



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



In the matter of:)
)
) ISCR Case No. 25-01219
)
Applicant for Security Clearance)

Appearances

For Government: Cynthia Ruckno, Esq., Department Counsel
For Applicant: Katie Quintana, Esq.

06/17/2026

Decision

DRISKILL, A. M., Administrative Judge:

Applicant did not mitigate the security concerns under Guidelines H (Drug Involvement and Substance Misuse) and J (Criminal Conduct). Eligibility for access to classified information is denied.

Statement of the Case

On October 3, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines H and J. Applicant responded to the SOR on December 30, 2025 (Answer) and requested a hearing before an administrative judge. The Answer contained documentation which was already labeled as Exhibits A through L, and which I will refer to as Applicant's Exhibits (AE) A-L for ease of reference. Department Counsel was ready to proceed on February 26, 2026. On March 3, 2026, Applicant requested a decision on the written record in lieu of a hearing.

The Government's written case was submitted on April 6, 2026, wherein Department Counsel amended the SOR to expand the date range alleged in SOR ¶ 1.b. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on April 9, 2026. He timely

submitted a written response, which I labeled as AE M. He did not object to the SOR amendment. The case was assigned to me on June 2, 2026. The Government exhibits included in the FORM (Items 3-6) and AE M are admitted in evidence without objection.

Findings of Fact

The SOR as amended alleges that Applicant used hallucinogenic mushrooms once in February 2023 while holding a sensitive position (SOR ¶¶ 1.a, 2.a); that he used 3, 4 Methylenedioxymethamphetamine (MDMA) from March 2023 to August 2024 while holding a sensitive position (SOR ¶¶ 1.b, 2.a); and that he used lysergic acid diethylamide (LSD) from February 2023 to February 2024 while holding a sensitive position (SOR ¶¶ 1.c, 2.a). In his Answer, Applicant admitted all the allegations.

Applicant is 36 years old. He has never married and does not have children. He earned a bachelor's degree in 2016 and an information technology certification in 2020. He was employed by a defense contractor from October 2018 to March 2024, was unemployed from March 2024 to July 2024, and has worked for his current employer since July 2024. He was first granted a clearance in June 2019. (Items 3, 5; AE G, I)

Applicant completed a security clearance application (SCA) in October 2018, wherein he reported infrequent marijuana use from 2009 to 2018 with no intent for future use. When he completed a second SCA in September 2024, he reported the same information regarding marijuana use but also listed: one use of hallucinogenic mushrooms in February 2023; seven uses of MDMA from March 2023 to February 2024; and three uses of LSD from February 2023 to February 2024—all while possessing a security clearance. He reported that he did not intend to use any of the drugs in the future. (Items 3-4)

Applicant was interviewed by a background investigator in April 2025.¹ He confirmed the information in the SCA and additionally admitted flying with one or two pills of MDMA in his backpack to another state for vacation in February 2024. He stated that in February 2023, his friend was microdosing hallucinogenic mushroom chocolates and offered Applicant one. He accepted “a very tiny piece,” and it had no effect on him. He consumed the mushroom chocolate “to get outside of his comfort zone and to increase his emotional intelligence.” He used MDMA at concerts and on vacation when friends offered it to him. The drug “helped him work out problems and issues that he had within himself,” and he enjoyed using it. He stopped using it when it stopped having the same effect as before. Each time he used LSD it was with MDMA because combining the two drugs is supposed to “elevate” the experience. He did not enjoy using LSD. (Item 6)

In the interview, Applicant explained that he used the drugs for “self-exploration.” He does not continue to associate with individuals who use drugs. He admitted that he

¹ Although not formally “adopted,” in his FORM Response, Applicant acknowledged that this summary of his interview accurately reflects the information he provided to the investigator, and he did not object to its admission.

used the drugs while possessing a security clearance. After he quit his first defense contractor job in March 2024, he was unsure whether he would return to a position requiring a clearance. He told the investigator that:

[F]or his own personal development it was worth risking his security clearance and employment at the time that he used drugs. [Applicant] was able to get in tune with himself and become a much better person due to his drug usage; he saw improved self-growth and was more in touch with his emotions. [Applicant] would not change any of his decisions relating to his drug use.

(Item 6 at 7) He said drugs no longer appeal to him since he has experienced them. He stated he is more mature now and “fine” with following the law. He does not intend to use drugs while possessing a security clearance. (Item 6)

In Applicant’s Answer, in addition to admitting the allegations, he disclosed an additional use of MDMA in August 2024. He stated that he had not used any illegal substances since that date. He noted that his drug use has not had a negative impact on his life and that he has been candid and open about his past mistakes. His choice to use illegal drugs was based on his intention to leave his cleared position and not return to that career path. Now that he has changed his mind and decided to continue on this career path, he does not intend to use illegal drugs again. He understands that his conduct was “deeply misguided” and he regrets his actions. He now uses journaling, exercise, and self-help guides to pursue introspection and personal growth.

Applicant’s Answer included a number of supporting exhibits. He took a hair follicle drug test in November 2025, and the results were negative. (AE D) He submitted a signed statement of intent to abstain from all drug involvement. (AE E) He underwent a substance abuse evaluation in November 2025, and the evaluator concluded that he did not meet the criteria for a substance use disorder and, due to numerous positive “protective factors” in his life, the probability that he would develop a substance use problem in the future is low. (AE F) He is accomplished in his field and highly rated in his current position. (AE H-J)

The Answer included four letters of support. He is described as “extremely reliable and dependable”; a “trusted team member”; “efficient, honest, and trustworthy, willing to go above and beyond what is expected of him”; and demonstrating “the highest standards of integrity, reliability, and sound judgment.” (AE K) The Answer concludes by requesting consideration of a waiver in accordance with Security Executive Agent Directive (SEAD) 4, Appendix C.

In his FORM Response, Applicant provided an explanation for why he did not initially report the additional MDMA use in his SCA or subject interview. When he was asked whether he had anything else to disclose in his interview, “he hesitated and, in a moment of panic, answered in the negative out of fear that further disclosure would automatically disqualify him from consideration for a Top Secret clearance.” He explained

that this was not a “calculated intent to deceive” but rather a lapse in judgment because he panicked and misunderstood the clearance process. He noted he “took affirmative steps to correct the record” by reporting it in his Answer, and he accepts responsibility for his underlying conduct and the omission. He disagreed with the Government’s characterization of his conduct as recent, because he has abstained from illegal substances for almost two years, and he argued that the frequency of the use is mischaracterized in the FORM since all of his LSD uses were paired with MDMA uses. (AE M)

Policies

This case is adjudicated under Executive Order (EO) 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) implemented by the DOD on June 8, 2017.

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” EO 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” EO 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan* at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan* at 531.

Analysis

Guideline H, Drug Involvement and Substance Misuse

The concern under this guideline is set out in 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.

Applicant’s admissions and the evidence in the FORM establish the following disqualifying conditions under this guideline:

AG ¶ 25(a): any substance misuse (see above definition);

AG ¶ 25(c): illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and

AG ¶ 25(f): any illegal drug use while granted access to classified information or holding a sensitive position.

The following mitigating conditions are potentially applicable:

AG ¶ 26(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;

AG ¶ 26(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.

AG ¶¶ 26(a) and 26(b) are not sufficiently established. Applicant used three different illegal drugs on nine occasions (one mushroom use, three MDMA with LSD uses, five MDMA-only uses) over the course of about 18 months, while holding a sensitive position. He possessed the illegal drugs before he used them. Possession of illegal drugs violated federal law. He justified his usage while in a sensitive position based on his belief that he would be leaving a career path requiring a clearance, but his use of MDMA again in August 2024, a month after he began his current position, undercuts this excuse. Applicant argued that his nearly two years of sobriety is proof that he will not use illegal drugs again, but his sobriety began a month before he completed his September SCA, so his period of sobriety has almost completely overlapped with the period in which he was under investigation for a security clearance. Managing to maintain good behavior while under intense scrutiny is of minimal mitigating value.

Applicant was 33-34 years old at the time of the drug use, so this was not youthful experimentation, nor was it a momentary lapse in judgment. He repeatedly chose to use drugs despite knowing they were illegal and explicitly prohibited for clearance holders,

and he told the investigator that the risk to his clearance and employment was worth it. He clearly understood the consequences of his actions and chose to prioritize his desires over the trust the Government placed in him.

Applicant submitted a signed statement of intent, numerous recommendations regarding his good character, and evidence of his excellent educational and professional accomplishments. He self-reported his drug use, and apart from omitting his last date of use, he was forthcoming throughout the course of the investigation. Though I gave considerable weight to this evidence, his repeated use while holding a sensitive position reduced the credibility and sincerity of his statement and the impact of his recommendations. Applicant's drug involvement continues to cast doubt on his current reliability, trustworthiness, and good judgment. None of the mitigating conditions are sufficiently applicable to overcome concerns about Applicant's drug possession and use, reliability, trustworthiness, and judgment.

Guideline J, Criminal Conduct

The concern under this guideline is set out in AG ¶ 30: "Criminal activity creates doubt about a person'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."

Applicant's admissions and the evidence in the FORM establish the following disqualifying conditions under this guideline:

AG ¶ 31(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; and

AG ¶ 31(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.

The following mitigating conditions are potentially relevant:

AG ¶ 32(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

AG ¶ 32(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 discussion above under drug involvement and substance misuse applies equally here. His criminal conduct continues to cast doubt on his current reliability, trustworthiness, and good judgment. The above mitigating conditions are not established.

Whole-Person Concept

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. In applying the whole-person concept, an 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. An 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.

I have incorporated my comments under Guidelines H and J in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003).

"Once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance." ISCR Case No. 09-01652 at 3 (App. Bd. Aug. 8, 2011), *citing Dorfmont v. Brown*, 913 F.2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). Applicant has not overcome this presumption. After weighing the disqualifying and mitigating conditions under Guidelines H and J and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his drug involvement and substance misuse and criminal conduct.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline H (Drugs/Misuse): AGAINST APPLICANT

Subparagraphs 1.a-1.c: Against Applicant

Paragraph 2, Guideline J (Criminal Conduct): AGAINST APPLICANT

Subparagraph 2.a: Against Applicant

Conclusion

I conclude that it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Clearance is denied.

A. M. Driskill
Administrative Judge