



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



In the matter of:)
)
) ISCR Case No. 25-00035
)
Applicant for Security Clearance)

Appearances

For Government: Troy L. Nussbaum, Esq., Department Counsel
For Applicant: Daniel P. Meyer, Esq.

04/27/2026

Decision

HALE, Charles C., Administrative Judge:

Applicant mitigated Guideline H (Drug Involvement and Substance Misuse) security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On March 17, 2025, the Department of War (DoW) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline H. Applicant responded to the SOR on May 23, 2025, and requested a hearing before an administrative judge. The case was assigned to me on December 10, 2025.

The hearing was convened as scheduled on January 29, 2026. Government Exhibits (GE) 1 through 3 were admitted in evidence without objection. Applicant testified and offered Applicant Exhibits (AE) A through F, which were admitted in evidence without objection. The record was held open because the Government moved to amend the SOR adding a Guideline B allegation, which was scheduled to be heard on March 4, 2026. The Government subsequently withdrew the Guideline B allegation, and both sides agreed to submit written closing arguments, which have been marked as Hearing Exhibits (HE) III and IV. The record closed on February 26, 2026. I received the transcript on February 9, 2026.

Findings of Fact

Applicant is a 29-year-old demanufacturing consultant. He has worked for his employer since March 2025. He enlisted in the Marine Corps at age 17 and served honorably from 2015 to 2019 as a mortarman. He did two six-month tours to Southeast Asia. He achieved the rank of sergeant. He was married from November 2019 until his July 2021 divorce. He received his bachelor's degree in 2024, and he earned his master's degree in June 2025. His transcripts reflect a 3.7 grade point average and that he earned a place on the President's list for his academic achievement. After graduation from college, he returned home to live with his parents briefly, before moving out and purchasing his own property. (GE 1, GE 2; AE C; Tr. 19-27, 34-41, 67.)

In Applicant's Answer to the SOR, he admitted all Guideline H allegations, SOR ¶¶ 1.a through 1.f. He candidly discussed his marijuana use from about June 2012 to about 2015 and from about August 2019 to about May 2023, SOR ¶¶ 1.a and 1.b respectively. He acknowledged between about June 2019 to about September 2021, he used ecstasy on two occasions, SOR ¶ 1.c. He admitted that he used cocaine from about February 2022 to about October 2023, with varying frequency, SOR ¶ 1.d. He admitted that he used hallucinogenic mushrooms from about February 2022 to about October 2023, with varying frequency, SOR ¶ 1.e. He admitted that in about October 2012, at age 15, he was arrested and charged with Possession of Marijuana, Distributing Marijuana at School, and Distributing Marijuana with Intent, which resulted in him entering a restorative substance treatment opportunity program, and the charges being dismissed (SOR ¶ 1.f).

While Applicant was in the Marine Corps, he observed four or five Marines being disciplined for drug use and he noted, "that Marines like myself and the friends I had, we did not associate with these individuals. They were sketchy, to say, Your Honor." (Tr. 56.) After leaving the Marine Corps he returned to his home state with his wife. After his marriage ended he moved to the West Coast but after about a year in 2022, he returned to his home state and started a commercial job. He stated that he stopped using marijuana in May 2023 because he had just gotten a job, which had a no-drugs policy: "no marijuana, no THC." He acknowledged he "quit for the job." Applicant's last drug involvement (cocaine (SOR ¶ 1.d)) was in October of 2023. He described this event as "experimental" and that it occurred under circumstances that would not be repeated or allowed to happen again. (Tr. 45, 48.)

Applicant's environment factored heavily into his drug use. He first experimented with marijuana in high school and estimated he tried marijuana three times before he joined the Marine Corps. He declared his drug use prior to going on active duty. (Tr. 45; GE 3.) He acknowledged experimental marijuana use in August 2019 and in May 2020. In 2021, while he was on the West Coast, his marijuana use increased to once a month from around November 2021 until July 2022. (GE 1; Tr. 45.)

Applicant confirmed his ecstasy use, which he had reported on his 2024 SCA. He stated he purchased and used ecstasy at music festivals on two occasions in June 2019, and again in September 2021. He confirmed that there were a lot of people using recreational drugs at these festivals. He stated he used ecstasy with other people. (GE

1; Tr. 46-47.)

Applicant confirmed his cocaine use, which he had reported on his 2024 SCA. He admitted from February 2022 to October 2023, he experimented with cocaine three times on a ski trip, on a camping trip, and at a Halloween party. The cocaine was purchased with a group. He found that the cocaine gave him anxiety but confessed, “at the time, it was social pressures, and I caved to it. I folded, as we mentioned before. But I did not enjoy those feelings.” (GE 1; Tr. 48-49.)

Applicant confirmed his use of hallucinogenic or psilocybin mushrooms from August 2019 to September 2021, which he reported on his 2024 SCA. He acknowledged he used mushrooms three times during the same two music festivals mentioned above and a May 2022 camping trip. He stated this drug was not something that he would seek out because he enjoyed it. He cited peer pressure that caused him to use it more than once. The mushrooms were also purchased with a group of friends. (GE 1; Tr. 49-50.)

Applicant testified how he had come to recognize the mistakes of his past were jeopardizing his future. While acknowledging some peer pressure, Applicant did not make it an excuse. He has disassociated from the two roommates who applied the social pressure and has “cleaned [them] out” of his phone book and refuses to communicate with them. He noted he had moved back across the country, and he left all of his drug paraphernalia behind. After living with his parents for a short period he purchased a condominium and lives alone. (Tr. 27, 76.)

In support of his statement of abstinence, AE E, he offered a written declaration and declared:

I am fully aware that my previous conduct of abusing illegal drugs was reprehensible and does not comply with the standards and limitations implemented to protect the security and safety of classified information. The last usage of any form of illegal drugs was in October of 2023, nearly 2 years ago. Since then, I no longer associate with those individuals who my usage was with, and I no longer have any desire for usage of any kind, experimental or otherwise. I acknowledge that the usage of such substances is dangerous and can put myself and others at risk and have subsequently removed myself from any such situation or environment that may be conducive to drug use. My dedicated abstinence from the usage of such substances also demonstrates that I have no psychological or physical need for drug usage, and my continued abstinence will not be a problem in the future. (AE C at 2.)

Applicant testified that he refused to have communications with the friends who used drugs and that he had physically changed living circumstances as well. He no longer puts himself in an environment where drugs are used, such as music festivals or camping trips with a crowd that uses drugs. He has focused on his health. He belongs to a gym and while he no longer swims competitively, he still swims to maintain his fitness. He is

involved in competitive volleyball. He noted there was no recreational drug use in this group. He also plans to continue his education and has inquired about veterans' education programs. (Tr. 50, 71-74.) He emphasized credibly that he had matured since returning home and disassociating from his old roommates. While his home state and neighboring jurisdictions have legalized marijuana and it is prevalent, he emphasized he has no place for drugs where he is now in his life. He recognizes drugs do nothing "positive for the body, mind, environment, or community." He credibly testified that drugs are not something he wants to invite into his "home or ... community." He supported this statement with a negative drug test he submitted to in April 2025 for Cocaine, OPIOIDS, Phencyclidine (PCP), Amphetamines, and Marijuana. (AE E; Tr. 26-28, 47, 76.)

When Applicant was asked how he would respond to a situation where someone was pressuring or offering him an illegal drug he responded:

Absolutely say "no" and remind them of -- if this was a close friend, I mean, it's out of the question, cut them off right away. I'm saying "no." Presumably, hypothetically, if it's a stranger, I'm exiting that conversation immediately. (Tr. 52.)

Applicant was credible and consistent in his testimony and throughout the security clearance process. His testimony early in the hearing best summarizes this point:

For the disassociation, I do not use drugs recreationally. I have a strict policy of abstinence from drugs now. I've disassociated with drugs-using associates and contacts. The people I was with during my drug involvement, I have not seen for years. I refuse to have communication with these people. I actively avoid individuals who take drugs recreationally or areas or places that they may be found to include marijuana. I keep my social circle intentionally very small and private. Many of those individuals within this circle who I consider my close friends today also have involvement with the United States government. (Tr. 25.)

Applicant defined experimental use as:

Experimental was, I believe the government's definition is like once with, I don't know, a different frequency or something. Mine was, it was to try it. I was under social pressure at the time, you know, "Come on, just try it, just try it, just try it." I said, "Okay." And I tried it. I guess my definition of experimental was I didn't go into expect -- not knowing what to expect at the time, what the effects might be. I had a general idea of what the effects would be, but I was not specifically chasing any sort of state of mind in any regard. (Tr. 75.)

When asked why two years was sufficient to demonstrate his commitment to abstinence he stated:

I think two years is long enough on the basis that not only was it experimental, but a lot has changed in my life in those two years. Since those two years, I've been living in this condo I have now, which I really enjoy this community. My career trajectory has also been through a rollercoaster in those past two years. I've gone through brief periods of unemployment. I had a job set to work at the [Federal Agency] for energy as a contract manager and grant administrator. That's actually why I left my previous job at [Private Company]. And I was very excited for that job, but the new administration saw that that area of the department was no longer necessary. It's been dissolved.

I was very excited to once again work with the federal government. Once that opportunity came to me, it's all I could think about. When it got dissolved and then I started looking for other areas of the federal government to work with, whether it be directly or contracting as I am now, it's been an incredible journey. I've been able to learn more and make such solid contacts and people I would at first call co-workers, but now friends, throughout the journey.

And for one, I don't think I would do anything to ever disappoint them or let them down as co-workers and as friends. Most of these individuals I work with are retired Navy, Air Force, firefighters, police officers. And I think they're some of the most amazing group of people I've ever met. Working with them and being in close proximity to them and being able to call them friends is incredibly rewarding. And I wouldn't do anything to jeopardize that. On top of that, with my education, as I previously mentioned, I've now earned my bachelor's in communications, my master's in management science. I actually applied to the VR&E, the Veterans Readiness and Education Program, to see if they would give me a grant to continue my education. I was denied because of overqualification, which, appropriately so. I do plan to one day continue my education more. I think it's made me a more incredibly well-rounded person and has really influenced who I've become today.

Part of that education is knowing, as I've said a couple of times now, I'm sure, what I want to do, what it takes to get there, and what to avoid to get there. And I think in these two years I've learned and grown very much so to avoid ever having any drug involvement ever again. (Tr. 74-75.)

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.

Applicant admitted he purchased and used marijuana and the other alleged illegal drugs. The following under AG ¶ 25 are applicable 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 ¶ 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.

The evidence establishes that Applicant knew throughout the alleged period of time that his substance misuse was prohibited under federal law. He credibly acknowledged his drug involvement and substance misuse and provided evidence of actions taken to overcome this problem and has established a pattern of abstinence. He no longer associates with the people with whom he used drugs. He changed his

environment when he moved to another state to live with his parents after graduating college. AG 26(b)(3) is established, he submitted a statement to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility. He was unequivocal in that he had no intention to continue to use illegal drugs and that he no longer associated with those who did illegal substances or frequent places where there might be illegal substances, and he reaffirmed this commitment during his testimony.

AG ¶¶ 26(a) and 26(b) are established for SOR ¶¶ 1.a through 1.f. Applicant's behavior happened under circumstances unlikely to recur. He has completely changed his environment and focused his time and energy on family, education, fitness, and establishing a career, and no longer desires to engage in drug use.

Applicant voluntarily disclosed his actions on his SCA. He fully acknowledges his past actions. He clearly states he will no longer use marijuana or any other illegal drugs in the future. I found his personal explanation why he will no longer use marijuana products or any other drugs credible and compelling. His successful abstinence during his service in the Marine Corps demonstrates he is capable of abstinence and is evidence of his reliability, trustworthiness, and good judgment. His testimony reflects his understanding that any future involvement with marijuana or any other drug is grounds for revocation of a security clearance. Applicant's drug use occurred under circumstances unlikely to recur and does not cast doubt on his current reliability, trustworthiness, or good judgment.

Applicant does not present a perfect case in mitigation, but perfection is not required. He has goals and the right environment to achieve them. The record supports that he will continue to do so, or he will lose his security clearance. Under the circumstances of this case, I find that sufficient time has elapsed since his last use of marijuana and other drugs, and his drug involvement and substance misuse 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 the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at 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.

I have incorporated my comments under Guideline H in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I considered Applicant's admissions and candid explanations, as well as his focus on his improving himself through his physical wellbeing, education, and career goals. Applicant's consistent candid responses in his SCA, security interview, and testimony concerning his drug involvement reflect his recognition that he must not possess and use marijuana or any other drug while holding a sensitive position requiring a security clearance or having access to classified information. Of particular significance, he demonstrated during his honorable military service that he can commit himself to abstinence and has done so again for more than two years. After weighing the disqualifying and mitigating conditions under Guideline H and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by his drug involvement.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1: Guideline H:

FOR APPLICANT

Subparagraphs 1.a-1.f:

For Applicant

Conclusion

I conclude that it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

Charles C. Hale
Administrative Judge