



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



In the matter of: )  
)  
) ISCR Case No. 25-01186  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Brittany C. White, Esq., Department Counsel  
For Applicant: *Pro se*

05/19/2026

**Decision**

HARVEY, Mark, Administrative Judge:

Security concerns under Guideline E (personal conduct) are mitigated; however, security concerns arising under Guidelines H (drug involvement and substance misuse) and J (criminal conduct) are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance application (SCA) on May 19, 2025. (Government Exhibit (GE 1)) On November 14, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) alleging security concerns under Guidelines E, H, and J. (Hearing Exhibit (HE) 1) 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.

On December 2, 2025, Applicant answered the SOR and requested a hearing before an administrative judge. (HE 2) On February 20, 2026, Department Counsel was ready to proceed, and on March 2, 2026, the case was assigned to me.

On March 3, 2026, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that his hearing was scheduled to be conducted by video teleconference on April 22, 2026. (HE 3) The hearing was convened as scheduled.

Department Counsel offered two exhibits; Applicant did not provide any exhibits; and all proffered exhibits were admitted into evidence without objection. (Tr. 12, 16-18; GE 1-GE 2) On May 6, 2026, DOHA received the transcript of the hearing. Applicant did not request that the record remain open after the hearing for documentation. (Tr. 53)

### **Statement of Facts**

In Applicant's answer to the SOR, he admitted the allegations in SOR ¶¶ 1.b, 2.a, and 2.b. (HE 2) He denied the allegations in SOR ¶¶ 1.a and 3.a. (HE 2) His admissions are accepted as findings of fact. He also provided extenuating and mitigating information. (HE 2)

Applicant is a 43-year-old quality inspector who has been employed by a Department of War (DoW) contractor for two years. (Tr. 6, 8-9) He also worked for the same DOW contractor for one year as a material handler. (Tr. 9) In 2000, he graduated from high school, and in 2005, he received a bachelor's degree with a major in communications. (Tr. 6-7) He does not have any post-graduate education. (Tr. 7) He has not served in the military. (Tr. 7) In 2007, he married, and his three children are ages 17, 21, and 23. (Tr. 7-8) The 17-year-old child currently lives in his household. (Tr. 8)

### **Drug Involvement and Substance Misuse and Criminal Conduct**

The SOR alleges that Applicant purchased and used marijuana with varying frequency from about 1998 until July 2025 (SOR ¶¶ 1.a and 3.a), and on or about November 2022, he tested positive for marijuana on a drug test administered by his employer (SOR ¶ 1.b).

In his SOR response, Applicant said for SOR ¶ 1.a, "After further consideration for clarity, I determined that I first tried marijuana in 1998 but didn't make my first purchase until approximately 2001." (HE 2) He said:

I am very capable of complying with laws, rules and regulations. I am also reliable and trustworthy for security clearance. I admit to some of the mistakes made in this statement, but I have never been an avid user of any drugs or controlled substance, nor do I have ANY prior criminal convictions. To prove my trustworthiness, I have chosen to no longer use any type of substances that cause physical or mental impairment. Furthermore, I am willing to take a drug screen if needed to prove my reliability and trustworthiness for this security clearance that I have applied for.

In 1998 while Applicant was in high school, he used marijuana twice. (Tr. 23-24) From about 2000 to 2005 while he was in college, he used marijuana on about a monthly basis with friends. (Tr. 24) From about 2005 to about 2021, he used marijuana about five times. (Tr. 24-25) From about 2021 to July of 2025, he used marijuana about every three or four months. (Tr. 25) He occasionally purchased marijuana from 2021 to 2025. (Tr. 25) He used marijuana once or twice with his spouse. (Tr. 26)

In November of 2022, Applicant smoked marijuana near a bar, and the next day, he drove to work while he was impaired by alcohol and marijuana. (Tr. 29) His employer required him to submit to a urinalysis test, and he tested positive for tetrahydrocannabinol (THC) or marijuana. (Tr. 28) His employer terminated his employment because of the drug test results. (Tr. 29, 36) His marijuana use violated his employer's policy. (Tr. 32) He said his marijuana use in November of 2022 was because of stress at work. (Tr. 32) This was the only time he drove while impaired by marijuana. (Tr. 30-31) On other occasions, he had received drug tests, and he had not tested positive for illegal substances. (Tr. 41-42)

On his May 19, 2025 SCA, Applicant disclosed that he left his employment in November of 2022 "by mutual agreement following charges or allegations of misconduct" for a "violation of company policy." (GE 1 at 13) He did not indicate the policy violation was for using marijuana.

Possession of marijuana for recreational purposes is not legal in Applicant's state of residence. (Tr. 23) His state authorized use of medical marijuana; however, Applicant never received a medical marijuana card. (Tr. 23)

Applicant's most recent marijuana use was in July of 2025. (Tr. 33, 43) His spouse does not currently use marijuana. (Tr. 34) He does not have any marijuana in his residence. (Tr. 44) He did not describe any drug counseling or treatment. (Tr. 40-41; GE 2) He has some friends who use marijuana. (Tr. 43)

## **Personal Conduct**

The SOR alleges that on or about November 2022, Applicant was terminated from his employment following the drug test as set forth in SOR ¶ 1.b above (SOR ¶ 2.a), and he falsified material facts on his May 19, 2025 SCA (SOR ¶ 2.b), in response to the following questions:

Section 23 - Illegal Use of Drugs or Drug Activity - Illegal Use of Drugs or Controlled Substances In the last seven (7) years, have you illegally used any drugs or controlled substances? Use of a drug or controlled substance includes injecting, snorting, inhaling, swallowing, experimenting with or otherwise consuming any drug or controlled substance? [and]

Illegal Drug Activity In the last seven (7) years, have you been involved in the illegal purchase, manufacture, cultivation, trafficking, production,

transfer, shipping, receiving, handling or sale of any drug or controlled substance?

Applicant answered “No” to these two questions and thereby deliberately failed to disclose that information as set forth in SOR ¶ 1, above.

In his SOR response, Applicant admitted that he gave a false answer to the first question about his marijuana involvement; however, he explained as to the second question, “I answered ‘No’ not fully reading the question asked. I quickly scanned over the question answering ‘No’ to only trafficking, production, transfer, shipping, receiving, handling or sale of any drug or controlled substance.” (HE 2) At his hearing he reiterated that he hastily answered the question, and he meant to communicate that he did not traffic or sell marijuana. (Tr. 21-22, 38)

As to the first question above, Applicant said, “I did know that marijuana was still illegal at that time in [his state of residence], I actually answered no, not willing or wanting to admit my use of the marijuana at that time.” (Tr. 37)

On July 11, 2025, Applicant disclosed his history of marijuana involvement during his Office of Personnel Management (OPM) background interview. (GE 2) The interview does not indicate he was confronted with evidence of his marijuana involvement before he disclosed the information. The OPM summary of interview is substantially the same as the information he provided about his marijuana involvement at his hearing. (GE 2)

### **Applicant’s Hearing Statement**

Applicant provided some mitigating information as follows:

[T]here haven’t been any prior convictions or felonies or anything like that against me for my previous marijuana use. Like I say, it wasn’t [an] everyday thing since, I guess, even college. Like I say, it was monthly instead of daily, but I have no prior felonies or any kind of convictions or anything for the marijuana. Again, never dealt it.

It was just kind of a, I guess, a time where, you know, I was just participating in it knowing, willingly knowing that it was illegal. And, you know, just being accountable for my own actions, which of course a lot of others do participate in that. But [I] just want the Judge to know that it’s not a problem. I do not have a marijuana addiction or problem, just something that was done recreational being with friends, trying to have a good time.

At the time of losing that job, it was – it was stressful going through stressful situation, so it was a way to clear my mind at that time. But, main thing I want to highlight to the Judge is that it is – it is not a problem or any kind of addiction that I have.

As you all know, I have no prior records of criminal activity of – of it or using it or distributing anything like that. So I just kind of have grown up a little bit, secured, like I said, a good government job. I do feel I’m capable of holding and maintaining a security clearance just by, you know, you live in certain situations, you learn from. You honestly learn from. And so this has been one of those humbling experiences for me, humbling moments. And I’m definitely confident in myself that I know I don’t have to have that. I don’t want, need it. I choose not to because I do know it is illegal, and I don’t want to do anything to jeopardize my freedom or my job anymore. That was, like I say, it was life-changing. So, just in closing, just to say I’ve learned from my past mistakes.

I am a – a U.S. citizen. I do feel that I am trustworthy of holding a secret security clearance because of how far I’ve come. Like I say I – I take this very seriously, and I do know the seriousness in holding a U.S. security clearance, government security clearance. I’ve been in – again, been in this particular position where we do touch and inspect classified and confidential government information for two years. I’ve never had any kind of issues with that.

\* \* \*

I’m very, very family-oriented, you know, a wife and three children. So I do want to make it known that that is not an issue that has to be worried about going forward. That is behind me, and I no longer look to participate in that activity.

Like I said, never been to jail and never plan to go. Of course, my criminal background record is squeaky clean. So that was just, you know, mistakes that, you know, people often make in life and actually learn from it. Just my – in my case, it took me losing a job to learn from it and grow from it. And so I hope to continue my success and elevate my career. And having that security clearance will help me in that area and a – as my growth continues within my company, because I do want to stay with my company and promote within my company. (Tr. 40, 46-47)

### **Policies**

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no 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, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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, these guidelines are applied 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, 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 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 “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, this decision should not be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of War, and Director of National Intelligence 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*, 484 U.S. at 531. “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. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

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 ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## Analysis

### Drug Involvement and Substance Misuse and Criminal Conduct

AG ¶ 24 provides the security concern arising from drug involvement and substance misuse stating:

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.

AG ¶ 30 provides the security concern arising from criminal conduct stating, "Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations."

AG ¶ 25 lists conditions that could raise a drug involvement and substance misuse security concern and may be disqualifying in this case including:

- (a) any substance misuse (see above definition);
- (b) testing positive for an illegal drug; and
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.

AG ¶ 31 lists one condition that could raise a criminal conduct security concern and may be disqualifying in this case, "(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted."

AG ¶¶ 25(a), 25(b), 25(c), and 31(b) are established. Discussion of the disqualifying conditions is in the mitigating section *infra*. AG ¶ 26 lists conditions that could mitigate drug involvement and substance misuse security concerns:

- (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;

(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;

(c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and

(d) satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

AG ¶ 32 lists conditions that could mitigate criminal conduct security concerns:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;

(c) no reliable evidence to support that the individual committed the offense; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the

applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.” Directive, Enclosure 2, [App. A] ¶ 2(b).

Applicant admitted that he purchased, possessed, and used marijuana with varying levels of frequency from 1998 to July of 2025. In November of 2022, he went to work impaired by alcohol and marijuana, and he tested positive on his employer’s drug test for marijuana.

Marijuana is currently listed on Schedule I of the Controlled Substances Act. See 21 U.S.C. § 812(c); Drug Enforcement Administration (DEA) listing at <https://www.dea.gov/drug-information/drug-scheduling> (information link on bottom of web page). His multiple possessions of marijuana are federal crimes. Drugs listed as Schedule I Controlled Substances, have “no ‘currently accepted medical use in treatment.’ 21 U.S.C. § 812(a)(1)(B).” ISCR Case No. 24-01307 at 3 (App. Bd. July 17, 2025). See DEA website, *supra*; Executive Order, *Increasing Medical Marijuana and Cannabidiol Research* (December 18, 2025). The scheduling of marijuana is under DEA review, and it may be downgraded from Schedule I to Schedule III, which would permit marijuana possession and use based on prescriptions. *Id.* Possession of marijuana for recreational purposes is a criminal offense under state law in his state of residency.

The Appeal Board provided a detailed discussion of the mitigating conditions pertaining to marijuana possession and use:

In recognition of the changing landscape of marijuana law and in consideration of the Director of National Intelligence’s Clarifying Guidance Concerning Marijuana, the Board has noted that significant factual and legal differences may exist between an applicant’s state-compliant marijuana use and use of other illegal drugs, holding that such differences are an important aspect of the case that a reasonable person would expect to be addressed. See ISCR Case No. 22-02132 at 3 (App. Bd. Oct. 27, 2023). In initial eligibility determinations, if the record reflects such differences, the judge must articulate a rational basis for why, after consideration of those differences and the Clarifying Guidance, the conduct continues to cast doubt on the individual’s current reliability, trustworthiness, and good judgment.

ISCR Case No. 23-02402 at 4 (App. Bd. Feb. 19, 2025) (internal footnotes omitted).

The Security Executive Agent (SecEA) promulgated clarifying guidance concerning marijuana-related issues in security clearance adjudications as follows:

[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 few 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. Additionally, in light of the long-standing federal law and policy prohibiting illegal drug use while occupying a sensitive position or holding a security clearance, agencies are encouraged to advise prospective national security workforce employees that they should refrain from any future marijuana use upon initiation of the national security vetting process, which commences once the individual signs the certification contained in the Standard Form 86 (SF-86), Questionnaire for National Security Positions.

SecEA Guidance at 2 (quoted in ISCR Case No. 20-02974 at 3-4 (App. Bd. Feb. 1, 2022)).

The DOHA Appeal Board has cited the importance of consideration of “the changing landscape of marijuana law and . . . of the Director of National Intelligence’s *Clarifying Guidance Concerning Marijuana*.” ISCR Case No. 23-02402 at 4 (App. Bd. Feb. 19, 2025). See *also* ISCR Case No. 24-00914 at 3 (App. Bd. Apr. 9, 2025) (noting the “evolving landscape of marijuana law and policy,” “the resulting increasing prevalence of marijuana use,” and in some instances “recreational marijuana use deserves less, or even no negative inference on judgment.”).

The Appeal Board has “never established a ‘bright line’ rule as to recency of drug use. The extent to which security concerns may have become attenuated through the passage of time is a question that must be resolved based on the evidence as a whole.” See ISCR Case No. 14-01847 at 3 (App. Bd. Apr. 9, 2015). See *also* ISCR Case No. 24-01307 at 5 (App. Bd. July 17, 2025) (stating same).

Applicant’s most recent marijuana use was in July of 2025. “The [DOHA Appeal] Board has ‘long held that applicants who use marijuana [or other illegal drugs] after having been placed on notice of the security significance of such conduct may be lacking in the judgment and reliability expected of those with access to classified information.’” ISCR Case No. 24-01001 (App. Bd. Apr. 22, 2025) (quoting ISCR Case No. 20-01772 at 3 (App. Bd. Sept. 14, 2021)). See *also* ISCR Case No. 24-00468 at 6 n.7 (App. Bd. Apr. 16, 2025). Applicant used marijuana after completion of his SCA on May 19, 2025. His marijuana use in November of 2022 was in violation of his employer’s policy.

Applicant provided some important mitigating information. He initially disclosed his involvement with marijuana to security officials on July 11, 2025, during his OPM background interview. His marijuana involvement did not include selling marijuana.

Applicant established some mitigation under AG ¶¶ 26(a) and 26(b) because he acknowledged his marijuana involvement, and he provided evidence of actions taken to

overcome this problem by his abstinence since July of 2025; however, he has established a relatively brief period of abstinence. He did not indicate that he dissociated from his drug-using associates and contacts or intentionally avoided the environments where drugs are used. He did not provide 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.

Applicant's marijuana use in November of 2022 is misdemeanor-level criminal conduct. He was impaired while at work, and he was fired for this violation of his employer's policy and his lack of judgment. His marijuana impairment at work has not recurred. AG ¶¶ 26(a) and 32(a) apply to the November of 2022 marijuana possession because the offense is not recent; it was infrequent; and "it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the [his] reliability, trustworthiness, [and] good judgment."

Applicant did not fully demonstrate mitigation for SOR ¶¶ 1.a and 3.a because he did not establish a sufficient period of abstinence from marijuana possession and use. His decisions to possess and use marijuana may indicate he lacks the qualities expected of those with access to national secrets and continue to cast doubt on his current reliability, trustworthiness, and judgment.

## **Personal Conduct**

AG ¶ 15 explains why personal conduct is a security concern stating:

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.

AG ¶ 16 provides two personal conduct conditions that could raise a security concern and may be disqualifying:

(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

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other

characteristics indicating that the individual may not properly safeguard classified or sensitive information.

SOR ¶ 2.a is established. Applicant falsified material facts in his May 19, 2025 SCA in his responses to the questions about his use of illegal drugs in the previous seven years. He falsely denied that he possessed or used illegal drugs and in fact, he possessed and used marijuana during the previous seven years.

SOR ¶ 2.b is established. In November of 2022, he used marijuana and consumed alcohol before going to work. His employer drug tested him; he tested positive for marijuana; and his employment was terminated.

The record evidence establishes AG ¶¶ 16(a) and 16(c) in relation to SOR ¶¶ 2.a and 2.b, requiring additional inquiry about the possible applicability of mitigating conditions. Additional discussion of the disqualifying conditions is contained in the mitigation section, *infra*. The personal conduct mitigating conditions under AG ¶ 17, which may be applicable in this case are as follows:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(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;

(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;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress; and

(f) the information was unsubstantiated or from a source of questionable reliability.

Applicant's marijuana use in November of 2022, which resulted in his impairment at work is mitigated under AG ¶ 17(c) for the same reasons it is mitigated in the previous section.

Applicant falsified material facts in his May 19, 2025 SCA when he denied marijuana possession and use in the previous seven years. In his July 11, 2025 OPM background interview, he disclosed his marijuana involvement.

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

In ISCR Case No. 22-02601 at 5-6 (App. Bd. Feb. 22, 2024) (reversing denial of security clearance), the Appeal Board discussed application of AG ¶ 17(a). The Appeal Board said:

The words "prompt" and "good faith" are not defined in the Guidelines, and the Board has declined to establish a bright line definition of either term as they relate to Guideline E. We have, however, interpreted "prompt" to mean acting within a reasonable time. . . . Turning to the second element of the mitigating condition, the concept of "good faith" requires a showing that a person acts in a way that reflects reasonableness, prudence, honesty, and adherence to duty or obligation. Just as with the term "prompt," what constitutes a "good faith" effort will depend on the particular facts of the case.

Applicants have a duty to provide full, frank, and truthful answers to relevant and material questions during a security clearance investigation. Directive ¶ 6.2. It is preferable that applicants self-report any omission, falsification, or concealment of requested information through the appropriate channel sooner versus later. We are aware of no DoD rule, however, that imposes an obligation or duty on an applicant to self-disclose an SCA omission at a particular time or through a particular channel outside of the investigation and adjudication processes. Absent evidence that an applicant had such a formal duty, his or her correction of the omission at the initial security clearance interview, done prior to being confronted with the information, should be afforded significant weight in mitigation. . . . Applicant's decision to wait what was ultimately seven weeks to report the omission during her interview was not in conflict with any known duty to self-report, was reasonable considering the circumstances, and amounts to a prompt, good-faith correction that should have been afforded mitigation under AG ¶ 17(a). *Id.* (citation modified).

AG ¶ 17(a) applies to SOR ¶ 2.b. Applicant's disclosures of his marijuana involvement during his OPM background interview were prompt and made in good faith. Security concerns related to the falsification of his SCA are mitigated. Personal conduct security concerns are mitigated under Guideline E.

## 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 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.

Under AG ¶¶ 2(c), "[t]he 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. My comments under Guidelines H, J, and E are incorporated in my whole-person analysis. Some of the factors in AG ¶¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 43-year-old quality inspector who has been employed by a DoW contractor for two years. He also worked for the same DOW contractor for one year as a material handler. In 2005, he received a bachelor's degree with a major in communications. He provided a candid and credible description of his involvement with marijuana to the OPM investigator and at his hearing.

The disqualifying and mitigating information is discussed in the analysis section, *supra*. The reasons for denying Applicant's security clearance are more persuasive than the reasons for granting his security clearance at this time.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. *See Dorfmont*, 913 F. 2d at 1401. "[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant's eligibility for access to classified information." ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No. 12-00270 at 3 (App. Bd. Jan. 17, 2014)).

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence, to the facts and circumstances in the context of the whole person. Personal conduct security concerns are mitigated; however, drug involvement and substance misuse and criminal conduct security concerns are not mitigated at this time.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future.

With continued abstention from involvement with illegal drugs, he will be an eligible candidate for a security clearance.

### **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
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a and 2.b:	For Applicant
Paragraph 3, Guideline J:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant

### **Conclusion**

Considering all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

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Mark Harvey  
Administrative Judge