



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



In the matter of:)
)
) ISCR Case No. 25-00961
)
)
Applicant for Security Clearance)

Appearances

For Government: Aubrey De Angelis, Esq., Department Counsel
For Applicant: Samir Nakhleh, Esq., The Edmunds Law Firm

06/01/2026

Decision

Lokey Anderson, Darlene D., Administrative Judge:

Statement of the Case

On July 13, 2020 and June 23, 2024, Applicant submitted security clearance applications (e-QIPs). (Government Exhibits 1 and 2.) On August 21, 2025, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline H, Drug Involvement and Substance Misuse; and Guideline E, Personal Conduct. The action was taken 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) effective within the DoD after June 8, 2017.

Applicant answered the SOR on September 12, 2025, and requested a hearing before an administrative judge. The case was assigned to me on November 13, 2025. The Defense Office of Hearings and Appeals issued a notice of hearing on February 11, 2026, and the hearing was convened as scheduled on April 20, 2026. The Government offered five exhibits, referred to as Government Exhibits 1 through 5, which were admitted

without objection. Applicant offered sixteen exhibits, referred to as Applicant's Exhibits A through P, which were admitted without objection. Applicant testified on his own behalf. DOHA received the transcript of the hearing (Tr.) on April 30, 2026.

Findings of Fact

Applicant is 45 years old. He is married with two children, ages 10 and 14. He has a high school diploma and has attended two trade schools in the field of Cyber-education. He is employed by a defense contractor as a Cybersecurity Specialist. He is seeking to obtain a security clearance in connection with his employment.

Guideline H - Drug Involvement and Substance Misuse

The Government alleges that the Applicant has used controlled substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose; and that he has engaged in conduct involving questionable judgment, which can raise questions about his reliability and trustworthiness.

1.a. The Government alleges that Applicant used marijuana from 2019 until December 2023. Applicant contends that he has used marijuana on only two separate occasions, and that he did not use it in December 2023. Applicant stated that the first time he used marijuana was in June 2019, at the age of 39. On this occasion, he purchased two marijuana cigarettes from a dispensary, and he and his wife used it during Covid lockdown, at home, in their backyard. (Tr. p. 63.) Applicant was not working for a defense contractor, and he did not possess a security clearance at the time.

1.b. Applicant stated that he used marijuana a second time, but was not certain about the date when he met with the investigator. Applicant's sworn statement dated January 2025, indicates that he last used marijuana in December 2023. Applicant does not believe that he told the investigator that it was in December 2023. After discussions with his wife about the issue he believes his second use of marijuana actually occurred sometime in November or December 2020. Applicant was 40 years old. Applicant and/or his wife purchased the marijuana from a dispensary, and they used it at home in their garage. (Tr. p. 63.) By this time, Applicant had been hired and was working for a defense contractor, and had been granted a security clearance. (Tr. p. 64.) He stated that he did not use his clearance, was working remotely, and was on vacation at the time. (Tr. p. 64-65.)

In July 2020, during the hiring process to work for a defense contractor, Applicant went through a pre-employment drug test, which he passed. Applicant acknowledged that he was well aware of the zero-tolerance drug policy. He also stated that his use of marijuana in 2020, after being granted a security clearance, was a big mistake. He stated that he was supposed to have reported his marijuana use to his company, but he did not do it. (Tr. pp. 47-51.)

Applicant completed his first security clearance application dated July 13, 2020. In response to questions on the application, he stated that he used marijuana in June 2019, on weekends, and on three occasions. He testified that he does not know why he stated that he used marijuana “three” times. (Government Exhibit 1, p.42.) He stated that he completed this security clearance application after his first use of marijuana, and before his second use of marijuana. (Tr. p. 41.) He stated that he was just trying to be as honest as he could. (Tr. p. 53.) In this application he stated that he does not intend to use marijuana again, and that it is not important to him in the slightest to use marijuana again. (Government Exhibit 1, p.42.)

Applicant completed a second security clearance application dated June 23, 2024. He explained that it was submitted for purposes of attempting to upgrade his clearance to a Top Secret. In this application, Applicant only disclosed his marijuana use of 2019. He did not disclose his marijuana use in 2020. Applicant stated that he was clicking through the application trying to get it done quickly, and he did not take the time to carefully make sure that his responses were accurate. (Government Exhibit 2, p.39)

In his sworn statement to an investigator dated January 2025, Applicant told the investigator that he used marijuana three or four times in December 2023, to help him unwind and relax during vacation. Applicant testified that he does not remember giving the investigator this information. (Tr. p. 57.) Applicant does not understand why the investigator listed this information.

In response to AVS interrogatories in June 2025, Applicant stated that he used marijuana in November or December 2020, but he did not list that he used it in 2019. (Government Exhibit 3.) Applicant does not know why he did not list his use in 2019. (Tr. p. 56.)

Applicant stated that he was very nervous when he completed the responses to interrogatories and was afraid that he could lose his career because of his poor recollection of dates. (Tr. p. 60.) Applicant admitted that it appears that he has omitted some things in response to the Government’s questions, but that he did not do it on purpose. (Tr. p. 61.)

Applicant’s spouse was also interviewed by the OPM investigator about Applicant’s use of marijuana. According to the investigator’s Summary of the Interview, Applicant’s spouse said that Applicant had purchased marijuana and smoked it at home, about seven times over the course of six months in 2021. (Tr. p. 65.)

Guideline E: Personal Conduct

The Government alleges that Applicant has engaged in conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations that can raise questions about his reliability, trustworthiness, and ability to protect classified or sensitive information.

2.a. Applicant completed a security clearance questionnaire dated June 23, 2024. In response to Section 23, concerning Illegal Use of Drugs or Drug Activity, the question asked, "In the last seven (7) years have you illegally used any drugs or controlled substance?" Applicant answered, "YES," and disclosed that he used marijuana three times in June 2019. He failed to disclose his additional use of marijuana in 2020. (Government Exhibit 2.)

2.b. The same questionnaire, in response to Section 23, concerning Illegal Use of Drugs or Drug Activity, the question asked, "While possessing a security clearance have you ever illegally use or otherwise been illegally involved with a drug or controlled substance while possessing a security clearance other than previously listed?" Applicant answered, "NO." (Government Exhibit 2.) Applicant's response to this question was not truthful. He failed to disclose his marijuana use in 2020 that occurred after being hired by a defense contractor, and while possessing a security clearance.

Throughout his security background investigation, Applicant's responses to questions about his illegal drug use have raised serious concerns. It is recognized that Applicant does not have a precise recollection of when and how often he used marijuana. However, his responses are so varied that collectively they do not provide sufficient information to make a determination as to whether he is trustworthy. The variances in the record simply make it impossible to determine when the Applicant's last use of marijuana occurred and how many times he used it. On his security clearance applications, he stated that he used marijuana three times. At the hearing, he adamantly claims that it occurred only two times. In his sworn statement to the investigator, Applicant claims that he used marijuana three or four times in December 2023, on weekends (plural). In response to DOHA interrogatories dated July 2025, he stated that he used marijuana in December 2019 and in October or December 2020. But, in response to AVS interrogatories in June 2025, he states that his use of marijuana occurred between November and December 2020, and there is no mention of any use whatsoever that occurred in 2019 or in 2023. The record is confusing, and his responses are vastly inconsistent which raise questions about his honesty and trustworthiness.

Applicant provided a Statement of Intent dated September 7, 2025, indicating that he will abstain from all drug involvement and substance misuse in the future and that any future involvement or misuse is grounds for revocation of his security clearance. (Applicant's Exhibit D.)

Two letters of recommendation from Applicant's direct supervisor; and from a professional colleague of the Applicant attest to Applicant's exceptional character, integrity, diligence, expertise, reliability, trustworthiness, and honesty. His technical expertise, diligent work ethic and commitment to the mission's success are considered to be invaluable assets that the company does not want to lose. Applicant is highly respected by his peers and leadership for his professionalism. He is recommended for a security clearance. (Applicant's Exhibits B and C.)

Results of seven voluntary drug screening tests Applicant took between October 2025, and September 5, 2026, all show negative results for any illegal drugs. (Applicant's Exhibits A, F, G, H, I, J, and K.)

Three performance reviews of the Applicant for the periods from December 1, 2022 through June 1, 2023; June 2, 2026 through December 2, 2023; and October 1, 2024 through September 30, 2025, reflect that Applicant's performance has been stellar. He is a quick learner and self-starter who has made a positive impact on the customer. His annual performance ratings show that he "meets" or "exceeds expectations" in every category, and then his final overall rating shows that he "exceeds expectations." (Applicant's Exhibits L, M, and O.)

Applicant was nominated for a Pillar Award for his commitment to excellence and for his overall stellar performance on the job. (Applicant's Exhibit P.)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 AG ¶ 2 describing 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Directive ¶ E3.1.14, requires the Government to present evidence that establishes 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 applies for access to classified information seeks to enter 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 classified information. 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 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 H - Drug Involvement and Substance Misuse

The security concern relating to the guideline for Drug Involvement and Substance Misuse is set forth at 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.

The guideline at AG ¶ 25 contains three conditions that could raise a security concern and may be disqualifying:

- (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; and

- (f) any illegal drug use while granted access to classified information or holding a sensitive position.

Applicant used and purchased marijuana on at least two occasions, in June 2019, and then in 2020, while employed with a defense contractor, and while possessing a security clearance. The evidence is sufficient to raise the above disqualifying conditions.

The guideline at AG ¶ 26 contains conditions that could mitigate security concerns. Two are potentially applicable in this case:

(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 contends that he used marijuana in 2019, and then again in late 2020, while he was employed with a defense contractor, and while possessing a security clearance. Using any illegal drug, even one time usage, while possessing a security clearance is taken very seriously by the Government, and shows extreme poor judgment. Although Applicant's use of marijuana last occurred about six years ago, he used it while entrusted with a Government security clearance. Furthermore, at the time he used marijuana in 2020, he was well aware of the company policy and Federal law that prohibited all illegal drug use. Applicant's conduct shows questionable judgment and raises serious questions about his reliability and trustworthiness. Under the circumstances, Guideline H is found against the Applicant.

Guideline E - Personal Conduct

The security concern for Personal Conduct 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. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. Two are 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; and

(c) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a while-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. This includes, but is not limited to, consideration of:

(2) any disruptive, violent, or other inappropriate behavior; and

(3) a pattern of dishonesty or rule violations.

The guideline at AG ¶ 17 contains conditions that could mitigate security concerns. None of the conditions are applicable:

(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; and

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

Throughout the investigation, Applicant's responses to questions about his drug use have been confusing, inconsistent, troublesome, and raise questions about his honesty and trustworthiness. His responses were often partial truths that were obviously guarded. His responses did not appear forthcoming. He was not open, honest, candid, or truthful, in providing his responses. He also used marijuana while possessing a security clearance, knowing it to be against company policy and Federal law to do so. Under the circumstances, Guideline E is found against Applicant.

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 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.

Considered in totality, Applicant's overall conduct precludes a finding of good judgment, reliability, and/or the ability to abide by rules and regulations. To be entrusted with the privilege of holding a security clearance, applicants are expected to abide by all laws, regulations, and policies that apply to them. In this case, Applicant has not provided full, frank, and candid responses. He has not been entirely truthful in response to questions about his illegal drug use. This shows poor judgment, unreliability, and untrustworthiness.

I considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. I have incorporated my comments under Guidelines H and E, in my whole-person analysis. Based upon the facts and analysis set forth above, Applicant has failed to provide sufficient evidence to demonstrate that he meets the qualifications for a security clearance.

Overall, the record evidence leaves me with many questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, Applicant has failed to mitigate the Drug Involvement and Substance Misuse security concern, and the Personal Conduct security concern.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of the Directive, are:

Paragraph 1, Guideline H:	AGAINST APPLICANT
Subparagraphs 1.a. and 1.b.	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a. and 2.b.	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 for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson
Administrative Judge