



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



In the matter of:	)	
	)	
	)	ISCR Case No. 25-00688
	)	
Applicant for Security Clearance	)	

**Appearances**

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

04/22/2026

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**Decision**

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FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guideline H (Drug Involvement and Substance Misuse). Clearance is granted.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on January 30, 2024. On June 26, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline H. 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.

Applicant answered the SOR on August 4, 2025, and requested a decision on the written record in lieu of a hearing. His answer included three letters attesting to his good character, which are marked as Applicant’s (AX) Exhibits A, B, and C. Department Counsel submitted the Government’s written case on September 24, 2025. A complete

copy of the file of relevant material (FORM) was sent to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. The FORM consists of ten exhibits. Government Exhibits (GX) 1 and 2 are the pleadings in the case. GX 3 through 10 are the evidence in support of the allegations in the SOR. GX 3 through 10 are admitted in evidence.

Applicant received the FORM on September 24, 2025, and timely responded. His response is marked as AX D. The case was assigned to an administrative judge on January 8, 2026. The case was reassigned to me on April 9, 2026, due to the unexpected demise of the assigned administrative judge. AX A through D are admitted in evidence.

### **Findings of Fact**

The SOR alleges that Applicant used marijuana with varying frequency from at least 2023 to at least January 2025 while employed in a sensitive position (SOR ¶ 1.a), that he purchased marijuana during the same time period (SOR ¶ 1.b), that he used marijuana after completing an SCA in January 2024 (SOR ¶ 1.c), and that he purchased marijuana after completing an SCA in January 2024 (SOR ¶ 1.d). In Applicant's answer to the SOR, he admitted all the allegations in the SOR with explanations. His admissions are incorporated in my findings of fact.

Applicant is a 39-year-old employee of a federal contractor. He received a bachelor's degree in 2008 and a master's degree in 2012. He has never married and has no children. He has held a security clearance since 2016. (GX 10)

Applicant submitted his first SCA in April 2016, another SCA in November 2021, and his most recent SCA in January 2024. (GX 3, 4, and 5) He answered "No" to all the questions about illegal drug involvement in all these SCAs. (GX 3 at 41, GX 4 at 35-36; GX 5 at 46-47)

When Applicant was interviewed by a security investigator in April 2024, he admitted using a marijuana gummy for recreation every Friday with friends, and he admitted that he "made a mistake" in not disclosing his marijuana use. He stated that he began using marijuana gummies after they were legalized in the jurisdiction where he resides, but that he would stop using them if required. (GX 7 at 7-9). The SOR does not allege falsification of the January 2024 SCA.

Applicant's employer revised the employee handbook on January 1, 2025, and sent an email to all employees, asking them to acknowledge receipt of the revised handbook. The revised handbook included the following admonition: "Any use of marijuana, even if legal at the state level or for medical purposes, remains prohibited for individuals who hold a government security clearance." (GX 8 at 6) The record does not reflect whether earlier versions of the employee handbook included this admonition. Applicant acknowledged receipt of the revised handbook on February 11, 2025. (GX 8 at 13)

In response to DOHA interrogatories in May 2025, Applicant disclosed his marijuana use since about July 2023, when it was legalized. He stated that he typically

used it every four to six weeks, but not regularly. He stated that he had discontinued his use and did not intend to use it in the future. He acknowledged that any illegal drug involvement in the future would be grounds for revocation of national security eligibility. (GX 7 at 15-16)

In response to DCSA interrogatories in April 2025, Applicant stated that he began consuming marijuana gummies after they were legalized in his state of residence, that he last used marijuana gummies in January 2025 and that he permanently discontinued use “to comply with clearance eligibility.” Question 1.d of the interrogatories asked, “Do you intend to illegally use drugs or controlled substances in the future?” He answered “No.” Question 4 asked, “Do you associate with persons who use illegal drugs or frequent places where you have reason to believe that illegal substances are being used or are used in your presence?” He answered “Yes” and stated, “I have friends (non-federal employees) who legally partake in recreational marijuana; however, we do not frequent places where marijuana is part of the experience or items for sale.” He further explained, “I do not partake. I decline if offered.” (GX 7 at 16)

Question 13 of the DCSA interrogatories asked, “Do you understand that marijuana use remains illegal under Federal law and that any future use of marijuana may affect your security clearance eligibility?” He answered “Yes.” (GX 6 at 4-9) He concluded his response to these interrogatories by stating:

There are no additional facts to offer; however, in completing this interrogatory I now realize that, though I thought it unproblematic due to [state] law, it conflicts with federal law and consequently my responsibility as contractor. My job is very important to me and my family, and with the awareness that I now have, I can attest that I am not and will not in the future be partaking in marijuana use. This is just a matter of ignorance on my part, but I am now aware and will act accordingly.

The chief operating officer for Applicant’s employer submitted a letter describing him as a “professional, reliable, and a valued member of our team.” He has a reputation for being open, honest, and trustworthy.” She considers him a “thoughtful, honest person who wants to do the right thing.” (AX D)

The pastor of Applicant’s church, who has been his friend for 23 years, describes him as “someone who brings integrity, kindness, and consistency to every relationship he takes on.” He states that Applicant “owns up to mistakes, learns from them, and consistently tried to grow into the best version of himself.” (AX E)

An attorney who has known Applicant for more than five years and considers himself one of Applicant’s closest friends, describes him as a dedicated employee and a person who is humble, responsible, and deeply respectful of accountability.” (AX E)

## **Policies**

“[N]o 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 § 2.

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, an administrative judge applies these guidelines 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 and 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 that 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 made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense 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* at 531. Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” *See* ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019). It is “less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “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. ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

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 burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan* at 531.

## **Analysis**

### **Guideline H (Drug involvement and Substance Misuse)**

The concern under this guideline 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’s admissions and the evidence in the FORM establish the following disqualifying conditions under this guideline:

AG ¶ 25(a): any substance misuse (see above definition);

AG ¶ 25(c): illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and

AG ¶ 25(f): any illegal drug use while granted access to classified information or holding a sensitive position.

The following mitigating conditions are potentially applicable:

AG ¶ 26(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;

AG ¶ 26(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.

AG ¶ 26(a) is not established. Applicant used marijuana until January 2025, after he submitted his most recent SCA. Before that time, his marijuana use was frequent, about once a week, and did not occur under circumstances making recurrence unlikely.

AG ¶ 26(b) is established. Applicant has acknowledged his drug involvement. He stopped using it shortly after his employer promulgated guidance clarifying that the legalization of marijuana by holders of a clearance was prohibited even if was legalized at the state level. He made it clear that he stopped using marijuana because it was inconsistent with federal law and his responsibility as a contractor holding a security clearance. AG ¶ 26(b)(1) and AG ¶ 26(b)(2) are not established because he continues to associate with marijuana users and frequent places where marijuana is used, which is not surprising in a jurisdiction where recreational marijuana is legal. AG ¶ 26(b)(3) is established. His responses to DCSA interrogatories clearly set out his intent to abstain from all drug involvement and his acknowledgement that use of marijuana would be grounds for revocation of his security clearance.

### **Whole-Person Analysis**

Under AG ¶ 2(c), the 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. An administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the relevant circumstances. An 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.

I have incorporated my comments under Guideline H in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003). However, his long period of federal service while holding a security clearance, his candor during the adjudication of his SCA, his prompt and voluntary decision to terminate his drug involvement when he learned that it was an impediment to holding a clearance, and the strong and persuasive evidence of his good character submitted by his chief operating officer, church pastor, and a friend who is a practicing lawyer have convinced me that his declaration of intent to refrain from further drug involvement is credible and sufficient to warrant continuation of his eligibility for access to classified information. 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 (Drug Involvement and Substance Misuse):	FOR APPLICANT
Subparagraphs 1.a-1.d:	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.

LeRoy F. Foreman  
Administrative Judge