



DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

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ISCR Case No. 25-01436

Applicant for Security Clearance

Appearances

For Government:

Sakeena Farhath, Esq., Department Counsel

For Applicant:

Pro se

07/15/2026

Decision

NAGEL, Jeff A., Administrative Judge:

Applicant mitigated the security concern under Guideline H (Drug Involvement and Substance Abuse). Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a Questionnaire for National Security Positions on June 12, 2025 (Questionnaire). On March 2, 2026, 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 March 6, 2026, 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 May 5, 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 5, and the Government's arguments in support of the SOR, was received by the Applicant on May 6, 2026. He was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns, and he provided an undated, written statement (Response). The case was assigned to me on July 10, 2026, and all exhibits were admitted without objection.

Findings of Fact

Applicant is 30 years old and has worked for a DoD contractor since 2021 as a process sustaining engineer. He completed his first application for a security clearance in connection with this employment. Applicant is single, has resided with a cohabitant since 2020, and has no children. He received a bachelor's degree in 2018. (GE 3 at 5, 9, 16-17, 33)

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

The Government alleged that Applicant is ineligible for a security clearance because he purchased and used marijuana from March 2022 through March 2025. The following facts pertain:

1.a. Marijuana use from March 2022 through March 2025: Applicant admitted the allegation as drafted in the SOR. He elaborated in his Questionnaire that his use of marijuana and/or tetrahydrocannabinol (THC) totaled no more than five times per year and in his Answer he noted that the locations of his purchase and use were limited to states where marijuana was legal. In his Response, Applicant clarified that he was not aware at the time that he had been disregarding federal law and did not know he was acting illegally. The application of federal law "was made clear to [him] during the application process and has since changed [his] stance on its use." He noted he has abstained from all use over the last year and will continue to do so. His last use was prior to his submission of the Questionnaire and he has never used marijuana/THC while holding security clearance – and vowed to never do so. (Answer; Response; GE 3 at 31-32; GE 4 at 8; GE 5 at 3)

1.b. Marijuana purchase from March 2022 through March 2025: See SOR ¶ 1.a discussion above. Applicant admitted the allegation as drafted in the SOR but clarified in his responses to interrogatories that he has purchased the drug twice: once in March 2022 and once in March 2025 – both times from lawful state dispensaries. (Answer; Response; GE 3 at 31-32; GE 4 at 6; GE 5 at 3)

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 but provided explanatory remarks in his Response. The comments and explanations Applicant included in his Questionnaire, discussions with the DoD investigator, and interrogatories, were also 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); and

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

Applicant admits both purchasing and using marijuana/THC during the timeframe alleged. Both of the above AGs 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.

The entirety of Applicant's minimal marijuana/THC purchase and use was legal under state law and preceded his application for a security clearance. He was not aware of the applicability of federal law at the time but has abstained from the drug since becoming aware of such during the security clearance application process – well over a year. I find therefore that Applicant's infrequent use happened under such circumstances that it is unlikely to recur and does not cast doubt on his current reliability, trustworthiness, or good judgment. I also find his signed responses to interrogatories, wherein he acknowledged the application of federal law to marijuana use and indicated no intent to illegally use drugs in the future, constitutes evidence of actions taken to overcome the problem. AG ¶¶ 26(a) and (b) apply.

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, the Guideline H issues in the record evidence leave me without questions or 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:	FOR APPLICANT
Subparagraphs 1.a – 1.b:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, I conclude that it is clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

JEFF A. NAGEL
Administrative Judge