarrassing, rage-related incident. (Tr. 33-34) He said he left the scene of the accident because he was uncertain “if I actually had touched the bumper, and I used that as my opportunity to exit anyway.” (Tr. 34) He denied that that there was “any damage or any issue”; however, in his SCA he said he “caused damage” when he backed into the other vehicle. (Tr. 34; GE 1 at 35)

Applicant’s Closing Statement

In his closing statement, Applicant said:

You know, I’d say throughout my life, I have been a risk-taker in ways that have benefited me and have not benefited me. You know, I find that even my current position working at -- here at tech labs, the majority of people are afraid to make changes. They don’t want to be the responsible party when things go wrong.

And I have found that by taking controlled, calculated risks, I’m able to minimize and mitigate almost all of the sorts of, you know, experimentation because I love working in IT and I get to do awesome stuff. But, you know, technically some of these things are, you know, infringing on various areas and I’m still able to produce something that is acceptable and meets qualifications and standards. But I would say my methods for getting there, most people would not do. And I consider myself someone that, you know, willing to throw myself into the fire and try something different and my experience in IT and business when it -- especially when it comes to policies and following orders or direction. I have a lot of authority and responsibility with my current job. You know, I confess early. I try to -- I try to leave notes everywhere I can, you know, because, you know, somebody coming after me, I want them to know, not only was I here, but I left them a note so that they can proceed from there.

I try to make sure there’s no question about what sort of behavior I have done. I follow -- it -- when a line is drawn, I do not cross it, but I do pretty well now with -- how do you put it? I do well with staying in my lane more

than I did before. But I still get to experiment and play freely. And I think that's one of the biggest blessings that I have with my position. And I take it very seriously, especially when it comes to data and the confidentiality of data, how it's transmitted from source to destination, to me, that's extremely important, so. (Tr. 80-81)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy” to have access to such information. *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained 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. An 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 Government reposes a high degree of trust and confidence in persons with access to classified information. 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 classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, this decision should not be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines

presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

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 ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Psychological Conditions

AG ¶ 27 provides the security concern arising from psychological conditions stating:

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

AG ¶ 28 provides conditions that could raise a psychological conditions security concern and may be disqualifying in this case:

(a) behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;

(b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness; and

(d) failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability,

reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions.

AG ¶¶ 28(a), 28(b), and 28(d) are established. Discussion of the disqualifying conditions is in the mitigating section *infra*. AG ¶ 29 lists conditions that could mitigate psychological conditions security concerns:

(a) the identified condition is readily controllable with treatment, and the individual as demonstrated ongoing and consistent compliance with the treatment plan;

(b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

(c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;

(d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; and

(e) there is no indication of a current problem.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2, [App. A] ¶ 2(b).

In April 2020, Applicant was diagnosed with Attention-Deficit Hyperactivity Disorder, combined type, Dysthymic Disorder, Anxiety Disorder, unspecified and Mixed obsessional thoughts and acts. In August 2022, he was diagnosed with Attention-Deficit/Hyperactivity Disorder, History of Obsessive-Compulsive Disorder, and History of

Major Depressive Disorder. On March 21, 2024, Dr. N issued a report evaluating Applicant on behalf of the DCSA. His report concluded:

In summary, [Applicant's] history of Cannabis Use Disorder, endorsement of recreational drug use, probable Cluster B personality traits, and preoccupation with violent pornography collectively raise significant concerns regarding his judgment, reliability, trustworthiness, or his ability to safeguard sensitive information. (GE 2 at 13)

The three diagnoses are relevant; however, Dr. N's diagnosis receives the most weight as it is the most recent and relies on more information including an interview of Applicant's supervisor and review of background security documents.

In 2020, Applicant reduced his Lamictal consumption without consulting his prescribing physician. He made this choice because he "always tried to experiment with myself. I challenge myself regularly. I try not to do anything habitually." (Tr. 39) His goal was to eliminate his use of Lamictal. His decisions to change his medications without consulting his treating physician raise security concerns.

Applicant made inconsistent statements about his recency of his use of illegal drugs. For example, he told the background investigator that he used LSD five or six times. Dr. N's report does not indicate he used LSD. At his hearing, he said he possibly used LSD once, and perhaps the substance he used was not really LSD. His start dates for using psilocybin mushrooms and marijuana were either 2011 or 2019. His inconsistent statements will not be considered for disqualification purposes; however, they will be considered for assessments of his credibility, mitigation, and under the whole-person concept.

Several behavioral factors alleged under other Guidelines are relevant in the total assessment of psychological conditions even though they are mitigated as separate security concerns under Guidelines E, J, and D. Applicant's viewing of rape pornography, possession and use of psilocybin mushrooms, use of LSD, deliberately backing his vehicle into another vehicle and leaving the scene of the incident, paying an escort for sex, and terminations from employment are not recent or have not recurred or both. These issues increase the psychological conditions security concerns because they show he is periodically impulsive by history, and in different ways. At times, he makes impulsive decisions reflecting poor judgment and lack of trustworthiness, and he occasionally engages in after-the-fact rationalizations of his questionable behavior.

Dr. G, Applicant's treating psychologist for several years until June of 2025, described Applicant's impulses to engage in self-harm, harm to others, pornography involving rape, and using illegal drugs. Dr. G made some positive assessments which must be weighed in the psychological conditions analysis. In her August 22, 2024, treatment summary, Dr. G said:

[Applicant] has developed significant insight into the nature of his symptoms, grown in his acceptance of the presence of symptoms, and

increased his use of skillful behavior. He has adapted and practiced new coping skills and strategies for responding more effectively to anxiety, irritability, and conflict. He continues to work towards consistent use of healthy coping strategies when faced with conflict and stress at home. The current focus of treatment is managing stress associated with life transitions, including marriage, becoming a parent and moving. (GE 4 at 2)

Dr. G's August 22, 2024 treatment summary and Applicant's statement at his hearing described improvements in his control of impulses, coping skills and strategies, and general mental state. These comments from Dr. G and Applicant are insufficient to establish any of the mitigating conditions. Dr. N's statement is the most credible assessment of Applicant's mental history and mental state. Psychological conditions security concerns are not mitigated.

Drug Involvement and Substance Misuse and Criminal Conduct

AG ¶ 24 provides the security concern arising from drug involvement and substance misuse stating:

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.

AG ¶ 30 provides the security concern arising from criminal conduct stating, "Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations."

AG ¶ 25 provides conditions that could raise a drug involvement and substance misuse security concern and may be disqualifying in this case: "(a) any substance misuse (see above definition)"; and "(c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia."

AG ¶ 31 lists conditions that could raise a criminal conduct security concern and may be disqualifying in this case:

(a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in

combination cast doubt on the individual's judgment, reliability, or trustworthiness; and

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

AG ¶¶ 25(a), 25(c), 31(a), and 31(b) are established. Discussion of the disqualifying conditions is in the mitigating section *infra*. AG ¶ 26 lists conditions that could mitigate drug involvement and substance misuse security concerns:

(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;

(c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and

(d) satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

AG ¶ 32 lists conditions that could mitigate criminal conduct security concerns:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;

(c) no reliable evidence to support that the individual committed the offense;
and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Applicant admitted that he purchased, possessed, and used marijuana and psilocybin mushrooms starting in 2019. He used LSD five or six times from August 2019 to April 2020. Applicant's statement to the DCSA background investigator about his LSD use is more credible than his denial at his hearing that he only attempted to use LSD on one occasion. He said he stopped using psilocybin mushrooms in 2023. He frequently uses marijuana on more than a weekly basis; he believes it has therapeutic value for him; and he used marijuana the day before his hearing.

Marijuana, psilocybin mushrooms, and LSD are currently listed on Schedule I of the Controlled Substances Act. See 21 U.S.C. § 812(c); Drug Enforcement Administration (DEA) listing at <https://www.dea.gov/drug-information/drug-scheduling> (information link on bottom of web page). His multiple possessions of marijuana, psilocybin mushrooms, and LSD are federal crimes. Drugs listed as Schedule I Controlled Substances, have "no 'currently accepted medical use in treatment.' 21 U.S.C. § 812(a)(1)(B)." ISCR Case No. 24-01307 at 3 (App. Bd. July 17, 2025). See DEA website, *supra*; Executive Order, *Increasing Medical Marijuana and Cannabidiol Research* (December 18, 2025). The scheduling of marijuana is under DEA review, and it may be downgraded from Schedule I to Schedule III, which would permit marijuana possession and use based on prescriptions. *Id.*

The Appeal Board provided a detailed discussion of the mitigating conditions pertaining to marijuana possessions and use:

In recognition of the changing landscape of marijuana law and in consideration of the Director of National Intelligence's Clarifying Guidance Concerning Marijuana, the Board has noted that significant factual and legal differences may exist between an applicant's state-compliant marijuana use and use of other illegal drugs, holding that such differences are an important aspect of the case that a reasonable person would expect to be addressed. See ISCR Case No. 22-02132 at 3 (App. Bd. Oct. 27, 2023). In initial eligibility determinations, if the record reflects such differences, the judge must articulate a rational basis for why, after consideration of those differences and the Clarifying Guidance, the conduct continues to cast doubt on the individual's current reliability, trustworthiness, and good judgment.

ISCR Case No. 23-02402 at 4 (App. Bd. Feb. 19, 2025) (internal footnotes omitted).

The Security Executive Agent (SecEA) promulgated clarifying guidance concerning marijuana-related issues in security clearance adjudications the Appeal Board cited states as follows:

[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 few 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.

SecEA Guidance at 2 (quoted in ISCR Case No. 20-02974 at 3-4 (App. Bd. Feb. 1, 2022)).

The DOHA Appeal Board has cited the importance of consideration of “the changing landscape of marijuana law and . . . of the Director of National Intelligence’s *Clarifying Guidance Concerning Marijuana*.” ISCR Case No. 23-02402 at 4 (App. Bd. Feb. 19, 2025). See also ISCR Case No. 24-00914 at 3 (App. Bd. Apr. 9, 2025) (noting the “evolving landscape of marijuana law and policy,” “the resulting increasing prevalence of marijuana use,” and in some instances “recreational marijuana use deserves less, or even no negative inference on judgment.”).

The Appeal Board has “never established a ‘bright line’ rule as to recency of drug use. The extent to which security concerns may have become attenuated through the passage of time is a question that must be resolved based on the evidence as a whole.” See ISCR Case No. 14-01847 at 3 (App. Bd. Apr. 9, 2015). See also ISCR Case No. 24-01307 at 5 (App. Bd. July 17, 2025) (stating same).

Applicant frequently used marijuana, and his most recent marijuana use was the day before his hearing. “The [DOHA Appeal] Board has ‘long held that applicants who use marijuana [or other illegal drugs] after having been placed on notice of the security significance of such conduct may be lacking in the judgment and reliability expected of those with access to classified information.’” ISCR Case No. 24-01001 (App. Bd. Apr. 22, 2025) (quoting ISCR Case No. 20-01772 at 3 (App. Bd. Sept. 14, 2021)). See also ISCR Case No. 24-00468 at 6 n.7 (App. Bd. Apr. 16, 2025). Applicant used marijuana after completion of his SCA, his DCSA background interview, and receipt of the SOR.

Applicant provided some important mitigating information. He initially disclosed his involvement with illegal drugs on his SCA and during his DCSA interview. His involvement with illegal drugs was not discovered through a polygraph test, law enforcement investigation, or a urinalysis test. His drug involvement did not include selling marijuana. His involvement with psilocybin mushrooms and LSD are mitigated because they are not recent.

SOR ¶ 6.c alleges, and Applicant admitted that in 2019, he paid an escort for sexual activity, which is a state criminal offense. SOR ¶ 6.d alleges that in about May of 2015 he was “charged with reckless driving, hit and run, and failure to remain at the scene. Applicant made poor decisions to deliberately back into another vehicle and then leave the scene of the accident and to pay an escort for sex. These two criminal offenses are not recent, and there is no evidence of a similar crimes. The mitigating conditions in AG ¶¶ 25(a) and 32(a) apply, and SOR ¶¶ 6.c and 6.d are mitigated.

None of the mitigating conditions fully apply to all of the disqualifying conduct because Applicant has not established a sufficient period of abstinence from marijuana possession and use. His decisions to possess and use marijuana may indicate he lacks the qualities expected of those with access to national secrets and continue to cast doubt on his current reliability, trustworthiness, and judgment. Drug involvement, substance misuse, and criminal conduct security concerns are not mitigated.

Sexual Behavior

AG ¶ 12 provides the security concern arising from sexual behavior:

Sexual behavior that involves a criminal offense; reflects a lack of judgment or discretion; or may subject the individual to undue influence of coercion, exploitation, or duress. These issues, together or individually, may raise questions about an individual’s judgment, reliability, trustworthiness, and ability to protect classified or sensitive information. Sexual behavior includes conduct occurring in person or via audio, visual, electronic, or written transmission. No adverse inference concerning the standards in this Guideline may be raised solely on the basis of the sexual orientation of the individual.

AG ¶ 13 provides conditions that could raise a sexual behavior security concern and may be disqualifying in this case:

- (a) sexual behavior of a criminal nature, whether or not the individual has been prosecuted;
- (b) pattern of compulsive, self-destructive, or high-risk sexual behavior that the individual is unable to stop;
- (c) sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress; and

(d) sexual behavior of a public nature or that reflects lack of discretion or judgment.

AG ¶¶ 13(a) and 13(d) are established. Discussion of the disqualifying conditions is in the mitigating section *infra*. AG ¶ 14 lists conditions that could mitigate drug involvement and substance misuse security concerns:

(a) the behavior occurred prior to or during adolescence and there is no evidence of subsequent conduct of a similar nature;

(b) the sexual behavior happened so long ago, so infrequently, or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or judgment;

(c) the behavior no longer serves as a basis for coercion, exploitation, or duress;

(d) the sexual behavior is strictly private, consensual, and discreet; and

(e) the individual has successfully completed an appropriate program of treatment, or is currently enrolled in one, has demonstrated ongoing and consistent compliance with the treatment plan, and/or has received a favorable prognosis from a qualified mental health professional indicating the behavior is readily controllable with treatment.

Applicant said he enjoyed viewing violent pornography depicting rape. He paid an escort for sexual activity in 2019. His viewing of such pornography is embarrassing, and he may wish that such information is unavailable to coworkers, friends, and relatives. This behavior renders him vulnerable to coercion, exploitation, or duress. His conduct with an escort is not recent and is mitigated under AG ¶¶ 14(b) and 14(c) for the reasons indicated in the criminal conduct section, *supra*. Applicant said he had reduced his involvement with pornography in general and with viewing rape in particular. His impulsive viewing of rape pornography is concerning because of his psychological issues, discussed *supra*.

Applicant's private viewing of pornography is protected under the First Amendment. "As a general principle, the First Amendment bars the government from dictating what we see or read or speak or hear. The freedom of speech has its limits; it does not embrace certain categories of speech, including defamation, incitement, obscenity, and pornography produced with real children." *Ashcroft v. Free Speech Coalition*, 535 U.S. 234, 246-47 (2002) (holding virtual images of child pornography are protected under the First Amendment). Pornography depicting actual children can be proscribed whether or not the images are obscene because of the State's interest in protecting the children exploited by the production process. *New York v. Ferber*, 458 U.S. 747, 758, 761 (1982).

"[W]here the speech is neither obscene nor the product of sexual abuse, it does not fall outside the protection of the First Amendment. See *id.* at 764-765 ('The distribution

of descriptions or other depictions of sexual conduct, not otherwise obscene, which do not involve live performance or photographic or other visual reproduction of live performances, retains First Amendment protection’).” *Free Speech Coalition*, 535 U.S. at 421. Applicant’s private viewing of adult pornography on his personal laptop computer or other privately owned media are protected conduct under the First Amendment and the liberty interest of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution. See *generally Lawrence v. Texas*, 539 U.S. 558 (2003)(discussing right to engage in private, consensual sexual behavior); *United States v. Playboy Entertainment Group, Inc.*, 529 U.S. 803 (2000) (discussing adult pornography and First Amendment).

Applicant’s viewing of pornography at work on his personal phone shows bad judgment; however, it is not alleged in the SOR and may not be recent. His viewing of rape pornography is not recent, and he assured it will not occur in the future. Sexual behavior security concerns are mitigated under AG ¶ 14(b).

Personal Conduct and Use of Information Technology

AG ¶ 15 provides the security concern arising from personal conduct:

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 will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

AG ¶ 39 provides the security concern arising from use of information technology.

Failure to comply with rules, procedures, guidelines, or regulations pertaining to information technology systems may raise security concerns about an individual’s reliability and trustworthiness, calling into question the willingness or ability to properly protect sensitive systems, networks, and information. Information Technology includes any computer-based, mobile, or wireless device used to create, store, access, process, manipulate, protect, or move information. This includes any component, whether integrated into a larger system or not, such as hardware, software, or firmware, used to enable or facilitate these operations.

AG ¶ 16 provides conditions that could raise a personal conduct security concern and may be disqualifying in this case:

(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 a national

security eligibility determination, or other official government representative;

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, 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. This includes, but is not limited to, consideration of:

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;

(2) any disruptive, violent, or other inappropriate behavior;

(3) a pattern of dishonesty or rule violations; and

(4) evidence of significant misuse of Government or other employer's time or resources; and

(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.

AG ¶ 40 provides conditions that could raise a use of information technology security concern and may be disqualifying in this case:

(b) unauthorized modification, destruction, or manipulation of, or denial of access to, an information technology system or any data in such a system;

(e) unauthorized use of any information technology system; and

(g) negligence or lax security practices in handling information technology that persists despite counseling by management.

AG ¶¶ 16(b), 40(b), 40(e), and 40(g) are established. AG ¶ 16(d) and 16(e) do not apply because the issues in the SOR are addressed under other guidelines, and Applicant could not be coerced by information in SOR ¶ 4.a because he is not embarrassed by his conduct. Discussion of the disqualifying conditions is in the mitigating section, *infra*. AG ¶ 17 lists conditions that could mitigate personal conduct security concerns:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(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;

(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; and

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

AG ¶ 41 lists conditions that could mitigate personal conduct security concerns:

(a) so much time has elapsed since the behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(b) the misuse was minor and done solely in the interest of organizational efficiency and effectiveness;

(c) the conduct was unintentional or inadvertent and was followed by a prompt, good faith effort to correct the situation and by notification to appropriate personnel; and

(d) the misuse was due to improper or inadequate training or unclear instructions.

SOR ¶¶ 4.a and 5.a allege under the personal conduct and use of information technology guidelines that Applicant was "fired from [his] employment at [T] in about September 2014 for not following remote work policy and procedure." Applicant said he was authorized to work from home. He worked primarily from home for three years. He said he "pushed the envelope." (Tr. 69) His employer said he abused the work-at-home policy by excessively working from home, and his employer fired him in September of 2014. AG ¶¶ 17(c) and 41(a) apply. This allegation is mitigated because it occurred more than 10 years ago, has not recurred, and does not cast doubt on his current reliability, trustworthiness, and good judgment.

SOR ¶ 4.b alleges under the personal conduct guideline that Applicant was “fired from [his] employment at [C] in about December 2017 for not following information technology policy and procedure.” AG ¶¶ 17(c) and 41(a) apply. This allegation is mitigated because it occurred more than eight years ago, has not recurred, and does not cast doubt on his current reliability, trustworthiness, and good judgment.

SOR ¶ 4.c alleges under the personal conduct guideline that Applicant “deliberately falsified material facts during a March 2024 evaluation with a psychologist working on behalf of the U.S. Government by stating that [he] had last used psilocybin (mushrooms) about a year earlier. In truth, [his] last use of psilocybin occurred in November 2023,” as set forth in SOR ¶ 2.c. Applicant admitted that he lied to Dr. N, a government psychologist evaluating him about the recency of his use of psilocybin mushrooms. About two days later, he emailed Dr. N and said, “Regarding psilocybin use, my notes reveal 11/20/2023 as my last and final consumption, roughly four months ago, to which I deceived by alluding to upwards of a year. While I did not know the date when questioned, I chose to downplay with a longer forecasted date than was reasonably truthful.” (GE 2 at 8) AG ¶ 17(a) applies. Applicant made “prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts.” See AG ¶ 17(a).

SOR ¶ 4.d cross alleges under the personal conduct guideline that information in SOR ¶¶ 1.a through 1.d, 2.a through 2.d, 2.f, 3.a, 3.b, and 6.d. SOR ¶ 4.d is refuted with respect to SOR ¶¶ 1.a through 1.d, 2.a, and 2.b because there is sufficient evidence to revoke his security clearance based on the information in those subparagraphs. SOR ¶¶ 2.c, 2.d, 2.f, 3.a, 3.b, and 6.d are mitigated for the reasons stated under Guidelines H, D, and M, *supra*. Personal conduct security concerns 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 his conduct and all the 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), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall commonsense judgment based upon careful consideration” of the guidelines and the whole-person concept. My comments under Guidelines I, H, D,

E, M, and J are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 34-year-old information technology network manager who has worked for the same employer for almost six years. In 2009, he graduated from high school, and he has about three years of college. He has access to sensitive but not classified information. He will be able to work more effectively for his employer if he has a security clearance.

The disqualifying and mitigating information is discussed in the analysis section, *supra*. The reasons for denying Applicant's security clearance are more persuasive than the reasons for granting his security clearance.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. *See Dorfmont*, 913 F. 2d at 1401. "[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant's eligibility for access to classified information." ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No. 12-00270 at 3 (App. Bd. Jan. 17, 2014)).

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence, to the facts and circumstances in the context of the whole person. Sexual behavior, personal conduct, and use of information technology security concerns are mitigated; however, psychological conditions, drug involvement and substance misuse, and criminal conduct security concerns are 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 I: | AGAINST APPLICANT |
| Subparagraphs 1.a through 1.d: | Against Applicant |
| Paragraph 2, Guideline H: | AGAINST APPLICANT |
| Subparagraphs 2.a and 2.b: | Against Applicant |
| Subparagraphs 2.c and 2.d: | For Applicant |
| Subparagraph 2.e: | Against Applicant |
| Subparagraph 2.f: | For Applicant |

| | |
|---------------------------------|-------------------|
| Paragraph 3, Guideline D: | FOR APPLICANT |
| Subparagraphs 3.a and 3.b: | For Applicant |
| Paragraph 4, Guideline E: | FOR APPLICANT |
| Subparagraphs 4.a through 4.d: | For Applicant |
| Paragraph 5, Guideline M: | FOR APPLICANT |
| Subparagraph 5.a: | For Applicant |
| Paragraph 6, Guideline J: | AGAINST APPLICANT |
| Subparagraph 6.a: | Against Applicant |
| Subparagraph 6.b, 6.c, and 6.d: | For Applicant |

Conclusion

Considering all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge