



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. 25-01513

Appearances

For Government: Alison O'Connell, Esq., Department Counsel

For Applicant: *Pro se*

08/11/2026

Decision

HYAMS, Ross D., Administrative Judge:

Applicant failed to mitigate the drug involvement and substance misuse and personal conduct security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On July 29, 2025, Applicant submitted a security clearance application (SCA). On March 17, 2026, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines H (drug involvement and substance misuse) and E (personal conduct). Applicant answered the SOR on March 25, 2026, and requested a hearing before an administrative judge.

The case was assigned to me on June 1, 2026. The hearing was convened on July 7, 2026. Department Counsel submitted Government Exhibits (GE) 1-4, which were admitted in evidence without objection. Applicant submitted Applicant's Exhibit (AE) A right after the hearing, which was admitted in evidence without objection.

Findings of Fact

Applicant admitted all the SOR allegations, SOR ¶¶ 1.a-1.d, and 2.a with explanation. Based on my review of the pleadings, evidence submitted, and testimony, I make the following findings of fact.

Applicant is 26 years old. He graduated high school in 2018, earned his bachelor's degree in 2022, and master's degree in 2024. He took his master's degree classes online. He has worked as a mechanical engineer for a defense contractor for four years. He obtained his security clearance in 2021 and is now seeking an upgrade. (Tr. 13-15, 20-28; GE 1)

Under Guideline H, the allegations are as follows:

SOR ¶ 1.a alleges Applicant used marijuana with varying frequency, from about February 2019 to about May 2025.

On his July 2025 SCA, Applicant wrote regarding the nature of his marijuana use:

Only use it recreational. It was simply used around friends while partying or at home while listening to music. Do not use every day, it is occasional/social. I also take long breaks between usage which can be anywhere from 3 to 6 months. (GE 1)

In his August 2025 background interview with a government investigator, he reported:

[He] used the drug recreationally, alone, at home... [He] answered yes to having used the illegal drug, THC, once per month, while possessing a security clearance from 02/2019 to 05/2025. (GE 2)

In Applicant's January 2026 response to DOHA interrogatories, he reported his frequency of use from February 4, 2019 to May 26, 2025 as "Socially, twice a week". He stated he became aware marijuana was federally illegal in September 2018, during his freshman year of college. Furthermore, he still associates with persons who use illegal substances or frequents places where he has reason to believe illegal substances are being used in his presence. He wrote "I would attend social functions like parties and bars on the weekends. The frequency of me being at events would normally be like 3 times out the month." (GE 2)

In his March 2026 SOR Answer he wrote:

Between the years of February of 2019 and May of 2025, I acknowledge that I used and purchased marijuana with varying frequency. Most of this occurred while I was an undergraduate in college, with my usage being weekly and my purchases being monthly. After I graduated from college,

my usage and purchase of marijuana drastically decreased too, being used once a month and purchased twice a quarter... (Answer)

I understand that marijuana remains illegal under federal law and that use is not compatible with possessing a security clearance. I am committed to ensuring my present and future conduct remains compliant with all security requirements. (Answer)

At the hearing, Applicant testified that he started using marijuana his freshman year of college. He would use it with friends to hang out, play video games, and go to parties. He stated from about 2018-2022 he used it about three times a week. Once he was no longer around his college friends, he used it by himself, about twice per month from 2022-2025. He was aware it was illegal under federal and state law. (Tr. 15-35)

Applicant testified he did not report his marijuana use on his initial 2020 SCA because he was afraid that he would not get an internship, and he did not want to get left behind from the accomplishments of his peers. He stated he continued to use marijuana despite it being prohibited for security clearance holders, by his employer's drug policies, and federal law because of immaturity and lapse of judgement. (Tr. 15-35)

Applicant testified he disclosed his marijuana use because he is mature now and wants to be honest and have integrity. He also disclosed he is seeking a security clearance upgrade and expected he might have to take a polygraph exam. (Tr. 20-28)

Applicant stated he is now more involved in church and fitness and is actively trying to be mentally healthy and improve himself. He claimed he does not need marijuana in his life anymore and has no intention of using it again. (Tr. 20-28)

SOR ¶ 1.b alleges Applicant used marijuana with varying frequency, from about February 2021 to about May 2025, while granted access to classified information.

The government provided documentation from the Defense Information System for Security (DISS) showing that Applicant was granted security eligibility in February 2021. (GE 4)

Applicant testified he had to take a drug test for his internship with his defense contractor employer in the summer 2021. He stopped marijuana for a short period so he could pass the drug test and then resumed use after he passed. He knew marijuana use was not permitted, but also stated he was being carefree and thought nothing was going to get in his way of employment. (Tr. 28-35)

SOR ¶ 1.c alleges Applicant purchased marijuana with varying frequency, from about April 2019 to about May 2025. SOR ¶ 1.d alleges Applicant purchased marijuana with varying frequency, from about February 2021 to about May 2025, while granted access to classified information.

Applicant testified he bought marijuana from people on campus while in college. After he graduated and moved to a new state for work, his girlfriend found someone who sold marijuana for him to purchase it from. (Tr. 28-35)

In his August 2025 background interview with a government investigator, he reported that he purchased THC illegally twice per quarter from 04/2019 to 05/2025. In Applicant's January 2026 response to DOHA interrogatories, he reported his frequency of purchase as "once a month" with total amount spent as \$1,625. (GE 2)

Under Guideline E, the allegations are as follows:

SOR ¶ 2.a alleges Applicant falsified material facts on his December 2020 SCA by denying illegal drug use and purchase in the last seven years, and therefore deliberately failed to disclose the information as set forth in subparagraphs 1.a. and 1.c., above.

In his March 2026 SOR Answer he stated:

To mitigate any concerns, I take complete responsibility for failing to state my prior drug usage during the initial clearance screening process. At the time, I lacked judgment and made the conscious decision to omit the information required due to the concern that it could affect an opportunity... Since then, I have corrected the omission by providing the information on the new SF-86 submission and self-reporting this information to my Facility Security Officer. I am committed to being transparent and honest in all matters. I have worked on being more accountable for actions and reliable, which is demonstrated by self-disclosing this information without pressure on the new SF-86. I understand that being honest, transparent, and having accountability are important and required even when it is personally disadvantageous...

Applicant testified he disclosed his marijuana use on his July 2025 SCA because he is mature now and wants to be honest and have integrity. He also disclosed he is seeking a security clearance upgrade and expected he might have to take a polygraph exam. (Tr. 20-28)

Applicant submitted a character letter which states he is reliable, organized, and eager to learn; four performance evaluations; a spot award; and results from a "Hair 5 Drug Panel & Extended Opiates" test at a commercial lab from March 26, 2026 showing a negative result for the tested substances. He also submitted a statement of intent to refrain from future use and purchase of marijuana, dated March 26, 2026. In it, he stated "I will ensure my future actions show accountability and reliability". (Answer; AE A)

Policies

This case is adjudicated 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), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. 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 the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), 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."

Under Directive ¶ E3.1.14, the Government must 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." The applicant has the ultimate burden of persuasion to obtain a favorable security 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 access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of 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 *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline H, Drug Involvement and Substance Misuse

AG ¶ 24 expresses the security concern regarding drug involvement:

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 considered the disqualifying conditions for drug involvement under AG ¶ 25 and the following are applicable:

- (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.

The Controlled Substances Act makes it illegal under federal law to manufacture, possess, or distribute certain drugs (Controlled Substances Act, 21 U.S.C. § 801, et seq. See § 844). All controlled substances are classified into five schedules, based on their accepted medical uses, their potential for abuse, and their psychological and physical effects on the body. §§ 811, 812. Marijuana is classified as a Schedule I controlled substance, under § 812(c), based on its high potential for abuse, no accepted medical use, and no accepted safety for use in medically supervised treatment.

I have considered the mitigating conditions under AG ¶ 26. 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; 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 is grounds for revocation of national security eligibility.

AG ¶¶ 26 (a) and (b) do not apply. Applicant knew that using and purchasing marijuana was illegal, not permitted for security clearance holders, and prohibited by his employer – a defense contractor. He did it anyway. He stopped using marijuana to pass his pre-employment drug test for an internship with his employer, and then resumed use. He lied about it on his December 2020 SCA. His reporting in the record about his marijuana use and purchase, from his July 2025 SCA through his testimony at the hearing, shows variations in reported frequency. All of this impacts the credibility of his assertions about cessation and his intent to never use marijuana again.

Considering the circumstances in this case, Applicant has not established a sufficient track record of abstinence. He has not fully disassociated from drug-using associates and contacts or changed and avoided the circumstances and environments where drugs were used. Although he submitted a sworn statement that he will not use marijuana again, considering the record, I give it little weight. Continued and knowing use of illegal drugs while possessing a security clearance is egregious. I cannot find that this happened under circumstances unlikely to recur, and it continues to cast doubt on his current reliability, trustworthiness, and judgment

Guideline E, Personal Conduct

AG ¶ 15 details the personal conduct security concern:

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...

I have considered the disqualifying conditions under AG ¶ 16 and the following are applicable:

(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

(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.

I have considered the mitigating conditions under 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; and

(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.

None of the mitigating conditions apply. Applicant did not report his marijuana use or purchase on his December 2020 SCA. His first notice to the government and his employer about his illegal drug use and purchase was on his July 2025 SCA, when he thought he might be subject to a polygraph examination. While he cited maturity and lapse of judgment as his failure to report, it's an insufficient justification. A lapse of judgement is a short, time-limited event, not a six-year period. He also reported he was carefree and thought nothing was going to get in his way of employment. Considering the record, I give it little weight to his recent claims of newfound honesty and transparency. I cannot find that any of this happened under circumstances unlikely to recur, and it continues to cast doubt on his current reliability, trustworthiness, and judgment.

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 the facts and circumstances surrounding this case. I considered his character letter and employment documentation.

I have incorporated my comments under Guidelines H and E in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility for a security clearance. I conclude that Applicant has not mitigated 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 section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline H:	AGAINST APPLICANT
Subparagraphs 1.a-1.d:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

Ross D. Hyams
Administrative Judge