



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



In the matter of:)
)
) ISCR Case No. 24-01842
)
Applicant for Security Clearance)

Appearances

For Government: Cassie L. Ford, Esq., Department Counsel
For Applicant: Ronald C. Sykstus, Esq.

07/29/2026

Decision

PRICE, Eric C., Administrative Judge:

Security concerns under Guidelines H (Drug Involvement and Substance Misuse) and E (Personal Conduct) are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on February 23, 2023. On February 7, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines H, E, and J (Criminal Conduct). The DCSA acted under Executive Order (Exec. Or.) 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) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), which became effective on June 8, 2017.

Applicant answered the SOR on April 25, 2025, and requested a hearing before an administrative judge. On May 20, 2025, Department Counsel amended the SOR by

deleting Paragraph 3 and its subparagraph that alleged concerns under Guideline J (Criminal Conduct). Applicant did not object to the amendment.

The case was assigned to me on September 18, 2025. The hearing was delayed when all administrative judges were furloughed from October 1 to November 12, 2025, during a federal government shutdown due to a lapse in federal funding. On January 7, 2026, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on February 18, 2026.

I convened the hearing as scheduled. Government Exhibit (GE) 1 and GE 2 were admitted in evidence without objection. Applicant testified, presented the testimony of six witnesses, and submitted Applicant Exhibits (AE) A through AE I, which were admitted without objection. The record closed on February 18, 2026. DOHA received the transcript of the hearing on February 27, 2026.

Findings of Fact

Applicant is a 49-year-old engineer employed by a federal contractor since November 2023. He previously worked for other federal contractors from August 2018 to October 2023, November 2015 to December 2016, and from 2009 to 2011. He received a bachelor's degree in 2003. He has never married. He has a four-year-old child. He has held a security clearance since 2019 and held a security clearance from 2009 to 2011. (GE 1; Tr. 9-10, 17-32, 39-47; AE G-H)

Drug Involvement and Substance Misuse, and Personal Conduct

In his response to the SOR (Answer), Applicant admitted all allegations with explanations.

SOR ¶¶ 1.a and 1.b: From about December 2020 to March 2021, Applicant used marijuana with varying frequency while holding a sensitive position. (SOR; Answer; GE 2 at 6, 13-14)

From December 2020 to about March 2021, Applicant smoked marijuana four times in the home of a friend he was staying with after moving out of the home he had shared with his former girlfriend and her son. He smoked marijuana to help him relax, and to help him sleep. He acknowledged that he knew the recreational use of marijuana was prohibited under federal law and state law at the time. He worked in a secure space and had access to classified information during the timeframe he used marijuana. Applicant has not purchased marijuana; the marijuana he used was provided by his friend. (Answer; GE 2 at 6, 13-15; Tr. 25-42, 117-119)

Applicant said that he was experiencing emotional issues at the time and felt confused and unhappy. He attributed his emotional issues to: (1) ending an unhealthy relationship with a girlfriend and then learning she was pregnant with his child; (2) the death of his grandfather with whom he had lived growing up; and (3) to the process of

buying a house. He was also not sleeping well because of labored breathing he later learned was due to a fluid buildup caused by congestive heart failure. He acknowledged that he should have handled matters better and that he was embarrassed by his decision to use marijuana. (Answer; GE 2 at 6; Tr. 25-36, 54-56, 117-119)

After learning that his former girlfriend was pregnant, Applicant wanted to make things work so he and his former girlfriend began counseling to “reconcile in a healthy way.” He found counseling “beneficial” and learned “how self-reflection and executing on purposeful self-improvement would be helpful.” He “focused on [his] health as directed by [his] doctors and purchased a home for [his] family.” After his romantic relationship with his former girlfriend ultimately ended in January 2023, he handled things very differently. He participated in individual therapy for six months with a professional recommended by his uncle but stopped because he had made significant progress and because of the cost. He wanted to ensure that he “processed the emotional stressors in a healthy and productive way.” He has focused on raising his child, his work, his physical health, and his mental well-being. He shares joint custody with his former girlfriend, and their child lives with her half of the time and with him half of the time. (Answer at 1-3; Tr. 18, 25-56, 117-119)

Applicant, has not used marijuana since late February or March 2021 and he has disassociated from drug using friends and associates. He testified that he has no intent to use marijuana or any other illegal drugs in the future. He passed a preemployment urinalysis with his current employer, has never tested positive for illegal substances, and is subject to random drug testing. He submitted a signed statement of intent to not use illegal drugs in the future, expressed his willingness to submit to additional drug testing, and acknowledged that any future drug misuse is grounds for revocation of his national security eligibility. (Answer; GE 2 at 6, 13-16; Tr. 25-36, 54-56, 117-119; AE I)

SOR ¶ 2.a: Applicant falsified material facts in his February 2023 SCA by deliberately failing to disclose his marijuana use from about December 2020 to March 2021. Applicant’s February 2023 SCA asked, “In the last seven (7) years, have you illegally used any drugs or controlled substances? [and] Have you EVER illegally used or otherwise been involved with a drug or controlled substance while possessing a security clearance[?]” Applicant answered “No” to both questions. (SOR; Answer; GE 1 at 38; GE 2 at 6)

In March 2023, about five weeks after executing the SCA, he was interviewed by a government background investigator. Near the end of the interview the investigator asked if there was anything else he wanted to add. Applicant “volunteered he did smoke marijuana.... 4 times with his friend for a couple of weeks in [2020 and] 2021.” (GE 2 at 5-6) When asked why he denied using marijuana in his SCA, Applicant said that he didn’t know why and “stated he clearly lied.” (GE 2 at 6)

In his December 12, 2024 response to interrogatories, Applicant reviewed the government investigator’s summary of the background interview and adopted the statement as accurate. (GE 2 at 11-12) In his answer to the SOR, Applicant stated he

“felt compelled to make a good-faith effort to [correct] the record [and to remove] any perceived ability for anyone to leverage [false statements in his February 2023 SCA] against [him].” (Answer at 3-4)

At hearing, Applicant again acknowledged he had falsified the responses in his February 2023 SCA alleged in the SOR. He explained that at the time he was concerned that he would not be granted a security clearance and said, “it was a mistake...I should have just been honest about it.” (Tr. 28-29) Applicant said that he disclosed his marijuana use to the government investigator because:

[he felt] Guilt. I just wanted to clear the record...I knew I had lied and I didn't feel right ... It eats at me.... I feel like I did the right thing regardless of the outcome [of this hearing].... I accept the responsibility. It was foolish and stupid and that's all there is to it. I've had six years to think about this, and truth be told I...never really understood the gravity of the position I hold. So I'm very proud the work I've do[ne] ... How that pertains to national security, I guess it just means [m]ore to me now. I'm not saying it shouldn't have then, because I was doing similar work of similar magnitude. But after becoming a father, I would say that's the number one thing that has kind of put all in focus for me. Because whatever I do affects [my child] one way or another. So, you know, hopefully we'll see how this goes today, but I definitely have approached things a lot differently and definitely have a lot different perspective and have had for quite some time. (Tr. 30-31)

Applicant has discussed his marijuana usage and false statements in his SCA with a government investigator, in his response to interrogatories, in his answer to the SOR, with his current girlfriend, and with his therapist. Witnesses that appeared at the hearing were aware of his marijuana use and untruthful answers on his February 2023 SCA. He has not discussed his marijuana use or falsification of his February 2023 SCA with his employer, security officer or supervisor. He has kept his manager and his manager's boss informed about the pending security clearance proceedings. He also discussed what would happen if he lost his security clearance with his manager and was told that because he was “such a good employee” that they would find a way to place him somewhere else in the company. (GE 2 at 5-6; Tr. 36-46, 55-58)

Character Evidence

Applicant's girlfriend of more than three years testified. She has worked for a federal law enforcement agency and held a security clearance for more than nine years. They met in December 2022 and started dating in February 2023. He disclosed his marijuana use to her after his interview with a government investigator. She testified that he is reliable, trustworthy, honest, owns up to his mistakes, and is committed to setting a good example for his son. Applicant's marijuana use and failure to disclose his use in his SCA have weighed very heavily on him. She said it is “incredibly unlikely” that he will use marijuana again because of the person he has become. He has learned from his mistakes, is a man of integrity, and is committed to his son and to his job. (Tr. 59-71)

Applicant's former employer, who has known Applicant for more than 20 years and co-authored a book with him testified that he is a "top-shelf individual," reliable, trustworthy, honest, loyal, and that he has learned from his mistakes. (Tr. 71-82)

Applicant's friend of more than 30 years and owner of a small company testified that Applicant is reliable, trustworthy, and honest. The witness was surprised that Applicant used a controlled substance but was not surprised that he disclosed his use because he is "a very honest guy. And if he feels he made a mistake I think he would correct it." (Tr. 83-90)

Two of Applicant's friends of more than 20 years described him as honest, loyal, committed to doing the right thing, and a person who owns up to his mistakes. (Tr. 91-97, 111-117)

Applicant's brother-in-law, an intelligence professional employed by a federal contractor who served on active military duty for more than 10 years and who has held a security clearance for more than 25 years testified. He has known Applicant for 16 years. He described Applicant as forthright, trustworthy, and honest. He has no reservation trusting Applicant with any level of security clearance, because he is the type of person that you know will do the right thing. (Tr. 99-111)

Applicant is active in church, coached his child's sports team, and is focused on providing for and raising his child properly. (Tr. 38-55, 63-70, 110, 118-119) He submitted favorable quarterly performance reviews from 2024 and 2025, and a performance award from November 2025. (AE A-G)

Policies

"[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." Exec. Or. 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.” Exec. Or. 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. 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.

25: Applicant’s admissions establish the following disqualifying conditions under AG ¶

- (a) any substance misuse (see above definition);
- (c) illegal possession of a controlled substance...; and
- (f) any illegal drug use while granted access to classified information or holding a sensitive position.

AG ¶ 26 lists conditions that could mitigate drug involvement and substance misuse security concerns. The following are potentially 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;
- (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.

The DOHA Appeal Board cited the importance of consideration of “the changing landscape of marijuana law and . . . of the Director of National Intelligence’s *Clarifying Guidance Concerning Marijuana*.” ISCR Case No. 23-02402 at 4 (App. Bd. Feb. 19, 2025). See also ISCR Case No. 24-00914 at 3 (App. Bd. Apr. 9, 2025) (noting the “evolving landscape of marijuana law and policy,” “the resulting increasing prevalence of marijuana use,” and in some instances “recreational marijuana use deserves less, or even no negative inference on judgment.”).

The DOHA Appeal Board has identified several important factors in the assessment of mitigation of marijuana possession and use: the duration of abstinence; state law; company policy; use after completion of an SCA; use while holding a sensitive position; use while having access to classified information; and broken promises not to

use in the future. See ISCR 24-01001 (App. Bd. Apr. 22, 2025) (affirming denial of security clearance; factors: one year of abstinence from marijuana use; used marijuana after completion of an SCA; used marijuana after promising not to use marijuana on SCA and during an OPM interview); ISCR Case No. 24-01005 at 5 (App. Bd. Apr. 11, 2025) (denial of security clearance reversed; factors: two years of abstinence from marijuana use; no marijuana use while holding a security clearance or occupying sensitive position; marijuana possession and use permissible under state law; no marijuana use after notice that marijuana use was federally illegal; visible commitment to abandoning all future drug involvement).

Applicant smoked marijuana four times from December 2020 to about March 2021. He had access to classified information and worked in a sensitive position. He knew his marijuana use was prohibited under federal and state law. He was confused and unhappy after moving out of a home he had shared with his former girlfriend and her son. He attributed his emotional state to: (1) ending an unhealthy relationship with a girlfriend and then learning she was pregnant with his child; (2) the death of his grandfather with whom he had lived growing up; and (3) to the process of buying a house. He smoked marijuana to help him relax and to help him sleep, in part because of labored breathing he later learned was due to a fluid buildup caused by congestive heart failure.

After learning that his former girlfriend was pregnant, Applicant wanted to make things work so he and his former girlfriend began counseling to “reconcile in a healthy way.” He found counseling “beneficial” and learned “how self-reflection and executing on purposeful self-improvement would be helpful.” He “focused on [his] health as directed by [his] doctors and purchased a home for [his] family.” After reconciling with his former girlfriend and their romantic relationship ultimately ended in January 2023, Applicant handled things very differently than after their previous breakup. He participated in individual therapy for six months and stopped only after making significant progress. He shares custody of his child with his former girlfriend and has dedicated himself to raising his child, his work, his physical health, and his mental well-being since.

The marijuana was provided by a friend Applicant lived with at the time and there is no evidence that he purchased it. He has not used marijuana since about March 2021 and has disassociated from drug using friends and associates. He has no intent to use marijuana or other illegal drugs in the future. He passed a preemployment urinalysis with his current employer, has never tested positive for illegal substances, and is subject to random drug testing. He submitted a signed statement compliant with AG ¶ 26(b)(3). Although he deliberately failed to disclose his marijuana use while holding a sensitive position in his February 2023 SCA, he is credited with voluntarily disclosing his marijuana use during his March 2023 background interview and for the remainder of the security clearance process.

Applicant’s decisions to use marijuana, particularly while holding a sensitive position, indicate he lacked the qualities expected of those with access to national secrets. However, Applicant last used marijuana in about March 2021, has disassociated from persons and avoids environments where illegal drugs are used or likely to be used. I found

his statement of intent not to unlawfully use any controlled substances in the future credible, and consistent with his conduct since March 2021 and his character evidence. His five-year period of abstaining from marijuana use, and his sincere and credible promise not to use it in the future are sufficient under all the circumstances to establish his involvement with illegal drugs is unlikely to recur and does not cast doubt on his current reliability, trustworthiness, and judgment. AG ¶¶ 26(a) and 26(b) are established. Guideline H security concerns are mitigated.

Guideline E, Personal Conduct

The security concern under this guideline 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. . . .

16: Applicant's admissions establish the following disqualifying conditions under AG ¶

(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.

Conditions that could potentially mitigate the personal conduct security concerns are listed in AG ¶ 17. The following are potentially applicable:

(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[.]

AG ¶ 17(a) is established. Applicant's voluntary disclosure to a government investigator in March 2023 that he used marijuana while possessing a security clearance about five weeks after falsifying his February 2023 SCA was prompt, reasonable under the circumstances, and made in good faith. See ISCR Case No. 22-02601 at 6 (App. Bd. Feb. 22, 2024) ("Applicant's decision to wait ... seven weeks to report the omission during her interview was not in conflict with any known duty to self-report, was reasonable considering the circumstances, and amounts to a prompt, good-faith correction that should have been afforded mitigation under AG ¶ 17(a).")

AG ¶ 17(c) is established. Falsification of an SCA is not "minor" because it "strikes at the heart of the security clearance process." ISCR Case No. 09-01652 (App. Bd. Aug. 8, 2011). However, the falsifications occurred over three years ago, and Applicant voluntarily and promptly disclosed his falsifications to a government investigator. His testimony that the falsifications deeply troubled him and that he felt compelled to disclose them to the investigator was consistent with his actions since and witness testimony. The behavior is unlikely to recur and does not cast doubt on his current reliability, trustworthiness, and judgment.

AG ¶ 17(d) is established. Applicant acknowledged his behavior was wrong and has taken other positive steps including counseling to alleviate stressors and factors that contributed to his use of marijuana that he lied about in his February 2023 SCA. He has dedicated himself to his child, his career and to doing the right thing. He appears to have matured and learned from his mistakes. His behavior since disclosing his falsifications and witness testimony support a conclusion that such behavior is unlikely to recur.

AG ¶ 17(e) is established. Applicant's voluntary and prompt disclosure of his falsifications to a government investigator and for the remainder of the security clearance process, and his disclosures to his therapist, current girlfriend and five witnesses at hearing have reduced or eliminated any vulnerability to exploitation or manipulation. Although he has not disclosed details about his falsifications to his employer, his efforts to keep his manager apprised of the ongoing security clearance proceedings also reduce or eliminate his potential vulnerability or susceptibility to manipulation.

Whole-Person Analysis

Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration

of the guidelines and the whole-person concept. An administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the 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 considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines H and E in my whole-person analysis.

I considered Applicant's age, work history, limited period of marijuana use, character evidence, and that he promptly disclosed his falsification of his February 2023 SCA to a government investigator. I found his testimony to be sincere, credible, and corroborated by other record evidence. I also considered his focus on his child, his work, his physical health, and his mental health.

After weighing the disqualifying and mitigating conditions under those guidelines and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by his drug involvement and personal conduct.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline H (Drug Involvement and Substance Misuse):	FOR APPLICANT
Subparagraphs 1.a-1.b:	For Applicant
Paragraph 2, Guideline E (Personal Conduct):	FOR APPLICANT
Subparagraph 2.a:	For Applicant

Conclusion

I conclude that it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

Eric C. Price
Administrative Judge