



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



In the matter of:

)
)
)
)
)
)
)

ISCR Case No. 25-00430

Applicant for Security Clearance

Appearances

For Government:

John B. Renehan, Esq., Department Counsel

For Applicant:

Sean D. Rogers, Esq.

08/06/2026

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 September 16, 2024 (Questionnaire). On June 18, 2025, 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 February 9, 2026, in accordance with ¶ E3.1.17 of the

Directive, Department Counsel amended the SOR with four additional allegations under Guideline H.

In Applicant's September 24, 2025, response to the SOR (Answer 1), he admitted, through counsel, all allegations in the SOR. On April 10, 2026, he responded to the SOR amendment (Answer 2) and likewise admitted to the new allegations. He provided expansive explanations with his answers, as well as Applicant Exhibits (AE) A through M. He requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge.

On February 10, 2026, the Government provided notice it was ready to proceed to a hearing. I was assigned this case on March 9, 2026. DOHA issued a notice on March 23, 2026, scheduling the hearing for May 1, 2026, by video teleconference. To accommodate scheduling conflicts, an amended notice was issued on April 14, 2026, rescheduling the hearing for May 22, 2026. The hearing proceeded as rescheduled. The Government offered evidentiary exhibits identified as Government Exhibits (GE) 1 and 2 and Applicant offered previously-provided AE A through M, as well as AE N. All exhibits offered by the parties were admitted without objection. Applicant testified, as well as four character witnesses on his behalf. The record closed at the conclusion of the hearing on May 22, 2026. DOHA received the hearing transcript (Tr.) on June 1, 2026.

Findings of Fact

Applicant is 31 years old and has worked for a DoD contractor since 2024 as a biomedical data engineer. He completed his first application for a security clearance (Questionnaire) in connection with this employment. Applicant married in 2021 and has no children. He received a bachelor's degree in 2017 and a doctorate in 2023. (GE 1 at 5, 10-12, 20-21, 41; Tr. at 16-17)

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

The Government alleged that Applicant is ineligible for a security clearance because between roughly 2008 and 2024, he cultivated, sold, and used marijuana. The Government further alleged Applicant used lysergic acid diethylamide (LSD) and psilocybin mushrooms (mushrooms) between 2014 and 2024, and lorazepam from 2021 to 2023 without a prescription. The following facts pertain:

1.a. Marijuana use from September 2008 – May 2024: Applicant admitted the allegation as drafted in the SOR. In his Questionnaire, he estimated perhaps 100 uses during this time frame. His frequency of use was as often as one-to-two times per week earlier in his life, and as little as once every two months before ceasing use entirely in May 2024 when he ventured into the workforce. He has no intention of using any illegal drugs in the future and provided a signed pledge to that effect. He no longer associates with drug users. (Answer 1; AE C; GE 1 at 36; GE 2 at 2-3; Tr. at 22-23, 43, 48, 61-62)

1.b. LSD and mushroom use from July 2014 – August 2024: Applicant admitted the allegation as drafted in the SOR. In his Questionnaire, he acknowledged experimenting with LSD five times while in college and/or grad school (August 2012 – August 2023). He further described two microdose uses of mushrooms: once in approximately 2019 and once in August 2024. As discussed in SOR ¶ 1.a above, he has since pledged abstention. (Answer 1; GE 1 at 37-38; GE 2 at 3; Tr. at 36-38, 53, 75-78)

1.c. Lorazepam use without a prescription from July 2021 – July 2023: Applicant admitted the allegation as drafted in the SOR. In his Questionnaire, he elaborated that he used his wife's prescribed medication two or three times to help him sleep when he was suffering with wrist and shoulder pain. He subsequently obtained his own lawful prescription after seeing a physical therapist. (Answer 1; GE 1 at 40; GE 2 at 3-4; Tr. at 40-41, 43)

1.d. Marijuana sales while in high school (August 2008 – July 2012): Applicant admitted the allegation as drafted in the SOR amendment. In his Questionnaire, he elaborated that his sales of marijuana were “only a few times to my close friends... and were not conducted as a kind of business.” Applicant explained that the amounts were small, and he has no intention of repeating this behavior. (Answer 2; GE 1 at 38; GE 2 at 2; Tr. at 34-36)

1.e. Attempted marijuana cultivation while in high school (August 2008 – July 2012): Applicant admitted the allegation as drafted in the SOR amendment. In his Questionnaire, he explained having attempted to grow one plant one time from seeds, but it was consumed by local fauna. (Answer 2; GE 1 at 38; GE 2 at 3; Tr. at 25-26, 89)

1.f. Attempted marijuana cultivation while in college (August 2012 – May 2017): Applicant admitted the allegation as drafted in the SOR amendment. In his Questionnaire, he explained having attempted to grow three plants. Two did not germinate. A third plant sprouted while he was on vacation, then ultimately died from neglect (though he harvested “a couple of grams” for use). (Answer 2; GE 1 at 38; GE 2 at 3; Tr. at 26-27, 89-90)

1.g. Marijuana cultivation while in grad school (August 2017 – August 2023): Applicant admitted the allegation as drafted in the SOR amendment. In his Questionnaire, he explained having successfully grown one plant, which produced approximately five grams of usable marijuana. Applicant has no intention of repeating this behavior. (Answer 2; GE 1 at 38; GE 2 at 3; Tr. at 27, 90-91)

Mitigating Evidence

Applicant provided extensive mitigating evidence with his Answer, including a favorable evaluation by a drug counselor, 22 military and civilian character witness statements, a signed statement of abstention, and the testimony of four-character witnesses at hearing. I also had the opportunity to observe the effect and demeanor of the Applicant's testimony at hearing.

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 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 to all the allegations as alleged in the SOR and the SOR amendment. 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.

Applicant's relatively infrequent drug use while in school all predated his application for a security clearance. It is certainly not inconsequential that he made numerous, conscious decisions to violate state and federal law on more than one occasion. That said, I observed Applicant's effect and demeanor during testimony, as well as the expansive candor he showed in filling out his Questionnaire, coupled with the strong backing of his many character witnesses. The evidence supports a conclusion that Applicant's behavior happened so long ago, was so infrequent, and happened under such circumstances that it is unlikely to recur or does not cast doubt on his current reliability, trustworthiness, or good judgment. SOR ¶ 1 is found for Applicant.

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 testimony, his statements to a defense investigator, as well as those included in his Questionnaire. I have also considered his expansive evidence in mitigation. Overall, the Guideline H issues in the record evidence leave me without questions and 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.g: 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