



DEPARTMENT OF WAR  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 25-01363  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government:  
Mark D. Lawton, Esq, Department Counsel

For Applicant:  
*Pro se*

05/11/2026

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**Decision**

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CEFOLA, Richard A. Administrative Judge:

Applicant has not mitigated the security concerns raised under the Drug Involvement and Substance Misuse adjudicative guideline. National security eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a Questionnaire for National Security Positions on February 5, 2025 (Questionnaire). On January 5, 2026, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant 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 (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within DoD after June 8, 2017.

On January 28, 2026, Applicant responded to the SOR in writing (Answer) and requested that the case be decided on the written record in lieu of a hearing. In his

Answer, Applicant admitted to all allegations. On February 19, 2026, Department Counsel submitted the Government's written case in a File of Relevant Material (FORM). A complete copy of the FORM, consisting of Government Exhibits (GE) 1 to 6 and the Government's arguments in support of the SOR, was received by the Applicant on February 23, 2026. He was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns, but he did not respond within the specified 30-day period. The case was assigned to me on May 1, 2026, and all exhibits were admitted without objection.

### **Findings of Fact**

Applicant is 41 years old and has worked for a DoD contractor as a supply chain operations coordinator since March 2022. He completed the Questionnaire in connection with his employment. Applicant has lived with the mother of his only child since 2010, but they are not married. He is a high school graduate who also completed some online course work at a technical college. (GE 2 at 5, 9-10; GE 4 at 4, 6-7)

#### **SOR Paragraph 1, Guideline H (Drug Involvement and Substance Misuse)**

The Government alleged that Applicant is ineligible for a security clearance because he both purchased and used marijuana over several decades – including after receiving a security clearance. Based upon the evidence presented in the administrative record, I find the following facts regarding the history and status of Applicant's drug use:

**1.a. Marijuana use from 1999 to at least November 2025.** Applicant denied any illegal drug use in his Questionnaire but admitted to the allegation as drafted in his Answer and responses to interrogatories. In his September 9, 2025, response to interrogatories, he acknowledged awareness of federal law restrictions on marijuana use. In his responses to a separate set of interrogatories executed on December 8, 2025, however, he admitted to additional marijuana use in late November 2025, as well as an intent to continue further use "for relaxation and recreational use." He also noted he would "quit immediately" if so instructed. Applicant qualified in his November 2025 interrogatory responses that he did not use marijuana at all from 2004 to 2016. He stopped again from 2017 to 2023, then resumed recreational use twice a month. (Answer; GE 2 at 26; GE 3 at 4-6, 9; GE 4 at 9, 14-15)

**1.b. Marijuana purchase from 2016 to at least November 2025.** Applicant denied any illegal drug purchase in his Questionnaire but admitted to the allegation as drafted in his Answer and responses to interrogatories. Applicant purchased marijuana from a local dispensary – which was legal under state law – on a biweekly to monthly basis in order to relax and as a sleep aid. He did not purchase marijuana from 2017 to 2023, then resumed the purchases twice a month. (Answer; GE 2 at 26; GE 4 at 8-9)

**1.c. Marijuana use from March to November 2025 while in a sensitive position.** In his Answer, Applicant admitted to the allegation as drafted. He signed a classified information nondisclosure agreement (NDA) on March 3, 2025, and received

an interim top-secret clearance on March 26, 2025. In a subsequent interview with a DoD investigator on June 12, 2025, however, he claimed he would not use marijuana again if he obtained a security clearance. (Answer; GE 4 at 9; GE 4 at 9; GE 5; GE 6)

**1.d. Marijuana purchase from March to November 2025 while in a sensitive position.** The findings of fact are identical to those in ¶ 1.c. above.

### **Whole Person and Mitigating Evidence**

Applicant submitted no comments or explanations in his Answer as whole person evidence in mitigation of the security concerns alleged in the SOR. The comments and explanations Applicant included in both his Questionnaire and interrogatories, however, were reviewed in their entirety.

### **Policies**

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied 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. The entire process is a conscientious scrutiny of applicable guidelines in the context 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, "Any 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. I have not drawn inferences based on mere speculation or conjecture. Directive ¶ E3.1.14, requires the Government to present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, "The applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, 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 national

security eligibility. 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 or sensitive information.

Finally, as emphasized in Section 7 of Executive Order 10865, “Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

## **Analysis**

### **SOR Paragraph 1, Guideline H (Drug Involvement and Substance Misuse)**

The security concerns relating to the guideline for drug involvement and substance misuse are set out in AG ¶ 24, which reads as follows:

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 facts of this case establish the following potentially disqualifying conditions set forth in AG ¶ 25:

- (a) any substance misuse (see above definition);
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia;
- (f) any illegal drug use while granted access to classified information or holding a sensitive position; and
- (g) expressed intent to continue drug involvement and substance abuse, or failure to clearly and convincingly commit to discontinue such misuse.

Applicant admits to the illegal use of marijuana from 1999 to 2004, as well as use and purchase 2016 to 2017, and then from 2023 to at least late 2025. He acknowledged

using the drug after starting employment with a DoD contractor, knowing of its illegality under federal law, and subsequent to both signing an NDA and receiving an interim security clearance. Applicant indicated he would only cease using the drug if so instructed in order to keep his security clearance. Therefore AG ¶¶ 25(a), (c), (f), and (g) apply. The burden then shifts to Applicant to mitigate security concerns under Guideline H.

The guideline includes the following conditions in AG ¶ 26 that can mitigate security concerns arising from Applicant's drug use:

- (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 the 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.

Applicant's purchase and use of marijuana – particularly after starting his job, signing an NDA, and receiving an interim clearance – render any potential mitigating factors inapplicable. Moreover, his conditional willingness to comply with federal law does not constitute the pledge of abstention requisite for mitigation. Even taking into account that his marijuana use and purchase since 1999 have significant gaps from the expansive time frame alleged in the SOR, his involvement with the drug since 2023 is of the greatest concern. Applicant's drug involvement continues to cast doubt on his current reliability, trustworthiness, and good judgment. Accordingly, none of the mitigating conditions, individually or collectively, are sufficiently applicable to overcome the issues surrounding Applicant's drug involvement.

### **Whole-Person Concept**

Applying the whole-person concept, the administrative judge must evaluate an applicant's eligibility for national security eligibility by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at 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), the ultimate determination of whether to grant national security 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 above whole-person factors and the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. I have given the appropriate weight to Applicant's statements included in his Questionnaire and his responses to interrogatories. Overall, however, the majority of the Guideline H issues in the record evidence leave me with questions and doubts as to Applicant's suitability for national security eligibility and a security clearance.

### **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 – 1.d:	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. Eligibility for access to classified information is denied.

RICHARD A. CEFOLA  
Administrative Judge