



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



In the matter of: )  
)  
) ISCR Case No. 25-01451  
)  
Applicant for Security Clearance )

**Appearances**

For Government:  
Tovah Minster, Esquire, Department Counsel

For Applicant:  
*Pro se*

04/30/2026

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**Decision**

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CEFOLA, Richard A., Administrative Judge:

On June 9, 2025, Applicant submitted his Electronic Questionnaire for Investigations Processing (e-QIP). On November 20, 2025, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline H (Drug Involvement and Substance Misuse). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines effective June 8, 2017.

Applicant answered the SOR in writing on December 19, 2025, and requested a hearing before an administrative judge. The Defense Office of Hearings and Appeals (DOHA) received the request soon thereafter. I received the case assignment on January 13, 2026. DOHA issued a Notice of Hearing on January 15, 2026, and I convened the hearing as scheduled on March 18, 2026. The Government offered Exhibits (GXs) 1 through 3, which were received without objection. Applicant testified and submitted

Exhibits (AppXs) A and B, which were received without objection. He also asked that the record be kept open until April 16, 2026, for the receipt of additional documentation. On April 16, 2026, Applicant submitted Post Hearing Exhibits (PHXs) A and B, which were received without objection. DOHA received the transcript of the hearing (TR) on April 6, 2026. Based upon a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is denied.

### **Findings of Fact**

In his Answer to the SOR Applicant admitted the factual allegations in Paragraph 1 of the SOR, with little explanation. Applicant is 36 years old, married, and has one child. He has a bachelor's degree. Applicant has worked for a defense contractor since August 1, 2022. He is a "Product Developer." Applicant does not currently hold a security clearance. (TR at page 5 line 10 to page 6 line 8, at page 12 line 20 to page 16 line 7, and GX 1 at page 5.)

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

1.a. and 1.b. Applicant admits that he used marijuana by smoking but also mostly in the form of gummies, from about September of 2007, until his last usage in February of 2026, about a month prior to his hearing. From 2011 to 2023, Applicant only used marijuana about five times in social settings; but from 2023 until he answered the Government's interrogatories in October of 2023, he used it almost daily as a sleep aid. During the five-month period prior to his hearing, Applicant used marijuana about "twice a month." In answer to the SOR, he admitted that he intended to use marijuana in the future. After his hearing, however, Applicant now realizes the gravity of his marijuana usage and has submitted a signed statement of intent against any future usage. His immediate family is aware of Applicant's marijuana use. (TR at page 16 line 11 to page 28 line 24, at page 30 line 12 to page 33 line 5, and PHX A.)

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “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, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that 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 relating to the guideline for Drug Involvement and Substance Misuse is set forth at 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.

The guideline at AG ¶ 25 contains seven conditions that could raise a security concern and may be disqualifying. Two conditions are clearly established:

- (a) any substance misuse (see above definition); and
- (g) expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.

Appellant used marijuana over a period of about 18 years. He continued its usage even after submitting his e-QIP, even after answering interrogatories, and even after the issuance of the SOR and his Answer to the SOR. Therefore, AG ¶ 25 (a) and (g) are clearly established.

The guideline at AG ¶ 26 contains four conditions that could mitigate security concerns. Two conditions may be 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.

Neither of these two apply. Applicant's last marijuana usage was only a month prior to his hearing. In his Answer to the SOR, Applicant was also evasive as to his future intent regarding using THC gummies as a sleep aid. He has only now submitted a post-hearing statement of intent to abstain from future drug involvement. This is too late based on the facts of this case. Drug Involvement and Substance Misuse is found against Applicant. However, this should not dissuade him from again applying for a security clearance after an additional year of abstinence.

### **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 an applicant's

conduct and all the 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.

AG ¶ 2(b) requires each case must be judged on its own merits. 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. Applicant is respected in the workplace as attested to by his program manager and by his employer. (AppXs A and B.)

However, overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For this reason, I conclude Applicant failed to mitigate the security concerns arising from his drug involvement and substance abuse.

### **Formal Findings**

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

Paragraph 1, Guideline H:	AGAINST APPLICANT
Subparagraphs 1.a. and 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 national security eligibility for a security clearance. Eligibility for access to classified information is denied.

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Richard A. Cefola  
Administrative Judge