



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



In the matter of:)
) ISCR Case No. 25-00364
)
Applicant for Security Clearance)

Appearances

For Government: A. H. Henderson, Esq., Department Counsel
For Applicant: *Pro se*

03/26/2026

Decision

GARCIA, Candace Le'i, Administrative Judge:

Applicant has not mitigated the security concerns under Guideline H. Eligibility for access to classified information is denied.

Statement of the Case

On March 27, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline H (drug involvement and substance misuse). The action was taken under Executive Order (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) implemented by the DOD on June 8, 2017.

Applicant responded to the SOR (Answer) on July 11, 2025, and elected to have the case decided on the written record in lieu of a hearing. The Government's written case was submitted on July 18, 2025. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on September 15, 2025, and he elected not to respond. The case was assigned to me on January 7, 2026. The Government's documents identified as Government Exhibits (GE) 1 through 4 are admitted in evidence without objection.

Findings of Fact

Applicant admitted both SOR allegations in his Answer. He is 40 years old, married, and he has two minor children. He has lived in state A since at least 2013, and he has owned his current home since 2018. He attended college from 2003 to 2007, and he obtained a bachelor's degree. He worked for various companies as an analyst from 2013 to 2020 and then as a data engineer from 2020 to 2024. He was unemployed from June 2024 to August 2024. He has since worked as a data engineer for his employer, a defense contractor. He has never held a security clearance. (GE 1-2)

Applicant used and purchased marijuana, with varying frequency, from approximately September 2002 to April 2024. (SOR ¶¶ 1.a-1.b; GE 2) He disclosed information about his marijuana involvement on his August 2024 security clearance application (SCA), during his November 2024 background interview, and in his March 2025 response to interrogatories. He started using marijuana during his junior year of high school, and he used it recreationally approximately once weekly. In college, he used it twice weekly. After college, his use started to taper off, and he used it infrequently after he got married in 2014. He estimated he used it ten times per year between 2014 and 2024. He used it primarily in social situations with friends and he also used it with his spouse at home. He last used it in April 2024. (GE 1-4)

Applicant purchased marijuana from drug dealers in high school and college. From 2014 to January 2023, he purchased it from friends. He estimated he purchased no more than half an ounce after 2014 due to infrequent use. In January 2023, he obtained a medical marijuana card in the state in which he lives, and he purchased it from licensed dispensaries. He purchased marijuana from licensed dispensaries in the state in which he lives between three and four times after receiving his card. (GE 2-4)

Applicant stated in his SCA he had no future intentions of using or purchasing marijuana, as his family, career, and clearance were more important to him. During his background interview, he indicated he could reevaluate whether he would use marijuana again if his situation changed. He still socialized with the friends with whom he previously used marijuana. (GE 2-3)

Policies

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

applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(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

AG ¶ 24 expresses the security concern pertaining to drug involvement and substance misuse as:

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.

AG ¶ 25 describes conditions that could raise a security concern and may be disqualifying. I considered the following relevant: “(a) any substance misuse . . .”; and “(c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.”

Applicant used and purchased marijuana with varying frequency from about 2002 to April 2024. AG ¶¶ 25(a) and 25(c) are established.

AG ¶ 26 provides the following potentially relevant mitigating conditions:

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

Although Applicant last used marijuana in April 2024, insufficient time has passed to overcome his 22-year history of marijuana involvement at this time. Similarly, even if he believed that his purchases of marijuana in 2023 and 2024 with a medical marijuana card from licensed dispensaries was legal, that does not overcome his extensive illegal involvement from 2002 to 2023. Marijuana remains federally illegal, and he did not provide a statement of intent to abstain from all drug involvement and substance misuse. He continues to socialize with friends with whom he previously used marijuana. Given the length of time in which he has used and purchased marijuana, not enough time has passed since his last use in 2024 to establish a pattern of abstinence. None of the mitigating conditions are established.

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 this whole-person analysis. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. I conclude Applicant 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.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's eligibility for a security clearance. Eligibility for access to classified information is denied.

Candace Le'i Garcia
Administrative Judge