



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



In the matter of:

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ISCR Case No. 25-00560

Applicant for Security Clearance

Appearances

For Government:

Aubrey M. DeAngelis, Esq., Department Counsel

For Applicant:

Pro se

06/08/2026

Decision

CEFOLA, Richard A., Administrative Judge:

Applicant did not mitigate the security concerns under Guideline H (Drug Involvement and Substance Abuse). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a Questionnaire for National Security Positions on October 13, 2024 (Questionnaire). On June 10, 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 June 25, 2025, Applicant responded to the SOR in writing (Answer) and requested that this case be decided on the written record in lieu of a hearing. In his Answer, he admitted to the drug use allegations in the SOR. On March 11, 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's Exhibits (GE) 1 to 7, and the Government's arguments in support of the SOR, was received by the Applicant on March 16, 2026. He was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns, but did not respond within the specified 30-day period. The case was assigned to me on June 1, 2026, and all exhibits were admitted without objection.

Findings of Fact

Applicant is 44 years old and has worked for a DoD contractor since 2024 as a journeyman. He completed his first application for a security clearance in connection with this employment. Applicant was married from 2004 – 2021. He has been residing with a cohabitant since 2022, has no children, and is a high school graduate. (GE 4 at 5, 10, 19-20; 31; GE 5 at 2)

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

The Government alleged that Applicant is ineligible for a security clearance because he used psilocybin mushrooms in October 2020 and because he purchased and used marijuana over an approximately 17-year period. The Government further alleges Applicant intends to continue using the drug in the future. 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 purchase and use from about 2008 to at least March 2025. In his Questionnaire, Applicant acknowledged recreational use of marijuana once or twice per week from March 2007 through October 2024. In his Answer, he admitted to the allegation as drafted. In his responses to a DoD investigator, he specified that his initial use was one time in 2008 or 2009, followed by more consistent use beginning in 2020 or 2021. His most recent was on March 23, 2025 – the day before he submitted his responses to interrogatories. Applicant purchases marijuana from a dispensary. Non-medical marijuana, however, has only been lawful for sale in Applicant's state since August 6, 2024. Before that date, he purchased marijuana from legal dispensaries in other states. (Answer, GE 4 at 29; GE 5 at 3-4, GE 6 at 5; GE 7 at 1)

1.b. Intent to continue using marijuana. Applicant acknowledged his intent to continue using marijuana in his Questionnaire stating, "I enjoy it and it's legal in (my state)." He likewise admitted an intent to continue using the drug in his Answer. He reiterated his future intentions for marijuana use to a DoD investigator and again in his responses to interrogatories. He suggested that "(he) could easily abstain from using if it were required to obtain and maintain (a) security clearance." (Answer; GE 4 at 29; GE 5 at 4; GE 6 at 9)

1.c. Use of psilocybin mushrooms in October 2020. Applicant did not reveal this drug use in his Questionnaire because it “slipped his mind,” but did admit it in his Answer. He likewise acknowledged the one-time use in his discussion with a DoD investigator, explaining that he tried the drug with a coworker on October 31, 2020. He described the experience as “pretty great” and would consider using the drug again if the opportunity arose. He did not acknowledge having used psilocybin mushrooms in his subsequent responses to interrogatories. (Answer; GE 4 at 29-30; GE 5 at 3; GE 6 at 5)

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 his Questionnaire, discussions with the DoD investigator, 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 national security is of 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; and
- (g) expressed intent to continue drug involvement and substance abuse, or failure to clearly and convincingly commit to discontinue such misuse.

Applicant admits purchasing and using marijuana for years. His use includes after completing the Questionnaire, after being interviewed by a DoD investigator, and at least

up to the day before he completed his responses to interrogatories. He likewise expressed a clear intent to continue using the drug in the future. He also admitted using psilocybin mushrooms and noted he might use them again in the future. Therefore AG ¶¶ 25(a), (c), 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 throughout the security application process, compounded by his intent to continue using the drug in the future, 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. The same holds true for Applicant's contemplation that he might use psilocybin mushrooms in the future. As such, 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 to a DoD investigator, as well as those 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.c:

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