



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 25-00615

Appearances

For Government:
Nicole Smith, Esquire, Department Counsel

For Applicant:
Pro se

07/31/2026

Decision

ROSS, Wilford H., Administrative Judge:

Statement of the Case

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) on October 30, 2024. (Government Exhibit 1.) On August 8, 2025, the Department of Defense (DOD) 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 (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; 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.

Applicant responded to the SOR (Answer) on August 23, 2025, and requested a hearing before an administrative judge. Department Counsel was prepared to proceed on January 16, 2026. The case was assigned to me on January 20, 2026. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on January 21, 2026. I convened the hearing as scheduled on April 7, 2026. The Government offered

Government Exhibits 1 and 2, which were admitted without objection. Applicant testified on his own behalf and submitted Applicant Exhibits A through J, which were admitted without objection. DOHA received the transcript of the hearing (Tr.) on April 15, 2026.

Findings of Fact

Applicant is 65 years old, married, and has one adult child. He graduated from the United States Military Academy and served in the US Army. He also has a master's degree from a civilian university. Applicant has worked for his defense contractor employer since January 2016 as an enterprise account manager. He held government security clearances while he was in the service. He does not currently have national security eligibility. (Government Exhibit 1 at Sections 12, 13A, 17, 18, and 25; Tr. 5-7.)

Guideline H: Drug Involvement and Substance Misuse

The Defense Counterintelligence and Security Agency (DCSA) alleged that Applicant is not eligible for access because he has used marijuana with varying frequency from about May 2014 until about June 2025 (SOR ¶ 1.a). Applicant admitted subparagraph 1.a with explanations. The DCSA also alleged that Applicant intends to continue to use marijuana in the future (SOR ¶ 1.b). Applicant denied subparagraph 1.b.

Applicant began using marijuana in the form of THC gummies in about May 2014. He used 14 to 24 gummies per year until sometime after June 2025. He used his wife's gummies because she had a medical marijuana card from their state of residence, where use of marijuana is legal. Applicant knew at all times that marijuana use was illegal Federally. (Tr. 21-29.)

In his security questionnaire, completed in October 2024, Applicant noted that he intended to continue to use marijuana, describing it as "good for pain and relaxation without the hangover. (Government Exhibit 1 at 35.) During his security interview in December 2024, he said that he had not attempted to stop or reduce his use as he did not see a reason to do so. He also said he would stop using marijuana if granted a clearance. (Government Exhibit 2 at 11.) Thereafter, Applicant continued to use marijuana and stated several more times that he would cease use of marijuana if granted a clearance. (Answer at 1, 3; Government Exhibit 2 at 6.) During his testimony, he stated that his last use of marijuana was between June and August 2025, and he also stated that he is now committed to permanently abstaining from use. He has submitted a signed statement of intent. (Tr. 31-32; Applicant Exhibit B.)

Mitigation

Applicant submitted his most recent work evaluation. He is rated a "Strong" performer. (Applicant Exhibit C.)

Applicant also submitted seven “Character Witness Statements.” They are all from neighbors or friends. It does not appear that any of them are from co-workers. In addition, lessening the impact of these letters is the fact that all of them are a form letter, presumably written by Applicant. (Applicant Exhibits D through K.)

Policies

When evaluating an applicant’s national security eligibility for a security clearance, 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 the 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 *also* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

Guideline H: Drug Involvement and Substance Misuse

The security concern relating to Drug Involvement and Substance Misuse is set forth 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.

I have examined the disqualifying conditions under AG ¶ 25 and especially considered the following:

- (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 misuse, or failure to clearly and convincingly commit to discontinue such misuse.

All of the stated disqualifying conditions have application to this case based on Applicant’s statements and the evidence in the record. The burden then shifts to Applicant to mitigate them.

The following mitigating conditions under AG ¶ 26 have also been considered:

(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 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.

Applicant used THC gummies on a consistent basis from 2014 until 2025. The gummies he used were actually prescribed for his wife. While not illegal, that conduct is concerning. He continued to use gummies after filling out a government questionnaire in October 2024. (Government Exhibit 1.) He also continued to use it after an interview with a government investigator in December 2024. (Government Exhibit 2 at 10-11.) Finally, he continued to use marijuana after filling out government interrogatories in June 2025. (Government Exhibit 2.) His current statements that he is now going to completely abstain from marijuana use are not entirely believable. At the time the record closed in April 2026 he had about eight months of abstinence. Given the facts of this case, I find that period is insufficient. With continued abstinence he may be eligible for national security eligibility in the future. He is not eligible now. Paragraph 1 is found against Applicant.

Whole-Person Concept

Under 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 potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Viewing the evidence as a whole, Applicant has not mitigated the security concerns of his illegal drug use.

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 and 1.b: Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

WILFORD H. ROSS
Administrative Judge