



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



In the matter of: )  
)  
) ISCR Case No. 25-01325  
)  
Applicant for Security Clearance )

**Appearances**

For Government: George A. Hawkins, Esq., Department Counsel  
For Applicant: *Pro se*

03/31/2026

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**Decision**

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Dorsey, Benjamin R., Administrative Judge:

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

**Statement of the Case**

On December 10, 2025, the Department of War (DOW) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline H (drug involvement and substance misuse). On January 6, 2026, Applicant responded to the SOR (Answer) and requested a decision based on the written record in lieu of a hearing.

The Government’s written case was submitted on January 27, 2026. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was given 30 days to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on January 29, 2026, and provided a response that he dated January 27, 2026 (FORM Response). The case was assigned to me on March 18, 2026. The Government exhibits included in the FORM (Items 1-10) are

admitted in evidence without objection. Department Counsel objected to the FORM Response being admitted in evidence. That objection is overruled. The FORM Response is relevant and material to Applicant's Guideline H security concerns and to the whole-person analysis. Moreover, there is no indication that the FORM Response lacks authenticity. The FORM Response is admitted in evidence over Department Counsel's objection.

### **Findings of Fact**

Applicant is a 64-year-old employee of a government contractor for which he has worked since December 2016. He earned a high school diploma in 1979, and a certificate that he believes is the equivalent of an associate degree, in 1986. He is single. He was married from 1989 until a divorce in 1992. He was also married from 2000 until a divorce in 2010. He has an adult daughter. He served on active duty in the Navy from 1980 until about May 1984, when he received a discharge under other than honorable conditions after testing positive for marijuana (tetrahydrocannabinol or THC) (SOR ¶ 1.f). (Items 2-4, 10; FORM Response)

In the SOR, the DOW alleged the following: Applicant used marijuana with varying frequency from at least 1983 until at least November 2025 (SOR ¶ 1.a); he purchased marijuana from at least January 2022 until at least November 2025 (SOR ¶ 1.b); from at least November 2024 to at least November 2025, he used and purchased marijuana with varying frequency while granted access to classified information (SOR ¶ 1.c); he intends to continue to use marijuana in the future (SOR ¶ 1.d); in March 2022, he tested positive for THC on an employer-issued drug test/screen (SOR ¶ 1.e); and his aforementioned discharge from the Navy under other than honorable conditions after testing positive for marijuana. He admitted the SOR allegations with additional comments in the Answer. His admissions are incorporated in my findings of fact. The SOR allegations are established by his admissions, the Government's evidence, and the FORM Response. (Items 1-10; FORM Response)

Applicant has used marijuana with varying frequency from about 1983 until at least November 2025. He acknowledged that he has known marijuana is illegal pursuant to federal law since 1983, when he began using it. He has uniformly indicated his intent to continue to use marijuana at multiple times during the clearance adjudication process, including the following: his security clearance application in November 2024 (SCA); his authenticated summaries of his April 2025, May 2025, and June 2025 interview with an investigator (SI); his November 2025 responses to Government interrogatories; his Answer; and the FORM Response. (Items 2-4, 10; FORM Response)

Applicant uses marijuana to alleviate painful symptoms of Crohn's Disease and ulcerative colitis (collectively, "GI Symptoms"), which he described as gastrointestinal pain, swelling, bloating, and bleeding. He provided medical records corroborating his conditions and his symptoms. He indicated that marijuana use calms him down, arrests the GI Symptoms, and helps him sleep. He has ingested marijuana by smoking it, and, more recently, by chewing a marijuana gummy. Given his admissions and other conflicting evidence, there is equivocal evidence that he stopped using marijuana from

about 2010 until about 2017 because he was receiving transfusions to alleviate his GI Symptoms. However, he stopped the transfusions in 2017 because of the painful side effects and started using marijuana regularly again. (Items 2-4; FORM Response)

In about January 2022, Applicant obtained a medical marijuana card (MMC) from State A, after being prescribed medical marijuana by a doctor of osteopathic medicine (D.O.) (Dr. A). Since then, Applicant has purchased marijuana from a licensed dispensary in State A. He provided a copy of an MMC issued in 2025 that expires in 2028. In March 2022, he tested positive for marijuana after taking an employer-issued drug urinalysis. His employer accepted his medical condition as a permissible excuse and did not terminate his employment. A copy of his employer's drug-free workplace policy contemplates the "*lawful* use and possession of prescribed medication or medical marijuana [emphasis mine]." While marijuana possession (and therefore its use) may be "legal" pursuant to state law, it remains illegal pursuant to federal law, which preempts any state law to the contrary. (Items 2-4; FORM Response)

In about November 2024, Applicant was granted interim security clearance eligibility. He signed a classified information non-disclosure agreement (NDA) on January 28, 2025. In the NDA, he acknowledged that he was being granted access to classified information. (Items 5, 6)

In the Answer and the FORM Response, Applicant noted that he only uses marijuana for medicinal purposes. He wrote that he tried other treatments to alleviate his painful GI Symptoms, but those other treatments damaged his kidneys and caused other negative side effects such as joint pain, osteoporosis, hypertension, and diabetes exacerbation. He wrote the marijuana use is the only treatment that has alleviated his GI Symptoms without the negative side effects. He provided a letter from Dr. A corroborating these alternative treatments and negative side effects. Dr. A wrote that he strongly advises against Applicant's cessation of his marijuana treatment and that "it is a clinically essential, last line treatment that preserves his health, dignity, and ability to function as a productive member of society." (Item 2; FORM Response)

Applicant does not associate with other illegal drug users and uses marijuana alone in his home. He disagreed with the Navy's decision to discharge him and thought he was being unfairly targeted because of his medical condition. He argued that there is a plan mandated by the President to transfer cannabis from Schedule I to Schedule III of the Controlled Substances Act. There is no evidence that this transfer from Schedule I to Schedule III transpired. He wrote that he will have been treated unfairly if he loses his security clearance, and that medical necessity overrides technical federal illegality. He argued that most states allow the use of medical marijuana, that his voluntary disclosure of his medical marijuana use, the circumstances surrounding his medical treatment, and his compliance with state law favor his being granted security clearance eligibility under the whole-person standard and AG ¶ 26. (Items 2-4; FORM Response)

Applicant provided character-reference letters from work colleagues attesting to his trustworthiness, integrity, reliability, and professionalism. They note his chronic health condition but claim that it has not negatively affected his work performance. They wrote

that he has always complied with workplace security protocols and safeguarded proprietary information. They believe he should be granted security clearance eligibility. Item 2; FORM Response)

## **Policies**

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

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

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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

## **Analysis**

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

The security concern for drug involvement and substance misuse is set out in AG ¶ 24:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual’s reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person’s ability or willingness to comply with laws, rules, and regulations. Controlled substance means any “controlled substance” as defined in 21 U.S.C. 802. Substance misuse is the generic term adopted in this guideline to describe any of the behaviors listed above.

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

[C]hanges to state laws and the laws of the District of Columbia pertaining to marijuana use do not alter the existing National Security Adjudicative Guidelines . . . . An individual’s disregard of federal law pertaining to the use, sale, or manufacture of marijuana remains adjudicatively relevant in national security determinations. As always, adjudicative authorities are expected to evaluate claimed or developed use of, or involvement with, marijuana using the current adjudicative criteria. The adjudicative authority must determine if the use of, or involvement with, marijuana raises questions about the individual’s judgment, reliability, trustworthiness, and willingness to comply with law, rules, and regulations, including federal laws, when making eligibility decisions of persons proposed for, or occupying, sensitive national security positions.

On December 21, 2021, the SecEA promulgated clarifying guidance concerning marijuana-related issues in security clearance adjudications (*Security Executive Agent Clarifying Guidance Concerning Marijuana for Agencies Conducting Adjudications of Persons Proposed for Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*). It states in pertinent part:

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

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

- (a) any substance misuse (see above definition);
- (b) testing positive for an illegal drug;
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia;
- (f) any illegal drug use while granted access to classified information or holding a sensitive position; and
- (g) expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.

Applicant used marijuana, an illegal drug under federal law, with varying frequency from at least 1983 until at least November 2025. He tested positive for marijuana on drug tests in 1984 and March 2022. He purchased marijuana, in violation of federal law, from at least January 2022 until at least November 2025. From at least November 2024 until at least November 2025, he used and purchased marijuana while granted access to classified information. He repeatedly indicated he intends to continue to use marijuana. AG ¶¶ 25(a), 25(b), 25(c), 25(f), and 25(g) are established.

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

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

(b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:

(1) disassociation from drug-using associates and contacts;

(2) changing or avoiding the environment where drugs were used; and

(3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

None of the mitigating conditions are applicable. At every stage of the security clearance process, when Applicant was asked to update his marijuana involvement timeline, he continued to use and purchase it. He consistently indicated his intent to continue to use marijuana. He knew that marijuana use was illegal pursuant to federal law the entire time he was involved with it. These considerations mean that he failed to provide sufficient evidence that his marijuana involvement is unlikely to recur. His continued use and stated intention to continue also mean he has not provided evidence that he has established a pattern of abstinence. AG ¶¶ 26(a) and 26(b) do not apply.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances

surrounding this case. I have incorporated my comments under Guideline H in my whole-person analysis. While I am sympathetic to the issues Applicant faces with respect to his chronic and painful health conditions, and I understand that his motivation for marijuana involvement is health related, I am constrained by the requirements contained in the Directive. Marijuana involvement remains illegal pursuant to federal law, and Applicant was aware of that illegality. As of December 2025 (at the latest), when he received the SOR, he has known that his marijuana involvement is incompatible with holding security clearance eligibility, yet he insisted that he would continue to use it. SecEA's clarifying guidance concerning marijuana-related issues in security clearance adjudications, issued on December 21, 2021, specifically refers to frequency of use and whether the individual can demonstrate that future use is unlikely as whole-person factors to be considered (among others). The Applicant's disqualifying behavior is unmitigated given his frequent and continued marijuana involvement and oft-stated intent to continue that behavior.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude he did not mitigate the drug involvement and substance misuse security concerns.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline H:	AGAINST APPLICANT
Subparagraphs 1.a-1.f:	Against Applicant

### **Conclusion**

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.

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Benjamin R. Dorsey  
Administrative Judge