



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



In the matter of:	)	
	)	
	)	ISCR Case No. 25-00679
	)	
	)	
Applicant for Security Clearance	)	
	)	

Appearances

For Government:
Cynthia Ruckno, Esq., Department Counsel

For Applicant:
Pro se

07/02/2026

Decision

NAGEL, Jeff A., Administrative Judge:

Applicant did not mitigate the security concern 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 July 31, 2024 (Questionnaire). On July 16, 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 August 15, 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 allegation in the SOR. On November 19, 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's Exhibits (GE) 1 to 5, and the Government's arguments in support of the SOR, was received by the Applicant on January 5, 2026. He was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns, but provided no response. The case was assigned to me on June 29, 2026, and all exhibits were admitted without objection.

Findings of Fact

Applicant is 26 years old and has worked for a DoD contractor since 2024 as an Associate 2. He completed his first application for a security clearance in connection with this employment. Applicant is single, has been residing with a cohabitant since 2024, and has no children. He received a bachelor's degree in 2022. (GE 3 at 5, 10, 17-18, 30)

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

The Government alleged that Applicant is ineligible for a security clearance because he used marijuana from about July 2021 through April 2025. The following facts pertain:

1.a. Marijuana use from about July 2021 – April 2025. Applicant admitted the allegation as drafted in the SOR. In his Questionnaire, Applicant acknowledged recreational use of marijuana 5-10 times from July 2021 – July 2024. He indicated however that he "[had] not had very good experiences with THC [tetrahydrocannabinol], so [he was] not interested in trying again." In his conversation with a defense investigator on December 3, 2024, he acknowledged his previous statement, but explained that through further experimentation with dosage, he "learned the right amount to feel relaxed and not sick." He then admitted using the drug again in November 2024, but stated he "would stop using it if it was necessary as a condition of access for work." In his May 2, 2025, responses to interrogatories, Applicant elaborated that his use from 2021 – 2024 had been monthly. He also admitted he had ingested THC via a friend's vaporizer pen as recently as April 2, 2025, "when (he) thought he was going to leave federal contracting." (Answer; GE 3 at 28-29; GE 4 at 4; GE 5 at 1)

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 using marijuana from July 2021 – April 2025. 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 continued use of marijuana after applying to work for a defense contractor, filling out the security questionnaire (where he indicated he did not intend to use the drug again), and then again after speaking with a defense investigator about drug use renders any potential mitigating factors inapplicable. The Appeal Board has specifically noted that use of the drug after being placed on notice is incompatible with security clearance eligibility standards and raises substantial questions about an applicant's judgment, reliability, and willingness to comply with laws, rules, and regulations. [ISCR 20-02974 at 6 (App. Bd. Feb. 1, 2022)]. *See also* ISCR 07-00852 at 3 (App. Bd. May 27, 2008) (Use of marijuana after having submitted a security clearance application undercuts an applicant's promise to avoid such conduct in the future). Moreover, Applicant's speculation that he would be willing to comply with federal law in the future "as a condition of access for work" does not constitute the pledge of abstention requisite for mitigation. 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 defense investigator, as well as those included in his Questionnaire and his responses to interrogatories. Overall, however, 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
Subparagraph 1.a:	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.

JEFF A. NAGEL
Administrative Judge