



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



In the matter of: )  
)  
) ISCR Case No. 24-02231  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Laurin Shure, Esq., Department Counsel  
For Applicant: *Pro se*

04/01/2026

**Decision**

WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, exhibits, and testimony, Applicant did not mitigate drug involvement and substance misuse, alcohol consumption, criminal conduct, and personal conduct security concerns. Eligibility for access to classified information or to hold a sensitive position is denied.

**Statement of the Case**

On July 14, 2025, the Defense Counterintelligence and Security Agency (DCSA) Adjudications and Vetting Services (AVS) issued a statement of reasons (SOR) to Applicant detailing reasons why under the drug involvement and substance misuse, alcohol consumption, criminal conduct, and personal conduct guidelines the DCSA AVS could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DoD) Directive 5220.6 *Defense Industrial Personnel Security Clearance Review Program*, (January 2, 1992) (Directive); and Security Executive Agent Directive 4, establishing in Appendix A

the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017.

Applicant responded to the SOR on August 22, 2025, and elected to have his case decided on the written record in lieu of a hearing. Applicant received the File of Relevant Material (FORM) on December 26, 2025, and was instructed to file any objections to the FORM or supply additional information for consideration within 30 days of receipt. Applicant did not respond to the Government's FORM and did not object to the Government's materials included in the FORM. The Government's exhibits were admitted as Government's Exhibits 1-11. (GEs 1-11) This case was assigned to me on February 17, 2026.

### **Summary of Pleadings**

Under Guideline H, Applicant allegedly (a) was arrested in his state of residence with a charged probation violation after his required urinalysis results were reported positive for marijuana in March 2023 and April 2023, respectively; (b) failed a urinalysis test in January 2019, testing positive for marijuana (THC -9 with a level of 72 ng/mL), for which he received a non-judicial punishment; (c) was ordered to seek counseling through the U.S. Air Force Alcohol and Drug Abuse Prevention and Treatment (ADAPT) for his drug use in 2019; (d) used and purchased marijuana with varying frequency, from at least December 2017 to at least July 2019, while employed in a sensitive position, i.e., one requiring a security clearance; and (e) used marijuana with varying frequency, from at least December 2017 to at least March 2023.

Under Guideline G, Applicant allegedly (a) was arrested in December 2022 in his state of residence and charged with driving under the influence (DUI), was convicted, and placed on probation until March 2024; Sub-paragraphs 1.a through 1.d and 2.a were cross alleged under Guidelines J and E. Additional allegations were added under Guideline E. Under Guideline E, Applicant allegedly was discharged from the U.S. Air Force (USAF) under other than honorable conditions. Allegations covered in Guidelines H (SOR ¶¶ 1.a-1.d) and G (SOR ¶ 2.a) are cross alleged under Guideline E.

In Applicant's SOR response, he admitted some but not all of the allegations. He denied being arrested in March 2023. He denied purchasing marijuana, and he denied beginning substance abuse counseling prior to being ordered to do so. He claimed to have owned up to his past mistakes and learned from them. And, he asked for favorable assessments of the holistic information he provided.

### **Findings of Fact**

Applicant is a 32-year-old civilian employee of a defense contractor who seeks a security clearance. Allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

## **Background**

Applicant married in April 2019 and divorced in May 2020. (GE 4) He has no children. (GEs 3-4) He earned a high school diploma in May 2012 and attended some college classes without earning a degree or diploma. (GEs 3-4). He enlisted in the Air Force (AF) in August 2014 and served five years of active duty. He received an other than honorable discharge in July 2019 based on a positive urinalysis test result for marijuana. (GE 4)

Since June 2022, Applicant has been employed by his current employer as an avionics technician. (GE 4) Previously, he worked for other employers in various jobs. He was granted a security clearance May 2014 as an Air Force enlistee and is sponsored by his current employer for a security clearance. (GEs 4-5)

## **Illegal drug involvement and diagnosed substance misuse disorders**

Applicant used marijuana with varying frequency from December 2017 to March 2023. (GEs 2, 6, and 11) Between December 2017 and July 2019, he used marijuana while employed in a sensitive position, i.e., one requiring a security clearance. While aware of the federal ban on the possession of marijuana, he continued to use a Schedule 1 drug after completing his first e-QIP in April 2014. (GE 3) See Federal Controlled Substance Act, 21 U.S.C. §§ 802 *et. seq.* (1970) (CSA). To satisfy his personal needs, he purchased marijuana between 2017 and July 2019.

In January 2019 Applicant submitted to a random drug urinalysis test. (GE 7) Returned test results were positive for marijuana and produced readings of THC-9 with a level of 72 ng/ml. Responding to an AF investigator's questions about his positive drug test, he told the AF investigator that prior to his positive test he had purchased three pre-rolled joints at a local dispensary and smoked them. (GE 7)

As the direct result of his positive urinalysis, he received non-judicial punishment (NJP) in April 2019 that imposed a reduction in rank. The AF referred Applicant to the Air Force's ADAPT program [second use] for alcohol and drug counseling. (GE 5)

In March 2023, Applicant tested positive for marijuana in a random urinalysis test administered by his employer in accordance with his employer's monthly urinalysis testing requirements. (GEs. 10-11) He was arrested and charged with a probation violation in May 2023. Appearing in court on the charges, he was ordered to attend Alcoholics Anonymous (AA) classes and drug and alcohol counseling. (GEs 10-11) Applicant is credited with completing his court-ordered outpatient counseling program in October 2023. (GE 10)

Applicant acknowledged his last use of marijuana in March 2023 (suggesting possible second-hand smoke) and committed to abstinence from all marijuana activity

thereafter. (GE 11) Applicant's second-hand smoke claims and post-2023 abstinence assurances cannot be accepted on the basis of his assurances alone. Supporting documentation is not available in the record.

Applicant's 2023 treatment records provide no independent means for verifying any follow-up on the recommendations of the facility's treatment counselor. (GE 10) The counseling center placed responsibility on Applicant to follow through on his counseling recommendations and make arrangements for any needed follow-up counseling. Documented follow-up is lacking in the record.

### **Applicant's alcohol history**

Applicant was introduced to alcohol at the age of 21. Between 2021 and 2022, Applicant consumed alcohol in varying frequencies in social situations. (GE 2) In December 2022, he was arrested and charged with DUI. In the police incident report covering the incident, the arresting officer described Applicant as unstable and visibly impaired in his movements. Based on his observations of Applicant, the officer arrested him, and he was charged with DUI. (GEs 8-9) Court records document Applicant's ordered referral to alcohol counseling and treatment as the result of his DUI. (GE 10)

Applicant's treatment records document his prescribed treatment plan that consisted of his completion of an 18-week individual and group substance abuse counseling program covering both marijuana and alcohol abuse. His October 2023 discharge summary credited Applicant with completion of his established treatment program with a good prognosis based on the condition that he adhere to his discharge aftercare recommendations. (GE 10) Recommendations included sustained abstinence and recommended enrollment in AA network meetings. (GE 11). Without an updated report from a licensed substance abuse counselor and other evidence of post-discharge follow-up by Applicant, inferences cannot be reached as to his adherence to his treatment provider's abstinence supporting recommendations.

Afforded opportunities to supplement the record with recent supporting counseling assessments, endorsements, and performance evaluations, Applicant declined to do so. Favorable assessments of his recent drinking practices over the past two years cannot be reliably made with updated favorable information from Applicant.

### **Policies**

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), "no one has a 'right' to a security clearance." 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.

Eligibility for access to classified information may only be granted “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 AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual’s reliability, trustworthiness, and ability to protect classified information. These guidelines include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns.

These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant’s life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant’s conduct, the relevant guidelines are considered together with the following AG ¶ 2(d) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guideline is pertinent:

## **Drug Involvement**

*The Concern:* The illegal use of controlled substances, to include the misuse of 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 ¶ 24.

## **Personal Conduct**

*The Concern:* Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, and 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. AG ¶ 15.

## **Alcohol Consumption**

*The Concern:* Excessive alcohol consumption often leads to the exercise of questionable judgment, or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness. AG ¶ 21.

## **Criminal Conduct**

*The Concern:* 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.

## **Burdens of Proof**

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. See also Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

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 (4<sup>th</sup> Cir. 1994). The AGs 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**

Security concerns are raised over Applicant’s positive drug tests for marijuana (one in 2019 during his AF enlistment and the other in 2023 associated with a monthly drug test mandated by his employer’s drug policy) and his admitted use and purchases of marijuana between 2017 and 2023 while holding a sensitive position requiring a security clearance.

Additional security concerns are raised over Applicant’s excessive use of alcohol that resulted in a 2023 DUI arrest and charges requiring court-ordered counseling (inclusive of AA participation). Further, independent security concerns are raised over Applicant’s AF discharge in July 2019 as the result of his testing positive for marijuana that resulted in his receipt of NJP before his subsequent discharge.

### **Drug and Substance Abuse Concerns**

Applicant’s admissions to using federally banned marijuana and twice testing positive for a Schedule 1 drug raise security concerns over his reliability, trustworthiness, judgment, and risks of recurrence. The Director of National Intelligence (DNI) has made it very clear that state laws legalizing the use of marijuana and any other drugs considered

illegal under federal law permit individuals to preempt or otherwise violate federal laws banning or restricting the possession of drugs covered by Schedules 1 and 2 of the CSA.

On the strength of the evidence presented, four disqualifying conditions (DCs) of the AGs for drug involvement and substance misuse are applicable. DC ¶¶ 25(a), “any substance misuse”; 25(b), “testing positive for an illegal drug”; 25(c), “illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia”; and 25(f), “any illegal drug use while granted access to classified information or holding a sensitive position,” apply to Applicant’s situation.

While not directly controverted by any independent Government evidence, Applicant’s claims of sustained abstinence from any illegal drug use since 2023 are neither corroborated nor independently verified by any updated substance abuse counseling evaluations of Applicant. By twice testing positive for marijuana use (once in 2019 and once again in 2023), Applicant raised concerns about his ability to refrain from abuse of marijuana. These risks have not been sufficiently reduced to facilitate safe predictions of sustained abstinence in the future.

Considering all of the circumstances surrounding Applicant’s past involvement with marijuana, his lack of any post-treatment updates on his prognosis, and his lack of any corroborating evidence to support his abstinence claims, he is entitled to limited application of potentially available mitigating conditions (MCs) of the drug involvement and substance misuse guideline. Neither potentially applicable MC ¶ 26(a), “the behavior happened so long ago, was so infrequent, or happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment,” nor any of the other listed mitigating conditions are available to Applicant. Overall, his uncorroborated commitments to abstain from marijuana use are insufficient to warrant favorable mitigation of his past use of illegal drugs.

### **Alcohol consumption concerns**

Applicant’s 2023 DUI arrest and charge raise continuing security concerns when considered not only separately but contextually with his covered history of illegal drug misuse. On the strength of the evidence presented, application of two of the DCs covered by Guideline G are warranted. DC ¶¶ 22(a), “alcohol-related incidents away from work, such as driving under the influence, fighting, child or spouse abuse, disturbing the peace or other incidents of concern, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent”; and 22(c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder,” apply.

Treatment records from both of Applicant’s outpatient counseling and treatment admissions substantiate concerns over Applicant’s drinking patterns. Of most concern

was his 2023 counseling summary from the licensed substance abuse counselor of the outpatient center he counseled with after being court-ordered to seek counseling following his 2023 DUI. This treatment counselor assigned a conditional prognosis based on Applicant's continuing to use aftercare options designed to maintain his abstinence commitments.

Applicant's failure to provide any updated professional evaluations or documented support of his sustained abstinence from licensed substance abuse counselors, AA membership sources, or other verifiable professional groups are important considerations in determining what weight to assign to Applicant's claims of sustaining abstinence over the two years that have passed since his 2023 DUI incident and looking beyond. See ISCR Case No. 02-03186 (App. Bd. Feb. 16, 2006); ISCR Case No. 01-20579 (App. Bd. Apr. 14, 2004).

Still troubling and of ongoing security concern is Applicant's history of diagnosed excessive drinking, his lack of any documented period of light to moderate alcohol consumption, and his lack of any updated diagnosis and prognosis from a licensed substance abuse counselor. While Applicant has provided assurances of his sincere commitment to sustained abstinence, or at the very least drinking at sustained safe levels, he has provided no updated professional evaluations on which to assess the adequacy of his sustained abstinence claims. Without more documented information on his alcohol consumption levels, none of the potentially applicable mitigating conditions are available to Applicant at this time.

### **Criminal and personal conduct concerns**

Criminal conduct and personal conduct concerns covering sub-paragraphs 1.a through 1.d under Guideline H and 2.a under Guideline G are cross alleged under Guidelines J and E respectively and warrant the same continuing concerns about Applicant's ability to sustain his abstinence commitments. Applicable DCs under cross alleged Guideline J are DCs ¶¶ 31(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 31(b), "evidence (including, but not limited to, a credible allegation, and admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted," and ¶ 31(d) violation or revocation of parole or probation, or failure to complete a court-mandated rehabilitation program.

Potentially applicable DCs under cross alleged Guideline E are ¶ 16(c), "credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when combined as a whole supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or

sensitive information” can only be applied if the allegations covered under Guideline E are not otherwise fully covered, or potentially fully coverable under Guideline H.

Because Applicant’s AF discharge was separately alleged under Guideline E, but not under any of the other potentially invocable guidelines (i.e., Guidelines H, G, and J), it can potentially warrant separate treatment under Guideline E. His AF discharge under other than honorable conditions (attributable to his positive 2019 drug test) is fully capable of being alleged as a drug-related action under Guideline H. Just because his AF discharge under other than honorable conditions has independent consequences for Applicant, the AF’s actions are not necessarily foreclosed from being treated as a drug-related punitive action taken against Applicant. Under this theory, the pleadings arguably would have better served by treating the discharge as drug-related and more appropriately alleged under Guideline H.

Still, Applicant’s AF discharge under other than honorable conditions has enough independent identity to be alleged separately under Guideline E without duplicating or undercutting the drug-related allegations covered by Guideline H. As plead, his discharge raises some separate continuing concerns over his overall trust and reliability to adhere to established rules and policies, enough to warrant separate application of Guideline E to the core facts in Applicant’s case.

### **Whole-person assessment**

Whole-person assessment of Applicant’s clearance eligibility requires consideration of whether his established pattern of illegal drug use, alcohol consumption levels, and past under other than honorable conditions AF discharge can be reconciled with minimum standards for holding a security clearance. Applicant’s past positive drug tests and use of marijuana while holding a sensitive position and documented excessive drinking, when considered contextually with his past AF separation under other than honorable conditions are still too recent to facilitate safe predictions of sustained abstinence from illegal drugs and excessive alcohol consumption in the foreseeable future.

While Applicant is to be credited for his contributions to the defense industry, his considerable illegal drug activity while holding a sensitive position, his documented excessive alcohol consumption without any professional updates, and his past AF discharge under other than honorable conditions, when considered together preclude him from benefitting from any of the potentially available mitigating conditions. See ISCR Case No. 02-07555 at 2-3 (App. Bd. July 19, 2004); ISCR Case No. 01-07735 at 2 (App. Bd. June 25, 2002)

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude that illegal drug involvement and substance misuse concerns, alcohol consumption concerns and other raised concerns under the

criminal conduct and personal conduct guidelines are not mitigated.. Eligibility for access to classified information is denied.

### **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:

GUIDELINE H (DRUG INVOLVEMENT):	AGAINST APPLICANT
Subparagraphs 1.a-1.e	Against Applicant
GUIDELINE G (ALCOHOL CONSUMPTION):	AGAINST APPLICANT
Subparagraphs 2.a-2-b:	Against Applicant
GUIDELINE J (CRIMINAL CONDUCT):	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant
GUIDELINE E (PERSONAL CONDUCT);	AGAINST APPLICANT
Subparagraph 4.a-4.b:	Against 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 eligibility for a security clearance. Eligibility for access to classified information is denied.

---

Roger C. Wesley  
Administrative Judge