



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



In the matter of:)	
)	
)	ISCR Case No. 25-00078
)	
Applicant for Security Clearance)	

Appearances

For Government: Erin P. Thompson, Esq., Department Counsel
For Applicant: Grant Couch, Esq.

04/14/2026

Decision

BORGSTROM, Eric H., Administrative Judge:

The record evidence did not establish that Applicant deliberately falsified information about illegal drug use on his security clearance application. He mitigated the drug involvement and substance misuse security concerns, but he did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On February 12, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations), Guideline E (personal conduct), and Guideline H (drug involvement and substance misuse). The DCSA acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented on June 8, 2017.

In Applicant's May 14, 2025 response to the SOR (Answer), he admitted, with explanations, all of the allegations, and he claimed that several of the alleged financial delinquencies had been or were being resolved. Although he nominally admitted the falsification allegation (SOR ¶ 2.a.), his explanation – that he believed at the time that his

marijuana use was legal – is, in fact, a denial of a deliberate falsification. He attached 12 exhibits, which I later admitted into evidence at the hearing. He requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. (Answer)

On July 22, 2025, the Government was ready to proceed to a hearing. I was assigned this case on September 30, 2025. The case was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a federal government shutdown due to a lapse in federal funding.

On November 19, 2025, a notice was issued scheduling the hearing for December 9, 2025, by video teleconference. The hearing proceeded as scheduled. The Government proffered seven evidentiary exhibits, which I admitted as Government Exhibits (GE) 1 through 7, without objection. Applicant testified and submitted 16 exhibits (including the 12 exhibits originally attached to the Answer), which I admitted as Applicant Exhibits (AE) A through P, without objection. At Applicant's request, I kept the record open until January 6, 2026, to provide him an opportunity to supplement the evidentiary record. DOHA received the hearing transcript (Tr.) on December 19, 2025. On January 6, 2026, Applicant provided five additional exhibits, which I admitted as AE Q through U, without objection. The evidentiary record closed on January 6, 2026.

Findings of Fact

Applicant is 34 years old. He graduated from high school in June 2010, earned a bachelor's degree in June 2017, and earned a master's degree in June 2018. From May 2011 to May 2015, he served on active duty in the U.S. Marine Corps (USMC), and he received an honorable discharge. He briefly held a secret clearance during his military service. He has never married, and he does not have any children. (GE 1; AE G; Tr. 14-16)

After earning his master's degree, Applicant remained unemployed from July 2018 to January 2019. From January 2019 to August 2019, he was employed full time as a habilitation specialist for a health-care company. He also had a part-time position as a record engineer intern from August 2018 to December 2019. From August 2019 to July 2020, he was employed full time as a clerk for a private company. He was laid off in July 2020 due to the COVID-19 pandemic. He was employed part time as an assistant for a record studio from July 2020 to December 2020, when he was laid off. From September 2020 to September 2022, he was employed full time as an independent contractor who delivered groceries and other goods. From September 2022 to July 2023, he was employed full time as an assistant strategist for a media company. Following multiple counselings and reprimands for underperformance and placement on a performance improvement plan, he was terminated in July 2023. He remained unemployed for about three months, and then he resumed his full-time employment as an independent contractor delivering groceries and goods in late 2023. As of the hearing, he remained in this employment, and he has been sponsored for a clearance for a position with a federal contractor as a background investigator. (GE 1; AE G, AE H; Tr. 16, 65-67)

The SOR alleges financial considerations security concerns arising from Applicant's delinquent federal income taxes (SOR ¶¶ 1.a.-1.b.), delinquent state income taxes (SOR ¶¶ 1.c.-1.e.), a medical collection (SOR ¶ 1.f.), and delinquent tolls (SOR ¶ 1.g.). The SOR also alleges drug involvement and substance misuse security concerns due to his marijuana use (SOR ¶ 3.a.) and personal conduct security concerns due to the omission of his illegal drug use on his September 2023 Electronic Questionnaire for Investigations Processing (e-QIP) (SOR ¶ 2.a.).

Financial Considerations

In Applicant's September 24, 2023 e-QIP, he reported that he owed federal income taxes for tax year (TY) 2020 in the approximate amount of \$14,000 and state income taxes for TY 2022 in the approximate amount of \$1,721. He also reported a repossessed vehicle (\$9,500), parking tickets (\$750), a \$1,085 medical collection (SOR ¶ 1.f.), and \$2,432 in delinquent tolls (SOR ¶ 1.g.). As of the date of the e-QIP, he had not begun to pay these financial delinquencies, as he was unemployed at the time. (GE 1)

SOR ¶¶ 1.a.-1.b. In January 2024, Applicant was interviewed by an authorized investigator on behalf of the Office of Personnel Management (OPM). He confirmed that he had filed all of his federal income tax (FIT) returns but had not paid the taxes due. In Applicant's September 2024 response to interrogatories, he explained that he had been an independent contractor between 2020 and 2023, and no federal or state taxes had been withheld from his paychecks. He claimed that he had mistakenly believed that taxes had been withheld. In July 2024, he engaged a tax relief firm (TRF) to resolve his delinquent federal and state taxes for TY 2020 through 2023. (GE 3, GE 7)

In his September 2024 response to interrogatories, Applicant attached his Internal Revenue Service (IRS) tax transcripts for TY 2020 through 2023. He filed his TY 2020 FIT return in June 2021, and he received a refund. For TY 2021, he timely filed his FIT return, and he owed approximately \$7,097 in delinquent taxes, interest, and penalties, as of May 2024. For TY 2022, he timely filed his FIT return, and he owed approximately \$6,886 in delinquent taxes, interest, and penalties. For TY 2023, he timely filed his FIT return, and his tax refund was applied towards delinquent taxes for TY 2022. (GE 3; Tr. 58-59)

In his May 2025 Answer, Applicant admitted that he was indebted to the IRS for TY 2021 and TY 2022 in the total amount of approximately \$13,983. He attached a March 2025 proposed IRS installment agreement to repay the delinquent taxes for TY 2021 and 2022 in the approximate amount of \$15,219, with \$216 monthly payments beginning in March 2025. This agreement was not accepted by the IRS. (Answer; GE 3; AE D; Tr. 56-58)

On August 26, 2025, the IRS approved an installment agreement for TY 2021, 2022, and 2024 in the aggregate amount of \$21,719. Applicant was required to pay \$319 monthly beginning in October 2025. At the close of the record, Applicant provided documentary evidence of \$319 payments in October 2025 and November 2025. There is

no evidence of payment for December 2025 or January 2026. (AE M, AE P, AE S, AE T; Tr. 17-18, 23, 53-55, 74)

SOR ¶¶ 1.c.-1.e. As discussed above, Applicant reported delinquent state income taxes for TY 2022 on his September 2023 e-QIP. On November 20, 2023, he entered into an installment agreement with the state tax department to resolve his delinquent state taxes for TY 2020 (\$680) (SOR ¶ 1.e.), TY 2021 (\$2,540) (SOR ¶ 1.d.), and TY 2022 (\$1,847) (SOR ¶ 1.c.) with 36 monthly payments of \$178. Although automatic withdrawals were scheduled, no payments were completed under this agreement. During his January 2024 OPM interview, Applicant had claimed that he was paying \$178 monthly to the state tax department; however, no payments occurred until September 2025. At the DOHA hearing, he testified that he had been unemployed and unable to make the required payments. (GE 1, GE 4, GE 7; Tr. 19, 28-30, 53-55)

Applicant testified that, in about September 2025, he agreed to a new installment agreement with the state tax department to which he paid \$230 monthly. There is no documentary evidence of an installment agreement showing the applicable tax years; however, November 2025 correspondence from the state tax department shows a \$230 payment on a total balance of \$6,504 for “multiple” tax years. The evidentiary records established six payments: September 2025 (\$50); September 2025 (\$60); October 2025 (\$230), November 2025 (\$230), December 2025 (\$230), and January 2026 (\$230). A certificate of good standing was provided by the state tax department. (AE N, AE S, AE T, AE U; Tr. 17-19, 25, 28-29, 73)

At the hearing, Applicant admitted that he had been aware of his delinquent federal and state income taxes as of September 2023. He was questioned about the timing of his installment agreements and payments, all of which occurred after the SOR issuance. He testified that the TRF advised him not to make any payments to the IRS until an installment agreement was accepted. He further claimed that the TRF advised him not to make any payments until his TY 2024 FIT were also included in the installment agreement. Of note, Applicant engaged the TRF in July 2024, and the TY 2024 FIT were not due until April 2025. There is no evidence that Applicant has ever paid estimated quarterly federal income taxes in either 2024 or 2025, so as to prevent recurring tax indebtedness. (Tr. 18, 21, 23, 26, 53-55)

SOR ¶ 1.f. In his September 2023 e-QIP, Applicant reported a medical collection in the approximate amount of \$1,085. At the hearing, he explained that he had visited a clinic for medical care instead of a Veterans Affairs (VA) medical center. In his September 2024 response to interrogatories, he provided documentary evidence of payments totaling approximately \$362, with a remaining balance of \$724. He made a \$181 payment in January 2025. At the hearing, Applicant testified that this debt had been resolved; however, he did not provide any evidence to corroborate this claim. (GE 3; AE E; Tr. 27-28, 31-32)

SOR ¶ 1.g. In his September 2023 e-QIP, Applicant reported owing delinquent tolls in the approximate amount of \$2,432. In his September 2024 response to

interrogatories, he provided payment arrangements for \$200 payments from May 2024 through December 2024 on a collection account towards his unpaid tolls. Applicant did not adhere to this payment agreement. At the hearing, he explained that he had accumulated significant tolls due to his delivery job, and he had not regularly checked his mail where he received correspondence about the delinquent tolls. He testified that some automatic withdrawals for the May 2024 agreement were not completed due to insufficient funds. He provided documentary evidence of a \$122 payment in November 2025, a \$208 payment in November 2025, and a \$208 payment in December 2025. At the hearing, Applicant testified that the final payment would be completed in December 2025; however, there is no documentary evidence as to the outstanding account balance. (GE 1, GE 3; AE F, AE P, AE R; Tr. 31-33, 60-62, 77, 79-80)

After the hearing, Applicant provided an updated monthly budget reflecting approximately \$4,000 in gross income from his work as a delivery driver and \$4,074 in VA disability compensation. He also calculated approximately \$8,074 in monthly expenses, while only allotting \$200 for food and a minimal amount for tax withholding. During the hearing, he testified that he had approximately \$137 in his bank account, with a \$208 payment scheduled for two days after the hearing. He has not participated in any financial counseling. (Tr. 70-78; AE Q; GE 3)

Drug Involvement and Substance Misuse

As noted above, Applicant did not report any illegal drug use on his September 2023 e-QIP. During his January 2024 OPM interview, he admitted that he smoked marijuana between 2016 and May or June 2023. He had purchased marijuana himself. (GE 7)

In Applicant's January 2025 response to interrogatories, he admitted "sporadic" marijuana use between 2016 and May 2023. He also admitted that he "rarely" purchased marijuana from licensed dispensaries. He explained that he had believed that his marijuana use was legal at the time and had been unaware that federal laws prohibited marijuana use. He attached a signed, sworn statement of intent to abstain from marijuana use in the future. (GE 2)

With his Answer, Applicant included a signed, sworn statement of intent to abstain from illegal drug use in the future. In January 2025 and August 2025, he tested negative for marijuana, cocaine, amphetamines, methamphetamines, opiates, and PCP following hair-follicle drug screenings. He completed a four-hour marijuana education course in January 2025. (Answer; AE A-C, AE O; Tr. 35)

At the hearing, Applicant testified that he had used marijuana in States A and B, either while he lived there or while he was visiting family members. He admitted that he had used marijuana approximately 10 times annually from 2016 to June 2018, while attending college and graduate school. Between June 2018 and June 2023, he used marijuana approximately three times a year. In both States A and B, only medical marijuana was permitted under state law prior to 2021, and Applicant never obtained a

medical marijuana license. He testified that he had purchased marijuana on at least one occasion from a state-licensed dispensary in State A in about 2018; however, such a purchase would have required a medical marijuana card. He admitted that, in other instances, he had contributed money towards the purchase of marijuana, most recently in about 2018. He testified that he had believed, at the time of his marijuana use, that recreational marijuana was permitted in both States A and B. He further testified that he did not understand that marijuana use was prohibited under federal drug laws until his January 2024 OPM interview. He added that he no longer associates with the individuals with whom he had used marijuana. (GE 7; Tr. 34-37, 41-52)

Personal Conduct

On September 24, 2023, Applicant certified and submitted an e-QIP. Under Section 23 – Illegal Use of Drugs of Drug Activity, he responded “NO” to the following queries:

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.

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?

During his January 2024 OPM interview, Applicant disclosed his marijuana use. He explained that he did not report his marijuana use on his eQIP because he believed that the questionnaire sought information about “more serious, controlled substances such as cocaine.” (GE 7)

In his Answer, Applicant reiterated that he did not report his marijuana use on his September 2023 e-QIP because he did not understand that marijuana use was prohibited by federal law. (Answer)

At the hearing, Applicant explained that he had previously completed an e-QIP while serving in the military; however, at the time, he had never used any illegal drugs. He was aware, during his military service, that marijuana use was prohibited regardless of state legalization, because it was prohibited by the USMC policies or the Uniform Code of Military Justice. He added that he reported his marijuana use to the OPM investigator because the investigator had specifically asked about marijuana use. He reiterated that he had not believed his marijuana was illegal at the time of use. (Tr. 38-40, 50, 85-86)

Whole Person

Applicant submitted seven character-reference letters, authored by co-workers, a former supervisor, his romantic partner, his mother, a close friend, and a community

leader, in support of his clearance eligibility. These individuals praised his dedication, “exceptional character,” perseverance, integrity, leadership, professionalism, work ethic, and compassion. Applicant volunteers in his community’s block association. (AE J-L; Tr. 82-83)

While serving in the USMC, Applicant was awarded a Good Conduct medal, an Afghanistan Campaign medal, and a Combat Action Ribbon. He had no disciplinary actions while in the military. (AE G; Tr. 81)

In February and March 2024, Applicant earned two cybersecurity certifications. (AE I)

Policies

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant’s eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

Under Directive ¶ E3.1.14, the Government must 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.” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to sensitive information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information.

Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F: Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18:

Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

Applicant’s admissions and the documentary evidence established that he failed to timely pay his federal (\$21,719) and state (\$6,504) income taxes for multiple tax years. The record evidence also established two accounts placed for collection, totaling approximately \$3,517. AG ¶¶ 19(a), 19(c), and 19(f) apply.

Conditions that could mitigate financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable in this case:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce, or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual has initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Applicant bears the burdens of production and persuasion in mitigation. An applicant is not held to a standard of perfection in his or her debt-resolution efforts or required to be debt-free. "Rather, all that is required is that an applicant act responsibly given his circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct,' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017). See, e.g., ISCR Case No. 13-00987 at 3, n.5 (App. Bd. Aug. 14, 2014).

Applicant established a period of unemployment for about three months in late 2023; however, he has otherwise been employed full time since September 2020. He timely filed his SIT and FIT returns for TY 2020 and TY 2021, which reasonably should have made him aware, no later than April 2022, that his taxes were not withheld and that he owed federal and state income taxes. Although he engaged the TRF in July 2024, he inexplicably did not set aside income taxes, pay quarterly taxes, or make any IRS or state tax payments until September 2025, after the issuance of the SOR. He has not provided any evidence to corroborate his claims that the TRF advised him against tax payments. Applicant's claim – that the TRF advised him against payments until TY 2024 was included in the installment agreement – is particularly untenable because the TRF was engaged in July 2024 and TY 2024 taxes would not be due until April 2025. I must also consider that (1) during his January 2024 OPM interview, Applicant untruthfully claimed to already be paying the state tax department \$178 monthly; and (2) Applicant failed to fulfill his past payment agreements with the state tax authority and for his delinquent tolls. Although Applicant's unemployment or underemployment may have contributed to his financial delinquencies, he has not established that he acted responsibly to address and resolve his delinquent debts. The timing of Applicant's debt-resolution efforts is relevant and material to the evaluation of his evidence in mitigation. See, e.g., ADP Case No. 16-03595 at 4 (App. Bd. Aug. 27, 2018) (timing of debt-resolution efforts is relevant in

evaluating the sufficiency of case in mitigation). Here, Applicant's inaction and delay undermine the favorable evidence in mitigation. AG ¶ 20(b) does not apply.

Although the state tax department had approved an installment agreement in November 2023, Applicant did not initiate any payments until September 2025. Although he has made six payments, these payments began after the issuance of the SOR. Similarly, Applicant's two payments to the IRS do not establish a track record of good-faith payments. AG ¶ 20(d) does not apply as to SOR ¶¶ 1.a.-1.e.

AG ¶ 20(g) applies, given Applicant's payment arrangements and payments on his federal and state taxes; however, the record as a whole does not support full mitigation of the financial considerations security concerns. See ISCR Case No. 24-02104 at 2 (App. Bd. Jan. 26, 2026) ("The Judge's decision to afford some mitigative credit to the September 2025 IRS payment did not require him to find Applicant's federal tax filing concern fully mitigated, and his conclusion that, 'considering the evidence 'as a whole,' Applicant's failures regarding his [federal income taxes] are not mitigated' is well-rooted in Appeal Board precedent.").

As to SOR ¶¶ 1.f. and 1.g., Applicant provided documentary evidence of some payments, and he testified that he resolved both accounts; however, he did not provide evidence to corroborate his claims. Given his unfulfilled promises to pay in the past and his untruthful claims of payments to the state tax department during his OPM interview, I cannot reasonably rely on his claims. AG ¶ 20(d) does not apply as to SOR ¶¶ 1.f. and 1.g.

While Applicant presented some favorable evidence in mitigation, doubts remain as to whether he will maintain his payments in accordance with the installment agreements. His low bank account balance (\$137) and low monthly remainder (without sufficient tax withholding) remain a concern. He did not mitigate the financial considerations security concerns.

Guideline H: Drug Involvement and Substance Misuse

The security concern for drug involvement 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.

Director of National Intelligence (DNI) Memorandum ES 2014-00674, “Adherence to Federal Laws Prohibiting Marijuana Use,” October 25, 2014, 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.

In 2021, the Security Executive Agent (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. 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.¹

The guideline notes several conditions that could raise security concerns under AG ¶ 25. The following is potentially applicable:

- (a) any substance misuse.

¹ *Security Executive Agent Clarifying Guidance Concerning Marijuana for Agencies Conducting Adjudications of Persons Proposed for Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, dated December 21, 2021 (SecEA Clarifying Guidance), at p. 2.

The record evidence established that Applicant illegally used marijuana approximately 10 times a year between 2016 and June 2018 and used marijuana about three times a year between June 2018 and June 2023. AG ¶ 25(a) applies. Applicant's illegal purchase of marijuana was not alleged in the SOR.

Conditions that could mitigate the drug involvement security concerns are provided under AG ¶ 26. The following are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment; and

(b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:

(1) disassociation from drug-using associates and contacts;

(2) changing or avoiding the environment where drugs were used; and

(3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

Applicant disclosed his marijuana use and purchase during his January 2024 interview, and he provided additional details about his drug involvement during the hearing. There is no evidence of any drug involvement since June 2023. He has passed multiple hair-follicle tests, has disassociated from drug-using associates and environments, and has provided a written statement of intent to abstain from all drug involvement in the future. AG ¶¶ 26(a) and 26(b) apply. He mitigated the drug involvement and substance misuse security concerns.

Guideline E: Personal Conduct

The 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. . . .

The guideline notes several conditions that could raise security concerns under AG ¶ 16. The following disqualifying condition is potentially applicable in this case:

(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.

Applicant did not report his marijuana use under Section 23 of his September 2023 e-QIP. He admitted that he had used marijuana on several occasions between 2016 and June 2023. During his January 2024 OPM interview, he disclosed his marijuana use when the investigator directly asked whether he had used marijuana in the previous seven years. He explained to the investigator that he had believed the scope of the question involved “more serious controlled substances such as cocaine.” In his January 2025 response to interrogatories, he explained that he believed that his marijuana use was legal in States A and B and that he did not understand that marijuana use remained illegal under federal drug laws. In his Answer and during his hearing testimony, he reiterated that he believed, at the time he completed his e-QIP, that his marijuana use had been legal and that he had correctly answered the Section 23 query.

I have considered that Applicant was untruthful about his repayment efforts as to his state taxes and that there are inconsistencies between his testimony and his OPM interview about the circumstances of his marijuana use (at home versus in a social setting). I have also considered that Applicant’s marijuana use prior to 2021, in either State A or State B, required a state-issued medical marijuana license, which he did not have, and that Applicant, at the time he completed the e-QIP, had earned a bachelor’s degree and a master’s degree.

An applicant’s lack of candor or untruthfulness in one setting or subject area does not require the conclusion that he deliberately falsified information in another. Having assessed Applicant’s credibility, as to both his finances and his illegal drug use, I conclude that Applicant did not deliberately falsify his response to Section 23 on his September 2023 e-QIP. I acknowledge some inconsistencies in his descriptions of his marijuana use, but note that he volunteered his marijuana use to the OPM investigator four months after he had completed the e-QIP. The investigator did not indicate that he confronted Applicant, and Applicant’s explanation for his omission has remained consistent throughout the background investigation. Therefore, AG ¶ 16(a) does not apply.

The following personal conduct mitigating condition under AG ¶ 17 is potentially relevant:

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

Assuming *arguendo* that the record evidence did establish a falsification, AG ¶ 17(a) applies. Less than four months after he completed his e-QIP, Applicant volunteered the information about his marijuana use during the January 2024 security interview. Applicant mitigated any personal conduct security concerns arising from his omitted marijuana use.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for access to classified information 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 eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F, Guideline H, Guideline E, and the factors in AG ¶ 2(d) in this whole-person analysis.

Applicant served in combat in the USMC, and he earned an honorable discharge. His character references praised his dedication, perseverance, integrity, leadership, professionalism, work ethic, and compassion. He has recently initiated repayment of his delinquent taxes and other debts; however, he has not demonstrated a track record of payments or financial responsibility. He did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

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 F:	AGAINST APPLICANT
Subparagraphs 1.a.-1.g.:	Against Applicant

Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a.:	For Applicant
Paragraph 3, Guideline H:	FOR APPLICANT
Subparagraph 3.a.:	For 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 eligibility for a security clearance. Eligibility for access to classified information is denied.

Eric H. Borgstrom
Administrative Judge