



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



In the matter of:	)	
	)	
	)	ISCR Case No. 25-00933
	)	
	)	
Applicant for Security Clearance	)	
	)	

Appearances

For Government:
Troy L. Nussbaum, Esq., Department Counsel

For Applicant:
Samir Nakhleh, Esq.

07/02/2026

Decision

NAGEL, Jeff A. Administrative Judge:

Applicant mitigated the security concerns under Guideline H (Drug Involvement and Substance Misuse). Applicant did not mitigate the security concerns under Guideline E (Personal Conduct), Guideline G (Alcohol Consumption), and Guideline J (Criminal Conduct). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a Questionnaire for National Security Positions on August 10, 2022 (Questionnaire). On November 25, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E (Personal Conduct), Guideline G (Alcohol Consumption), Guideline H (Drug Involvement and Substance Misuse), and Guideline J (Criminal Conduct). 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 16, 2026, through counsel, 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 of the allegations and included Applicant's Exhibits (AE) A through F. On March 17, 2026, Department Counsel submitted the Government's written case in a File of Relevant Material (FORM). Therein, Department Counsel amended the SOR (ASOR) by adding ¶ 1.m:

1.m. You are currently on probation for the DUI arrest referred to in subparagraph 1.k above

A complete copy of the FORM, consisting of Government Exhibits (GE) 1 to 17, the Government's arguments in support of the SOR, and the amended SOR allegation, was received by the Applicant on May 8, 2026. He was afforded an opportunity to answer the ASOR, file objections, and submit material to refute, extenuate, or mitigate the security concerns, but he did not respond within the specified 30-day period. As Applicant did not reply to the FORM, his silence with regard to the amended allegation is viewed as a denial. The case was assigned to me on June 22, 2026, and all exhibits were admitted without objection.

Findings of Fact

Applicant is 31 years old. He has worked for a defense contractor since 2022 as a composite technician and applied for a security clearance in connection with this employment. He previously held a secret clearance while serving in the United States Marine Corps Reserve as a Lance Corporal (E-3) from May 2016 – May 2018. His Military Occupation Specialty (MOS) was 0811 (Field Artillery Cannoneer). He has a high school diploma, is single, and has no children. (GE 4 at 5, 9, 12, 15, 17, 28-29; GE 16 at 1; GE 17)

SOR Paragraph 1 (Guideline J: Criminal Conduct)

The Government alleged that Applicant is ineligible for a security clearance due to certain criminal activity. The following findings of fact pertain:

1.a. Arrest for theft (October 2009): Applicant omitted this incident from his Questionnaire but admitted to the allegation as drafted in the SOR. On October 13, 2009, while attending high school, Applicant and two fellow students rifled through the unattended backpacks of fellow students and stole three iPads. He was arrested for petty theft, but the charge was later dismissed by the juvenile court following Applicant's

successful completion of community service. (Answer; GE 4 at 26-27; GE 6 at 10; GE 7 at 5)

1.b. Citation for open container (January 2015): Applicant omitted this incident from his Questionnaire but admitted to the allegation as drafted in the SOR. On January 25, 2015, Applicant was cited by the police for drinking beer in public. Applicant paid a fine of \$187. (Answer; GE 4 at 26-27; GE 6 at 10)

1.c. Citation for marijuana possession (April 2015): Applicant omitted this incident from his Questionnaire but admitted to the allegation as drafted in the SOR. In April 2015, Applicant was cited by the police for possession of less than an ounce of marijuana. The charge was later dismissed. (Answer; GE 4 at 26-27; GE 6 at 11)

1.d. Citation for open container (June 2015): Applicant omitted this incident from his Questionnaire but admitted to the allegation as drafted in the SOR. On June 5, 2015, Applicant was at the beach with his brother and was cited for drinking beer in public. Applicant paid a fine. (Answer; GE 4 at 26-27; GE 6 at 9-10)

1.e. Arrest for disorderly conduct involving alcohol or drugs (July 2015): Applicant omitted this incident from his Questionnaire but admitted to the allegation as drafted in the SOR. On July 23, 2015, Applicant was arrested by the police for public intoxication. He was later released and not charged with an offense. (Answer; GE 4 at 26-27; GE 6 at 11)

1.f. First arrest for Driving Under the Influence (DUI) (January 2017): Applicant omitted this incident from his Questionnaire but admitted to the allegation as drafted in the SOR. On January 22, 2017, Applicant was driving with his brother. He was initially stopped by the police for a traffic infraction but was then arrested for DUI after failing a field sobriety test and being measured with a blood alcohol content (BAC) of 0.12. In accordance with a pretrial agreement, Applicant pled guilty and was sentenced to 36 months of probation, a three-month alcohol program, and a \$500 fine. He completed the alcohol program on October 12, 2018. (Answer; GE 4 at 26-27; GE 6 at 8; GE 7 at 7; AE E)

1.g. Second arrest for DUI and driving with a suspended license (July 2018): Applicant omitted this incident from his Questionnaire but admitted to the allegation as drafted in the SOR. On July 11, 2018, Applicant was driving with his brother. While still on probation for the first DUI, Applicant was initially stopped by the police for driving on the wrong side of the road but was then arrested after failing a field sobriety test and being measured with a BAC of 0.13. In accordance with a pretrial agreement, on April 10, 2019, Applicant pled nolo contendere to DUI, a second DUI within 10 years of a prior, and driving with a suspended license. He was sentenced to 60 months of probation, an 18-month alcohol program, 10 days in jail, and fees/restitution totaling approximately \$2,197. He was further ordered not to drive any vehicle with any measurable amount of alcohol or

drugs in his blood. (Answer; GE 4 at 26-27; GE 6 at 8-9; GE 7 at 9; GE 12 at 4, 18; GE 13 at 3-5)

1.h. and 1.i. Arrest for robbery / battery (November 2018): Applicant omitted this incident from his Questionnaire but admitted to the allegation as drafted in the SOR. On November 10, 2018, Applicant was at a mall with his brother (who was on parole for robbery). While in a clothing store, a sales associate confronted Applicant's brother whom the sales associate believed was attempting to steal merchandise. Applicant then approached the sales associate and punched him once in the face. In the process of throwing the punch, Applicant dropped his phone. The sales associate picked it up and held on to it so as to keep Applicant at the store until security arrived. Applicant then punched the sales associate in the face a second time. When mall security arrived, Applicant's brother turned over a belt he had stolen, then the two of them fled the store.

Shortly thereafter, Applicant and his brother were detained by responding sheriff's deputies who had been contacted. After collecting witness statements, the deputies arrested Applicant and his brother. In the course of a search incident to apprehension, the deputies found cologne on Applicant's person that he had stolen from a store in the mall. Applicant and his brother were transported to jail and booked on charges of robbery (felony) and petty theft (misdemeanor). In accordance with a pretrial agreement, on April 10, 2019, Applicant pled nolo contendere to a single count of battery and was sentenced to 30 days in county jail, 36 months of probation, and fees/restitution of \$234. (Answer; GE 4 at 26-27; GE 6 at 12; GE 7 at 11; GE 10 at 3-4, 9, 14; GE 11 at 3-4)

1.j. Alleged arrest for DUI (May 2019): Applicant admitted to the allegation as drafted in the SOR. On May 24, 2019, however, at 8:30am, Applicant was present in court regarding the DUI discussed in SOR ¶ 1.g above. He surrendered at that time to begin the imposed jail sentence. (Answer; GE 4 at 26-27; GE 6 at 13; GE 11 at 4)

1.k. Third arrest for DUI (April 2022): Applicant omitted this incident from his Questionnaire but admitted to the allegation as drafted in the SOR. On April 9, 2022, Applicant was stopped by the police on his way home from a bar and subsequently arrested after failing a field sobriety test and being measured with a BAC of 0.17. In accordance with a pretrial agreement, on February 10, 2023, Applicant pled nolo contendere to DUI and was sentenced to 120 days in county jail, 60 months of probation, an 18-month DUI program, and fees/restitution of \$2,254. He was further ordered not to drive any vehicle with any measurable amount of alcohol or drugs in his blood. He was declared a Habitual Traffic Offender by the court and suspended from driving for three years. During a follow-up hearing with the court on July 18, 2023, Applicant was admonished by the court for failure to comply with his court-directed alcohol treatment program and was advised it was his "last chance." He completed the alcohol program on June 2, 2025. (Answer; GE 4 at 26-27; GE 6 at 9; GE 7 at 15; GE 9 at 1, 5-8; AE E)

1.l. Other Than Honorable discharge from the U.S. Marine Corps (May 2018): Applicant admitted to the allegation as drafted in the SOR. On February 22, 2018,

Applicant tested positive for cocaine following a urinalysis conducted by his command. On March 19, 2018, he received a Notification of Separation Proceedings (Board Case) advising him of his command's intent to administratively separate him from the Marine Corps for Misconduct (Drug Abuse) and Unsatisfactory Participation in the Ready Reserve (nine or more missed drills). On March 20, 2018, Applicant waived his right to a hearing on the matter and subsequently received an Other Than Honorable discharge on or about May 19, 2018. (GE 16)

1.m. Applicant is on probation for the DUI discussed above in SOR ¶ 1.k: As noted above, Applicant did not respond to this SOR amendment, thus his response is construed as a denial. Applicant's sentence, which was imposed on February 10, 2023, included 60 months of probation. In the absence of an intervening action by the court, this sentence should continue through February 2028.

SOR Paragraph 2 (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. The following findings of fact pertain:

2.a. False Statement ONE in 2022 Questionnaire: Applicant admitted to the allegation as drafted in the SOR, with the caveat that he misunderstood the questions and/or made simple mistakes. On August 10, 2022, he submitted his Questionnaire wherein in Section 22 – Police Record, he answered, “No,” to questions asking if, in the last seven years: he had been issued a criminal citation; been arrested, charged, convicted, or sentenced of a crime; or been on probation. He also denied awaiting a trial on a criminal charge. As noted above, during the referenced time frame, he had two DUI convictions, a battery conviction, and a third DUI charge pending adjudication. He was also on probation when he filled out the document. (Answer; GE 4 at 26-27)

2.b. False Statement TWO in 2022 Questionnaire: Applicant admitted to the allegation as drafted in the SOR, with the caveat that he misunderstood the questions and/or made simple mistakes. On August 10, 2022, he submitted his Questionnaire wherein in Section 22 – Police Record, he answered, “No,” to questions asking if he had EVER been charged with a felony or charged with an offense involving alcohol or drugs. As noted above, during the referenced time frame, he had received two open container citations, a marijuana citation, an arrest for disorderly conduct involving alcohol, three DUI charges (with two convictions), and a felony robbery arrest. (Answer; GE 4 at 26-27)

2.c. False Statement THREE in 2022 Questionnaire: Applicant admitted to the allegation as drafted in the SOR, with the caveat that he misunderstood the questions and/or made simple mistakes. On August 10, 2022, he submitted his Questionnaire wherein in Section 23 – Illegal Use of Drugs, he answered, “No,” to questions asking if,

in the last seven years, he had illegally used drugs. As noted below, during the referenced time frame he used both cocaine and marijuana. (Answer; GE 4 at 20-21)

2.d. False Statement FOUR in 2022 Questionnaire: Applicant admitted to the allegation as drafted in the SOR, with the caveat that he misunderstood the questions and/or made simple mistakes. On August 10, 2022, he submitted his Questionnaire wherein in Section 23 – Illegal Use of Drugs, he answered, “No,” to a question asking if he had EVER used drugs while holding a security clearance. As noted below, Applicant used cocaine after receiving a secret clearance in May 2016 during his time in the Marine Corps. (Answer; GE 4 at 20-21, 29)

2.e. False Statement FIVE in 2022 Questionnaire: Applicant admitted to the allegation as drafted in the SOR, with the caveat that he misunderstood the questions and/or made simple mistakes. On August 10, 2022, he submitted his Questionnaire wherein in Section 24 – Use of Alcohol, he answered, “No,” to a question asking if he had EVER been ordered to seek alcohol counseling or treatment. As noted above, Applicant was ordered by the court to attend DUI programs after each of his DUI convictions. (Answer; GE 4 at 28)

2.f. False Statement ONE in 2015 Questionnaire: Applicant admitted to the allegation as drafted in the SOR, with the caveat that he misunderstood the questions and/or made simple mistakes. On October 16, 2015, he submitted his Questionnaire wherein in Section 22 – Police Record, he answered, “No,” to questions asking if, in the last seven years: he had been issued a criminal citation; been arrested, charged, convicted, or sentenced of a crime; or been on probation. As noted above, Applicant had been arrested for theft, received two open container citations, a marijuana citation, and was arrested for disorderly conduct involving alcohol. (Answer; GE 5 at 19-20)

2.g. False Statement TWO in 2015 Questionnaire: Applicant admitted to the allegation as drafted in the SOR, with the caveat that he misunderstood the questions and/or made simple mistakes. On October 16, 2015, he submitted his Questionnaire wherein in Section 23 – Illegal Use of Drugs, he answered, “Yes,” to questions asking if, in the last seven years, he had illegally used drugs, elaborating “1 TIME USE EXPERIMENTAL.” As noted below, during the referenced time frame he used marijuana “ten to twelve times between 2014 to 2015.” (Answer; GE 5 at 21)

2.h. Cross-allegations with subparagraphs 1.a – 1.i: See discussion above.

SOR Paragraph 3 (Guideline G: Alcohol Consumption)

The Government alleged that Applicant is ineligible for a security clearance because of excessive alcohol consumption. The following findings of fact pertain:

3.a. Cross-allegations with subparagraphs 1.b, 1.d, 1.e, 1.f, 1.g, 1.j, and 1.k: See discussion above. Applicant avers he has not consumed alcohol since May 2022. (Answer; GE 6 at 13, 24)

3.b. Failure to follow the April 10, 2019, order of the court not to drive any vehicle with any measurable amount of alcohol or drugs in his blood: As discussed above in SOR ¶ 1.g, during the sentencing phase of his second DUI conviction, Applicant was specifically told by the judge he was not to drive any vehicle with any measurable amount of alcohol or drugs in his blood. As discussed above in SOR ¶ 1.g, on April 9, 2022, he violated that order.

3.c. Failure to follow the April 10, 2019, order of the court to complete the 18-month DUI program: As discussed above in SOR ¶ 1.g, during the sentencing phase of his second DUI conviction, Applicant was ordered to “enroll and participate in, and successfully complete, an 18-month licensed second offender alcohol and other drug education counseling program.” As discussed above in SOR ¶ 1.k, on July 18, 2023, Applicant was admonished by the court for being disenrolled from the program due to non-compliance. Applicant reenrolled on August 10, 2023, and successfully completed the program on June 2, 2025. (GE 9 at 8; AE E)

SOR Paragraph 4 (Guideline H: Drug Involvement and Substance Misuse)

The Government alleged that Applicant is ineligible for a security clearance due to his use of marijuana and cocaine. The following facts pertain:

4.a. Use of marijuana from July 2013 – March 2022: Applicant omitted this conduct from his Questionnaire but admitted to the allegation as drafted in the SOR. He first used marijuana in July 2013, which he characterized in an older security clearance application (October 16, 2015) as an experimental one-time use. He also said he would not use the drug again because he “tried it and didn’t like it.” Applicant did use the drug again, however, later admitting in his responses to interrogatories to 10-12 uses between 2014 and 2015 (when marijuana use was still illegal in his state), then approximately every other week from May 2018 through March 2022 (after laws permitting recreational use were enacted by his state). Applicant states he has not used the drug since March 2022 and provided a signed statement of intent to abstain dated January 22, 2026. (Answer; GE 5 at 21; GE 6 at 7, 19; AE C)

4.b. Use of cocaine from 2017 – 2019: Applicant omitted this incident from his Questionnaire but admitted to the allegation as drafted in the SOR. He first used cocaine in late 2017 when it was offered by his girlfriend. He continued to use the drug on weekends when socializing with friends and purchased one or two grams on two occasions. After his discharge from the Marine Corps in May 2018, he continued to use the drug monthly until early 2019. He stated that he has not used the drug since that time and asserts he has no intention of using it again. (Answer; GE 6 at 6-7, 19)

4.c. Use of cocaine while holding a sensitive position: See SOR ¶ 4.b above. In addition, Applicant specifically acknowledged using cocaine “two to three times while on reserve status.” (GE 6 at 7)

4.d. Cross-allegations with subparagraph 1.c: See SOR ¶ 1.c above.

4.e. Positive urinalysis (cocaine) in February 2018: See SOR ¶¶ 1.i, 4.b, and 4.c above.

Whole Person and Mitigating Evidence

Applicant submitted extensive whole person and mitigating evidence with his Answer, which was reviewed in its entirety. He accepted responsibility for his past actions and regrets the impact those actions had on his family, colleagues, community, and himself. He averred the misconduct in his past was during “a discrete period of immaturity, alcohol misuse, and poor decision-making that no longer characterizes (his) life.” He lost his position in the Marine Corps due to drug use and lost a potential career in firefighting after one of his DUIs. He has since been steadily employed for eight years and strives to be a role model for his girlfriend and her young son. He did not provide any evaluations from his employers or character witness statements. (Answer at 3, 6-7)

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 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 *a/so* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

SOR Paragraph 1 (Guideline J: Criminal Conduct)

The security concern for criminal conduct is set out in AG ¶ 30:

Criminal activity creates doubt about an Applicant’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules and regulations.

The facts of this case establish the following potentially disqualifying conditions set forth in AG ¶ 31 to the allegations under Guideline J:

- (a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual’s judgment, reliability, or trustworthiness;
- (b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted;
- (c) individual is currently on parole or probation;

(d) violation or revocation of parole or probation, or failure to complete a court-mandated rehabilitation program; and

(e) discharge or dismissal from the Armed Forces for reasons less than “Honorable.”

The burden therefore shifts to Applicant to mitigate security concerns under Guideline J. The guideline includes the following conditions in AG ¶ 32 that could potentially mitigate security concerns arising from Applicant’s criminal conduct:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual’s reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

The battery charge in SOR ¶ 1.i was part of a plea agreement for the theft and robbery charges discussed in SOR ¶ 1.h. It is therefore redundant, so SOR ¶ 1.i is found for Applicant. Additionally, the DUI arrest alleged in SOR ¶ 1.j was simply a court appearance for the DUI charged under SOR ¶ 1.g. Accordingly, SOR ¶ 1.j is found for Applicant. Regarding the rest of Applicant’s history of criminal conduct, it spans well over a decade, which is not quite the “discrete period” Applicant suggests. His high school misconduct and multiple substance issues in 2015 could potentially be mitigated by time but for the continuing pattern of misconduct that followed.

Applicant’s submitted evidence paints a promising picture for his future; but as of now he remains on probation, and successful completion of this sentence will represent the longest stretch of his adult life without engaging in criminal conduct. Until such time however, Applicant’s past and recent history of behavior 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 criminal conduct. Excluding the two subparagraphs referenced above, SOR ¶ 1 is found against Applicant.

SOR Paragraph 2 (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 condition set forth in AG ¶ 16 to the allegations under Guideline E:

(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

(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 acknowledged the inaccuracies of his responses in the Questionnaires as alleged in the SOR, but provided a blanket assertion that all five were due to his "misunderstanding" or "simple mistakes." 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). The Appeal Board has further noted that multiple omissions undercut any argument that an applicant's failure to disclose required information was the result of mistake, oversight, or lack of recall. ISCR 21-02729 at 3 (App. Bd. Feb. 15, 2023).

In this case, Applicant made multiple omissions on two separate documents about essentially the same issues. This undercuts his blanket assertion of misunderstanding five separate questions. 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.

Applicant's assertion that he misunderstood the question "Have you been arrested in the past seven years?" is difficult to reconcile – in both 2015 and 2022 – given his numerous encounters with law enforcement. Equally tenuous is his claim to have misunderstood the questions "Have you EVER been charged with an offense involving alcohol or drugs?" and "Have you EVER been ordered to seek counseling or treatment as a result of your use of alcohol?" The unlikelihood of his claims is amplified by his generic, blanket response of "misunderstanding," as opposed to discussing each question and explaining how it confused him, or what "simple mistakes" he made when filling out two separate security applications over the years. These claims lack credibility.

Additionally, as to the cross-allegations with SOR ¶¶ 1.a – 1.I, there is more than substantial evidence over the last decade to show a pattern of unwillingness to comply with rules and regulations. And, as discussed above, while Applicant remains on probation, an insufficient amount of time has passed to conclude the behavior is unlikely to recur. Therefore, having examined this misconduct and his omissions in light of the record as a whole, none of the mitigating conditions, individually or collectively, are sufficiently applicable to overcome the issues presented under Guideline E. SOR ¶ 2 is found against Applicant.

SOR Paragraph 3 (Guideline G: Alcohol Consumption)

The security concerns relating to the guideline for alcohol consumption are set out in AG ¶ 21, which reads as follows:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual's reliability and trustworthiness.

The facts of this case establish the following potentially disqualifying conditions set forth in AG ¶ 22 to the allegations under Guideline G:

(a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder;

(c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder; and

(e) failure to follow treatment advice once diagnosed.

The burden therefore shifts to Applicant to mitigate security concerns under Guideline G. The guideline includes the following conditions in AG ¶ 23 that could potentially mitigate security concerns arising from Applicant's alcohol consumption:

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

(b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant's history of alcohol-related incidents (ARIs) goes back ten years with an increase in severity each time. From two open container citations to a public intoxication detention to three DUIs, Applicant has shown a history of questionable judgment and a failure to control impulses. His early ARIs could potentially be mitigated by time but for the continuing and escalating issues over the decade – and the fact that he remains on probation at this time for his latest offense.

Applicant has made great strides since his last DUI. The period of his driver's license suspension recently ended and his assertion that he has not consumed alcohol since May 2022 is unchallenged. He also successfully completed his court-directed, 18-month alcohol program on June 2, 2025. He has maintained steady employment during four years of abstinence and has demonstrated a clear pattern of responsible behavior consistent with treatment recommendations. Applicant must continue down this path and

successfully conclude his probation, however, before he can hope to successfully mitigate these issues. SOR ¶ 3.c is found for Applicant because he did complete the program; but SOR ¶¶ 3.a. and 3.b are found against Applicant while he remains on probation for his most recent DUI conviction.

SOR Paragraph 4 (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 to the allegations under Guideline H:

- (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.

The burden therefore shifts to Applicant to mitigate security concerns under Guideline H. The guideline includes the following conditions in AG ¶ 26 that could potentially 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 dozen or so uses of marijuana from 2014 – 2015 predated the legalization of recreational use in his home state, but happened long ago when he had just finished high school. When he began to use the drug again after his discharge from the Marine Corps in 2018, it was lawful in his state. He then stopped using the drug shortly before his decision to likewise abstain from alcohol. As such, the evidence supports a conclusion that this behavior happened so long ago and happened under such circumstances that it is unlikely to recur.

Applicant's decision to use cocaine on multiple instances from late 2017 through early 2019 is of a greater concern because it was always illegal under state law, federal law, and the Uniform Code of Military Justice (UCMJ), which applied to Applicant during his time in the Marine Corps. It was also during this time in uniform that Applicant used the drug while holding a security clearance, revealing a profound lapse in judgment. These poor decisions, however, corresponded with Applicant's alcohol misuse and occurred over seven years ago. Applicant has demonstrated a clear intent to abstain from illegal drug use in the future and has supplied a statement of intent to that effect. He has changed his environment, is holding down a good job, and is serving as a role model for his girlfriend and her young son. AG ¶ 26(a) and (b) apply. Accordingly, SOR ¶ 4 is 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 responses to interrogatories, and his Answer. I have also considered Applicant's military service. Overall, however, the Guideline E, G, and J 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 J:	AGAINST APPLICANT
Subparagraphs 1.a – 1.h:	Against Applicant
Subparagraphs 1.i – 1.j:	For Applicant
Subparagraphs 1.k – 1.m:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a – 2.h:	Against Applicant
Paragraph 3, Guideline G:	AGAINST APPLICANT
Subparagraphs 3.a – 3.b:	Against Applicant
Subparagraph 3.c:	For Applicant
Paragraph 4, Guideline H:	FOR APPLICANT
Subparagraphs 4.a – 4.e:	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.

JEFF A. NAGEL
Administrative Judge