



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



In the matter of:)	
)	
)	ISCR Case No. 25-00923
)	
Applicant for Security Clearance)	

Appearances

For Government: George A. Hawkins, Esq., Department Counsel
For Applicant: Aidan P. Connor, Esq.

04/29/2026

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines H (Drug Involvement and Substance Misuse) and E (Personal Conduct). Clearance is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on August 29, 2024. On July 23, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent her a Statement of Reasons (SOR) alleging security concerns under Guidelines H and E. 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 September 4, 2025, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on December

12, 2025. The case was assigned to me on February 18, 2026. On February 24, 2026, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on March 27, 2026. I convened the hearing as scheduled. Government Exhibits 1 through 6 were admitted in evidence without objection.

Applicant testified and submitted Applicant's Exhibits (AX) A, B, and C, which were admitted without objection. DOHA received the transcript on April 9, 2026.

Findings of Fact

In Applicant's answer to the SOR, she admitted the allegations in SOR ¶¶ 1.a and 1.b. SOR ¶ 1.a alleges that she used marijuana on various occasions between at least August 2007 and June 2023. SOR ¶ 1.b alleges that she used and purchased marijuana on various occasions between at least approximately November 2011 to about June 2023, while holding a sensitive position requiring a security clearance. In her answer, she stated that she ceased her marijuana use after May 2010, but that she resumed her marijuana use after it was legalized in the jurisdiction where she lived and used it about once every six months from August 2018 through June 2023.

Applicant admitted the allegation in SOR ¶ 2.a, cross-alleging the conduct in SOR ¶¶ 1.a and 1b. She admitted the allegation in SOR ¶ 2.b, alleging a falsification of her August 2011 SCA, but her explanation amounted to a denial of this allegation, and I have treated it as a denial. Her admissions are incorporated in my findings of fact.

Applicant is a 36-year-old tactical software engineering manager employed by a federal contractor since August 2011. She received a bachelor's degree in May 2011 and a master's degree in December 2015. She married in May 2015. She received a security clearance in November 2011 and has held a clearance continuously until the present. In her present position, she manages a team of 145 to 150 software engineers who are responsible for the software development of equipment for Navy submarines. (Tr. 14)

When Applicant submitted an SCA in August 2011, she answered "No" to the question whether she had illegally used any controlled substance in the last seven years. She did not disclose that she had used marijuana between approximately August 2007 and May 2010. (GX 1 at 33)

When Applicant submitted another SCA in August 2024, she disclosed that she recreationally smoked marijuana less than once a month from about August 2007 to June 2023, while holding a security clearance. (GX 2 at 35) When she was interviewed by a security investigator in March 2025, she confirmed her admissions in the 2024 SCA and explained that her marijuana use was recreational and infrequent and that she did not intend to use it again. She told the investigator that she disclosed her use of marijuana

but did not disclose her illegal purchase of marijuana in the 2024 SCA due to oversight, and that she purchased it about six times, most recently in June 2022. (GX 3 at 5-6)

When Applicant responded to DOHA interrogatories in July 2025, she disclosed that she used marijuana about once per week from August 2007 to May 2010 and less than once per month from August 2018 to June 2023. She also disclosed that she purchased marijuana from August 2018 to June 2022. She stated that she did not use a medical marijuana card for her purchases. (GX 3 at 8)

Applicant testified that she used marijuana from August 2007 to May 2010, no more than once a week, while she was in college. She used it at social events with other users. (Tr.17) She was aware at that time that recreational marijuana use was illegal. (Tr. 17-18) Her marijuana use did not affect her academic performance, and she was an honor graduate. She stopped using marijuana in May 2010, because she knew that some potential employers required drug testing, and she did not want her marijuana use to adversely affect her career. (Tr. 17-18)

Applicant resumed her marijuana use in August 2018, after recreational marijuana use was legalized in the jurisdiction where she lived and worked. She had friends who were frequent marijuana users, and her friends brought marijuana to her home and shared it. During this period, she used marijuana about once a month, but there were periods of up to six months when she did not use it. She purchased marijuana from state-licensed dispensaries. She testified that she was being conservative when questioned by security investigator and disclosed purchasing it about six times, but it was only “maybe two or three times.” She testified that she knew that marijuana was still illegal under federal law, but that she did not understand the full ramifications of her continued use of marijuana. She never used marijuana at work or prior to going to work. (Tr. 18-22)

Applicant testified that she stopped using marijuana in June 2023, when she learned that she had high blood pressure. She decided at that time to make lifestyle changes to reduce stress, maintain good health, and avoid the need for medication to control her blood pressure. (Tr. 22-23) She has also changed her living environment, moving from a neighborhood where marijuana use was “normalized” to a secluded community where she is not near marijuana users. (Tr. 23-24) However, she still maintains contact about once a year with her mother and brother, who hold medical marijuana licenses and use it regularly. (Tr. 25) She used marijuana with her mother and brother on one occasion between 2021 and 2023. All other occasions were alone or with friends. (Tr. 41-42)

Applicant testified that she is “incredibly remorseful” and embarrassed because of her illegal use of marijuana. (Tr. 26) She testified that she now has a better understanding of the rules regarding marijuana use, through the advice of her counsel at the hearing and her employer’s security department. (Tr. 27) In January 2026, she underwent a hair

follicle test for marijuana and several other controlled substances, and the test was negative. (AX A at 1)

At the hearing, Applicant admitted that her falsification of her SCA in August 2011 could tend to show that she was not an honest person. However, she was not familiar with the security-clearance process at that time and did not appreciate the sensitivity and responsibility of holding a clearance. (Tr. 28)

Applicant did not consult with her facility security officer or anyone else about resuming her use of marijuana after the jurisdiction where she worked and resided legalized its use. (Tr. 51-52) However, after receiving counseling from her attorney and her employer's security manager, she now understands the importance of clarifying the difference between state and federal law, the importance of not using illegal drugs, and the need for being "fully forthcoming" during the security-clearance process. (Tr. 30)

Applicant's performance evaluation for 2025 rated her as "exceeds expectations," which is the second highest rating on a scale of five. The highest rating is "excels," and the rating immediately below hers is "meets expectations." The manager who rated her made the following comments: "[Applicant] is a highly valued [company] management team member who has consistently produced high quality work with attention to detail. Her initiative in several areas including people and processes have exceeded expectations. [Applicant] has met expectations in all areas and often exceeds." (AX at 10)

Applicant's security manager testified that he has worked with her for about two years. He testified that their employer has a written drug policy and provides training regarding drug use. (Tr. 63) He testified that Applicant knows that she made a mistake when she completed the SCA in 2011. He has no concerns about her trustworthiness or ability to protect classified information and comply with all security requirements. He "absolutely" recommends that she continue to hold a security clearance. (Tr. 54-61)

Two former interns at Applicant's place of employment wrote letters expressing appreciation for Applicant's guidance and information. Based on their interaction with Applicant and other employees, they were impressed with the cooperative and dedicated work environment and were enthusiastic about their experience. (AX C at 14-17)

Applicant's husband is the director of sales for a private business. He has never held a security clearance. He testified that he and Applicant met in college and married in 2017. They both used marijuana occasionally. They decided to stop using marijuana in 2023. They have since moved away from a neighborhood where marijuana use was "normalized" to a quieter neighborhood away from the drug culture. (Tr. 66-77)

In Applicant's answer to the SOR, she submitted a written statement of intent to refrain from the future use, purchase, or other involvement in illegal drugs and agreed

that any violation of her statement of intent will result in automatic revocation of her security clearance. (Answer to SOR, Enclosure 9)

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 War 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 War 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 presented at the hearing 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; and

The first prong of AG ¶ 26(a) (happened so long ago) focuses on whether the drug involvement was recent. There are no bright line rules for determining when conduct is recent. The determination must be based on a careful evaluation of the totality of the evidence. If the evidence shows a significant period of time has passed without any evidence of misconduct, then an administrative judge must determine whether that period of time demonstrates changed circumstances or conduct sufficient to warrant a finding of reform or rehabilitation. ISCR Case No. 02-24452 at 6 (App. Bd. Aug. 4, 2004). Applicant's last use of marijuana was at least three years ago, during a visit with her mother and brother, who are marijuana users. It occurred before she submitted her most recent SCA and the initiation of the current security-clearance adjudication. Her credible testimony and the testimony of her security manager, coupled with her abstinence for at least three years, have satisfied me that her illegal drug involvement will not recur. I am satisfied that AG ¶ 26(a) is established.

AG ¶ 26(b) is established. Applicant has acknowledged her drug involvement and established a pattern of abstinence. She still associates with his mother and brother, who continue to use marijuana for medical purposes, but she and her husband have moved

from a neighborhood where marijuana use was “normalized” to one where it is not noticeable. Finally, she has submitted a statement of intent in accordance with AG ¶ 26(b)(3).

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, a subsequent SecEA promulgated clarifying guidance concerning marijuana-related issues in security clearance adjudications. 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. . . .

Based on my evaluation of the disqualifying and mitigating conditions set out in the Directive and the additional SecEA clarifying guidance, I conclude that Applicant has mitigated the security concerns raised by her drug involvement.

Guideline E: Personal Conduct

SOR 2.a cross-alleges Applicant's drug involvement as personal conduct under this guideline. SOR ¶ 2.b alleges Applicant's falsification of her SCA in August 2011. The security concern under this guideline is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . . .

The following disqualifying conditions under this guideline are relevant:

AG ¶ 16(a): deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities; and

AG ¶ 16(e): personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes . . . engaging in activities which, if known, could affect the person's personal, professional, or community standing.

AG ¶ 16(a) is established by Applicant's falsification of her August 2011 SCA. AG ¶ 16(e) is also established, because her falsification of her SCA and her drug involvement could have affected her professional standing as a federal employee in a sensitive position.

The following mitigating conditions are potentially applicable:

AG ¶ 17(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

AG ¶ 17(c): the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

AG ¶ 17(d): the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate

the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

AG ¶ 17(e): the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

AG ¶ 17(a) is partially established. Applicant's correction of her August 2011 SCA was not prompt. However, she voluntarily corrected the information in her August 2024 SCA. It is unlikely that her earlier drug involvement would have been discovered if she had not voluntarily disclosed it.

AG ¶ 17(c) is established for Applicant's falsification of her August 2011 SCA. Falsification of an SCA is not "minor." To the contrary, it is a felony and "strikes at the heart of the security clearance process." ISCR Case No. 09-01652 (App. Bd. Aug. 8, 2011.) However, Applicant's falsification was a one-time occurrence, and it occurred more than 14 years ago, while she still had a college-student mindset and was too immature to comprehend the seriousness of misconduct. I am satisfied that it does not cast doubt on her current reliability, trustworthiness, or good judgment.

AG ¶ 17(c) is also established for Applicant's drug involvement for the reasons set out in the above discussion of Guideline H, especially the passage of time without recurrence and her genuine remorse.

AG ¶ 17(d) is established. Applicant has acknowledged her behavior. She presented no evidence of counseling. However, she has terminated her marijuana use and moved to a community where marijuana use is not prevalent. Under these circumstances, her marijuana use is unlikely to recur.

AG ¶ 17(e) is established. By terminating her involvement with marijuana, she has taken positive steps to eliminate vulnerability to exploitation, manipulation, or duress.

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 Guidelines H and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Applicant was sincere, candid, remorseful, and credible at the hearing. She is highly regarded by her supervisor and facility security officer. After weighing the disqualifying and mitigating conditions under Guidelines H and E and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by her drug involvement and personal conduct.

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 and 1.b:	For Applicant
Paragraph 2, Guideline E (Personal Conduct):	FOR APPLICANT
Subparagraphs 2.a and 2.b:	For Applicant

Conclusion

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

LeRoy F. Foreman
Administrative Judge