



DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

ISCR Case No. 25-01468

Applicant for Security Clearance

Appearances

For Government: William H. Miller, Esq., Department Counsel
For Applicant: Jeffrey S. Gard, Esq., Attorney At Law, Gard Law Firm

07/31/2026

Decision

Lokey Anderson, Darlene D., Administrative Judge:

Statement of the Case

On February 4, 2025, Applicant submitted a security clearance application (e-QIP). On April 14, 2026, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline H, Drug Involvement and Substance Misuse; and Guideline E, Personal Conduct. 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) effective within the DoD after June 8, 2017.

Applicant answered the SOR on May 12, 2026, and requested a hearing before an administrative judge. The case was assigned to me on June 15, 2026. The Defense Office of Hearings and Appeals issued a notice of hearing on June 16, 2026, and the hearing was convened as scheduled on July 14, 2026. At the hearing, the Government offered three exhibits, referred to as Government Exhibits 1 through 3, which were admitted without objection. The Applicant called two witnesses and offered five exhibits,

referred to as Applicant's Exhibits A through E, which were admitted without objection. He also testified on his own behalf. DOHA received the transcript of the hearing (Tr.) on July 23, 2026.

Findings of Fact

Applicant is 30 years old. He is not married and has no children. He holds a Master's degree. He is employed by a defense contractor as a Test Engineer II. He is seeking to retain a security clearance in connection with his employment.

Applicant served on active duty in the United States Navy from August 2014 to July 2018. During his time in the military, he held a security clearance without incident. He received an honorable discharge. Applicant has a 100 percent disability rating with the VA and receives monthly benefits in accordance with his disability.

Guideline H – Drug involvement and Substance Misuse

The SOR alleges that from approximately June 2018 to May 2021, Applicant used marijuana on numerous occasions, and from May 2020 to May 2021, he was employed in a sensitive position, one which required a security clearance. Applicant admitted both allegations, 1.a. and 1.b., set forth in the SOR. Applicant has been working for his current employer since August 2024.

In June 2018, Applicant stated that while he thought he was on terminal leave from the Navy, he began using marijuana. When he used it, he had not completed the end date of his military contract, and he was still a member of the Navy. He was not thinking of the consequences of his actions at the time. He then attended college and continued using marijuana regularly, about three or four times a month. In March or April 2020, he stopped using it in anticipation of having to take a drug test before starting an internship with a defense contractor.

Sometime in April or May 2020, Applicant underwent a drug test before starting his internship with a defense contractor. From August 2020 to May 2021, he worked for a defense contractor and continued using marijuana. He stated that during this period he was using it once or twice a month, mostly during his midterms and finals to handle his stress. During the period he used marijuana, he smoked 1-2 marijuana joints, smoked THC vape pens 3 to 4 times, and consumed THC edibles. He explained that marijuana edibles were his preference, and he normally consumed it that way. He would purchase the edibles from a dispensary once every three months or so, spending between \$50 and \$60 each time for 10 to 15 edibles. During the entire time he used and purchased marijuana he believes he spent between \$200 to \$300 on marijuana. Marijuana may have been legal under the state law where Applicant resided, but it was illegal under Federal law. He understood that his use of marijuana was against Federal Law, against DoD Policies and regulations, and prohibited while possessing a security clearance. After completing his internship in May 2021, Applicant applied for a position with the National

Security Agency (NSA). Applicant stated that he last used marijuana in May 2021. (Tr. pp. 50-51.)

Guideline E – Personal Conduct

Applicant stated that in late 2021, he applied for a position with NSA. At that time, he completed another security clearance application and turned it into the NSA security office. Although not alleged in the SOR, Applicant testified that in response to questions on the application about his drug use, he did not admit that he had used marijuana while possessing a security clearance. (Tr. pp. 45-46.)

In May 2022, Applicant underwent a polygraph examination. Initially there was a pre-polygraph interview, and during this time, he did not disclose his marijuana use while possessing a security clearance. (Tr. pp. 45-46.) During the polygraph examination, Applicant falsified material facts when he stated that he had not used THC/marijuana while possessing a security clearance. This is a lie. At some point during the examination the polygraph examiner was flagged indicating deception, and he suggested to the Applicant that he was not being truthful. The examiner continued to discuss Applicant's use of marijuana with him, and eventually Applicant disclosed the truth, that he had in fact used marijuana while possessing a security clearance. Applicant stated that due to the rapport that he and the examiner had built up over the course of the examination, he became forthcoming and disclosed the truth. (Tr. pp. 45-50.)

Applicant stated several times that he is remorseful for his misconduct. He regrets using marijuana while possessing a security clearance, knowing it to be illegal under Federal Law, and against DOD policies and regulations. He also regrets not being forthcoming with the Government about his marijuana use on his security clearance application for NSA and during the polygraph examination. Applicant stated that he has now learned from his mistakes. (Tr. pp. 27, 30, 37, 42, 46.)

Two witnesses testified on Applicant's behalf. One individual is a past coworker who stated that Applicant is the hardest working person on the team. He consistently worked multiple projects at once, subprograms, and always delivered the work on time without failure. His character and work ethic are excellent, and he considers the Applicant to be trustworthy. Applicant's supervisor testified that Applicant's work product has been exceptional. She notes that Applicant is well aware of the security procedures, and the personnel who can answer any questions should he have any. He is also diligent in the proper handling of sensitive material. (Tr. pp. 57-65)

Letters of recommendation from a former coworker, a former chief engineer, and a fellow electrical engineer, who have worked with the Applicant, collectively indicate that Applicant's character has shown professionalism, honesty, and sound judgment in the work place. Applicant is described as having a strong work ethic. He frequently goes above and beyond his duties to help others without hesitation. Observing his potential, management has often tasked him with additional responsibilities that he always completed successfully. Applicant has also used due care, integrity, and honesty in the

handling and/or safeguarding of classified information. They all are aware of his illegal drug use and are of the opinion that his lapses in judgment do not accurately portray the person they know. They all recommend him for a security clearance. (Applicant's Exhibits A, B and C.)

Applicant's performance evaluation for the period from October 1, 2024, through September 30, 2025, is favorable. Applicant has successfully accomplished the majority of his goals, despite encountering some challenges. He has demonstrated a solid understanding and commitment to his day-to-day tasks and responsibilities, and has strong core competencies. His dedication and proactive approach are valuable assets to the team, and they are confident his efforts will lead to greater success. Overall, Applicant's performance reflects a high level of competence to both individual and team success. (Applicant's Exhibit D.)

Applicant received a Certificate of Achievement dated December 13, 2024, for consistently going above and beyond in his support for the mission. (Applicant's Exhibit E.)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines 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. According to AG ¶ 2(a), the entire process is a conscientious scrutiny 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 that "[a]ny 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.

Directive ¶ E3.1.14, requires the Government to present evidence that establishes 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 applies for access to classified information seeks to enter 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 access to classified information. 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 information.

Section 7 of EO 10865 provides that adverse decisions shall be “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* EO 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 the guideline for Drug Involvement and Substance Misuse is set forth at 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.

The guideline at AG ¶ 25 contains three conditions that could raise a security concern and may be disqualifying:

- (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.

Applicant used marijuana with varying frequency from about June 2018 to May 2021 while employed in a sensitive position, holding a security clearance.

The guideline at AG ¶ 26 contains conditions that could mitigate security concerns. None of the conditions are applicable:

(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.

From June 2018 to at least May 2021, Applicant used and purchased marijuana on a regular basis, at times while holding a security clearance and while employed in a sensitive position. Technically, he used and purchased marijuana while still serving in the U.S. Navy; while working in a sensitive position with a defense contractor; and while possessing a security clearance. Applicant's conduct raises questions about his ability and willingness to comply with laws, rules, and regulations. He knew that marijuana use is prohibited under Federal law and against Department of Defense regulations. Given the fact that he is not new to the defense industry, and in fact held a security clearance during his military service in the Navy, he is well aware of the laws under the UCMJ, that prohibit the use of any illegal drug. Given his background, there is no excuse for his misconduct.

Applicant is expected to know and abide by DoD rules and regulations at all times. His illegal drug use while possessing a security clearance and while employed in a sensitive position shows immaturity, irresponsibility, and unreliability. Even though he stated that he has now quit using marijuana, under the circumstances, there is no strong evidence to show that his word is truthful. His conduct shows immaturity and raises questions about his ability or willingness to comply with laws, rules, and regulations. He has not shown the requisite good judgment, reliability, and trustworthiness necessary to be eligible for access to classified information.

Guideline E- Personal Conduct

The security concern for Personal Conduct is set out in AG ¶ 15:

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 following will normally result in an unfavorable national security eligibility determination, security clearance actions, or cancellation of further processing for national security eligibility:

(b) refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. One is potentially applicable in this case:

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative.

Applicant was not honest and truthful during his polygraph examination in May 2022. He lied to the examiner and deliberately failed to disclose his use of marijuana while employed in a sensitive position, and while possessing a security clearance.

There are conditions mitigating security concerns under AG ¶ 17. However, none of them are applicable here:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(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.

Although not alleged in the SOR, Applicant was also not honest and truthful about his marijuana use while possessing a security clearance when he completed a security clearance application for the National Security Agency (NSA). He was also not honest and truthful during his polygraph examination. He denied that he used marijuana while employed in a sensitive position and while possessing a security clearance. It was only when the examiner told the Applicant that his responses were showing deception did the Applicant eventually tell the truth, and admit that he had in fact used marijuana while in a sensitive position and while possessing a security clearance. Using illegal drugs while employed in a sensitive position and while possessing a security clearance are serious security violations. The Government must be able to trust an individual who has been given access to classified or sensitive information. In this case, the Applicant has not shown the requisite judgment or reliability necessary to meet the eligibility requirements for a security clearance. His conduct shows poor judgment, unreliability, and untrustworthiness. None of the mitigating conditions are applicable here.

Whole-Person Concept

Under the whole-person concept, the 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. 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 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 facts and circumstances surrounding this case. I have incorporated my comments under

Guidelines H, and E in my whole-person analysis. Based upon the facts and analysis set forth above, Applicant has failed to provide sufficient evidence to demonstrate that he meets the qualifications for a security clearance.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the Drug Involvement and Substance Misuse, and Personal Conduct security concerns.

Formal Findings

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

Paragraph 1, Guideline J:	AGAINST APPLICANT
Subparagraphs 1.a. and 1.b.	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a.	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 Applicant national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson
Administrative Judge