



**DEFENSE LEGAL SERVICES AGENCY  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of: )  
)  
) ISCR Case No. 25-00751  
)  
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Applicant for Security Clearance )

**Appearances**

For Government:  
Alison P. O’Connell, Esq, Department Counsel

For Applicant:  
*Pro se*

05/21/2026

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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 November 19, 2024 (Questionnaire). On November 14, 2025, 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 December 16, 2025, 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 3, 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 5 and the Government's arguments in support of the SOR, was received by the Applicant on March 17, 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 18, 2026, and all exhibits were admitted without objection.

### **Findings of Fact**

Applicant is 39 years old and has worked for a DoD contractor as a manufacturing engineer since March 2020. He completed the Questionnaire in connection with his employment and received an interim secret clearance on December 10, 2024. Applicant has been married since 2017 and has two children. He received bachelor's degrees in 2009 and 2010. (GE 3 at 5, 8-10, 15, 19-20; GE 5 at 1)

#### **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 June 2024 to at least December 2025.** Applicant acknowledged marijuana use in his Questionnaire and admitted to the allegation as drafted in both his Answer and responses to interrogatories – including use up to the date of his Answer. In his responses to interrogatories, he acknowledged awareness of federal law restrictions on marijuana use “for as long as I can remember.” He also elaborated that his use from 2004 – 2010 was recreational. He then stopped using the drug when he entered the work force but started using it again in 2012 to manage back pain. He did not have a medical recommendation for marijuana use or a prescription. (Answer; GE 3 at 29-30; GE 4 at 4, 8-9)

**1.b. Marijuana purchase from 2004 to at least December 2025.** In his Questionnaire, Applicant acknowledged illegally purchasing marijuana from 2004 – 2018. During this time span, he utilized the “black market,” often buying from a friend he worked with at a previous employer. When his state legalized marijuana in 2018, he began to grow marijuana in his garden and then began frequenting dispensaries for purchase soon thereafter. In his Answer, Applicant admitted to the allegation as drafted, including purchase up the date of his Answer. (Answer; GE 3 at 30; GE 4 at 4-5, 8)

**1.c. Marijuana use from December 2024 to at least December 2025 while in a sensitive position.** In his Answer, Applicant admitted to the allegation as drafted. Shortly after completing his Questionnaire in November 2024, Applicant received an interim secret clearance on December 10, 2024. He then signed a non-disclosure agreement (NDA) on March 19, 2025. Applicant nonetheless continued to use marijuana. (Answer; GE 4 at 8; GE 5 at 1)

**1.d. Intent to continue using marijuana.** Applicant acknowledged his intent to continue using marijuana in his Questionnaire and admitted to the allegation as drafted in both his Answer and responses to interrogatories. He mused that if he were required to cease use to comply for a clearance, he would “have to think hard about it.” (Answer; GE 3 at 30; GE 4 at 5, 9)

### **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 *a/so* 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 decades of purchase and use of marijuana, including after completing the Questionnaire, receiving a security clearance, and signing an NDA – despite being aware of applicable federal law. He likewise expresses a clear intent to continue using the drug in the future. 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 speculation that he might be willing to comply with federal law in the future does not constitute the pledge of abstention requisite for mitigation. Applicant's ongoing 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, I conclude that it is not clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

RICHARD A. CEFOLA  
Administrative Judge