



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



In the matter of:)
)
) ISCR Case No. 24-01740
)
)
Applicant for Security Clearance)

Appearances

For Government:
Tara R. Karoian, Esq, Department Counsel

For Applicant:
Pro se

05/27/2026

Decision

CEFOLA, Richard A. Administrative Judge:

Applicant has mitigated the security concerns raised under the Drug Involvement and Substance Misuse adjudicative guideline. Applicant has not mitigated the security concerns raised under the Personal Conduct 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 July 7, 2023 (Questionnaire). On December 27, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E (Personal Conduct) and 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 2, 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 August 18, 2025, 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 8 and the Government's arguments in support of the SOR, was received by the Applicant on August 27, 2025. 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 20, 2026, and all exhibits were admitted without objection.

Findings of Fact

Applicant is 38 years old and has worked for a DoD contractor as a maintenance mechanic since April 2022. He was raised in a challenging foster care, group home environment. He then served in the U.S. Navy from 2007 – 2015, after which time he was honorably discharged. He completed the Questionnaire in connection with his employment and previously held a security clearance while serving in the Navy. Applicant has been married since 2021 and has two children. He has completed some college coursework. (Answer; GE 3 at 5, 10-11, 18-19, 21-22, 24-25, 34; GE 4 at 12; GE 8)

SOR Paragraph 1, Guideline E (Personal Conduct)

The Government alleged that Applicant is ineligible for a security clearance because he had engaged in conduct that involved questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations. I find the following facts regarding this allegation:

In the course of a criminal investigation, Applicant was questioned on February 23, 2007, about inappropriate touching of his foster sister. During questioning by the police detective, Applicant admitted that when he was living in a foster home with several other children, he touched the vagina of his foster sister on two separate occasions. The first time was in August 2003, when he placed his hand on her vagina and asked her to hold his penis – which she did. At the time, Applicant was 15 years old and the victim was 10. The second time was in October 2006, when he reached between her legs and fondled her vagina. At that time, Applicant was 18 years old and the victim was 13.

Applicant was thereupon arrested for Lewd and Lascivious Battery of a Child and transported to jail. He was appointed a public defender on February 24, 2007, and the next day, his foster mother posted a \$15,000 bond to secure his release. On March 2, 2007, Applicant entered a plea of not guilty to the charges. On April 18, 2007, however, the prosecutor entered an Announcement of No Information after the victim recanted her story. As a result, the case was subsequently dropped. (GE 5 at 9-11; GE 6 at 1-8, 17-18)

During the Applicant's security clearance investigation in 2023, he answered questions about these events in both his Questionnaire and an ensuing interview by a DoD investigator. The following findings of fact pertain:

1.a. False Statement in Questionnaire: On July 7, 2023, Applicant submitted his Questionnaire wherein he answered, "Yes," to the question, "In the last seven (7) years, have you been arrested..." or "have you been charged (with) a crime?" When asked to provide a description of the offense, Applicant stated that in February 2007, he "was arrested on false allegations for lewd and lascivious (sic) activity with a minor..." and claimed he "spent maybe 3 or 4 days in jail before all charges were dropped and dismissed." He went on to claim that he "was not charged and all charges were dropped. The case was dismissed."

Applicant was not arrested on false allegations, but rather he was arrested following his confession for the inappropriate touching of his foster sister. In his Answer, Applicant admitted to the allegation as written in the SOR and acknowledged that he "did falsify some things during questioning," as he "was not aware that the federal and government authorities still have access to my arrest records." (Answer; GE 3 at 30-31)

1.b. False Statement to a DoD Investigator: On November 16, 2023, an authorized agent for the DoD conducted a subject interview with the Applicant, who was asked about the arrest. Applicant acknowledged the arrest but averred that the charges were ultimately dropped because "the instances never occurred and they were false allegations." When confronted with the fact that he had confessed, he claimed that he had only done so "to prevent his foster mother from facing legal repercussions."

The DoD investigator then confronted the Applicant with the specifics of his confession wherein he described his actions with his foster sister. At that point, Applicant acknowledged that he had in fact committed the acts with his foster sister. He went on to explain that he was initially "untruthful about the incident because he was trying to erase that chapter in his life from his memory." He went on to admit, however, that he believed the incident record had been expunged and "did not think his interview with (the police) was documented and would show up in a current record." Applicant admitted to the allegation as written in the SOR. (Answer; GE 4 at 12-13)

1.c. Arrest for Lewd or Lascivious Battery: Applicant was arrested on February 23, 2007. See discussion above. (GE 6 at 1)

SOR Paragraph 2, 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 an eight-year span. Based upon the evidence presented in the administrative record, I find the following facts regarding the history and status of Applicant's drug use:

2.a. Marijuana use from June 2015 to November 2023. Applicant denied illegal drug use in his Questionnaire but admitted to the allegation as drafted in his Answer. In his November 16, 2023, interview with the DoD investigator, Applicant characterized his marijuana use as a couple of times in 2015 after getting out of the Navy and then twice a week from 2019 until November 15, 2023, to help alleviate back pain. His use was legal in his state and he was unaware of the federal prohibitions, which he only learned of from the interviewer. Applicant then indicated his plan to immediately cease any future use. He reiterated this pledge in his responses to interrogatories, submitted on December 2, 2024. (Answer; GE 3 at 32; GE 4 at 6, 13)

2.b. Marijuana purchase from 2015 to November 2023. Applicant denied any illegal drug purchase in his Questionnaire but admitted to the allegation as drafted in his Answer. In his November 16, 2023, interview with the DoD investigator, Applicant explained he obtained marijuana from a legal dispensary in his state. Upon learning of the federal restrictions from the investigator, Applicant related his plan to seek prescription pain relief from his doctor instead. (Answer; GE 3 at 32; GE 4 at 13)

Whole Person and Mitigating Evidence

Applicant submitted comments with his Answer alluding to difficulties he experienced growing up in a group foster home. He also referenced suffering from PTSD, bipolar disorder, anxiety, and memory loss. He expressed pride at having served in the Navy for eight years and he reiterated his abstention from marijuana since the date of the DoD interview.

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 E, Personal Conduct)

The security concerns relating to the guideline for personal conduct are set out in AG ¶ 15, which states:

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

The facts of this case establish the following potentially disqualifying conditions set forth in AG ¶ 16:

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

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:

(1) engaging in activities which, if known, could affect the person's personal, professional, or community standing;

(2) while in another country, engaging in any activity that is illegal in that country;

(3) while in another country, engaging in any activity that, while legal there, is illegal in the United States.

Applicant admits to falsifying information to the DoD in both his Questionnaire and during his interview. He likewise admits to the 2007 arrest for lewd or lascivious battery of a child. Therefore AG ¶¶ 16 (a), (b), and (e) apply. The burden then shifts to Applicant to mitigate security concerns under Guideline E.

The guideline includes the following conditions in AG ¶ 17 that could potentially mitigate security concerns arising from Applicant's personal conduct:

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

(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; and

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

The Applicant admitted to providing false information to the DoD in both the Questionnaire and again to the DoD investigator, essentially because he didn't think anyone would be able to learn the truth. Then, instead of attempting to try and correct the falsification with the DoD investigator, he reiterated his claim that the victim's allegations were false. Then, when confronted with having confessed, he concocted a story about having falsely confessed to protect his foster mother. Only when confronted with the actual language from his confession did he acknowledge the truth.

As the Appeal Board has noted, "a person holding a security clearance has a duty to fully disclose conduct of security concern." [ISCR 24-00278 at 3 (App. Bd. Jan. 14, 2026)]. Moreover, a falsification of a security questionnaire constitutes misconduct that casts serious doubt on an applicant's judgment, reliability, or trustworthiness. [ISCR 22-00657 at 4 (App. Bd. Apr. 18, 2023)]. Having examined the omissions in light of the record as a whole, AG ¶¶ 17 (a), (c), (d), and (e) do not apply. SOR ¶¶ 1.a and 1.b are found against Applicant.

Regarding the arrest itself nearly twenty years ago, AG ¶ 17(c) does apply. AG ¶ 17(e) however, is more problematic. The record evidence provides no indication that anyone from the DoD contractor is aware of Applicant's arrest for sexual misconduct with his minor foster sister. Applicant has worked there for four years, but the record contains no input from any coworkers, supervisors, or even the security manager that might allay concerns about his susceptibility to coercion, exploitation, or duress. SOR ¶ 1.c is found against Applicant.

SOR Paragraph 2, 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;

Applicant admits to nearly a decade of purchase and use of marijuana. Therefore AG ¶¶ 25(a) and (c) 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 were legal under state law and over two years ago. Moreover, he immediately stopped upon learning of federal restrictions. He pledged to not use the drug in the future and based on the uncontested record evidence, appears to have honored that pledge. AG ¶¶ 26 (a) and (b) apply and SOR ¶ 2.a and 2.b are found for Applicant.

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, his responses to interrogatories, and his Answer. I have also considered his eight years of honorable service in the Navy. Overall, however, the Guideline E 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 E:	AGAINST APPLICANT
Subparagraphs 1.a – 1.c:	Against Applicant
Paragraph 2, Guideline H:	FOR APPLICANT
Subparagraphs 2.a – 2.b:	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's eligibility for a security clearance. Eligibility for access to classified information is denied.

RICHARD A. CEFOLA
Administrative Judge