



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. 25-01595

Appearances

For Government:

Jenny Bayer, Esquire, Department Counsel

For Applicant:

Pro se

08/13/2026

Decision

CEFOLA, Richard A., Administrative Judge:

Statement of the Case

On December 4, 2024, Applicant submitted a security clearance application (SF-86). On March 12, 2026, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guidelines H, J and E. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense on June 8, 2017.

Applicant answered the SOR in writing (Answer) on March 30, 2026, and requested a hearing before an administrative judge. The case was assigned to me on June 10, 2026. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on June 11, 2026. I convened the hearing as scheduled on July 16, 2026. The Government offered Government Exhibits 1 through 4, which were admitted without

objection. Applicant testified on his own behalf. The record was left open for the receipt of additional evidence. On August 9, 2026, Applicant submitted a closing statement, but no exhibits. The record closed at that time. DOHA received the transcript of the hearing (TR) on July 27, 2026.

Findings of Fact

The Government withdrew the Criminal Conduct allegation, 2.a., of the SOR; and as such, the Personal Conduct allegations were renumbered from “3” to “2.” (TR at page 9 line 20 to page 10 line 9.)

Applicant admitted all the remaining allegations in the SOR. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact. Applicant is a 27-year-old employee of a defense contractor. He has a bachelor’s degree. Applicant is unmarried but has one child. (TR at page 5 line 22, at page 11 lines 10~14, and at page 15 line 11 to page 16 line 3.)

Guideline H - Drug Involvement and Substance Misuse & Guideline E - Personal Conduct

1.a. and 2.e. Applicant admits that he purchased and used marijuana, with varying frequency, about once a month, from January of 2022 until his last usage in September of 2025, about a year ago. He used it to treat pain that he suffered from participating in athletics. (TR at page 17 line 13 to page 21 line 15, and GX 2 at page 5.)

1.b. and 2.e. Applicant admits that on or about September 5, 2022, he was arrested and charged, in part, for Possession of Unlawful Drug Paraphernalia, and Simple Possession of Marijuana. The arrest resulted in a “Deferred Disposition,” with a \$250 fine, and suspended incarceration. (TR at page 21 line 16 to page 24 line 5, and GX 3 at pages 6~8.)

1.c. Applicant initially averred that he intended to use marijuana in the future, but recanted that intent in response to interrogatories on March 3, 2026. (TR at page 33 line 6 to page 37 line 8.)

Guideline E - Personal Conduct

2.a. Applicant admits that he falsified his December 4, 2024, SF-86, in response to “Section 22-Police Record . . . In the last (7) seven years, have you been arrested . . . [or] charged, convicted, or sentenced of a crime in any court,” when he answered, “No,” to the posited question. He admittedly failed to disclose his September 2022 drug arrest and conviction. (TR at page 25 lines 11~22, and GX 1 at pages 22~23.)

2.b. Applicant admits that he falsified his December 4, 2024, SF-86, in response to “Section 22-Police Record (EVER) Have you EVER been charged with an offense

involving alcohol or drugs,” when he answered, “No,” to the posited question. He admittedly failed to disclose his September 2022 drug arrest. (TR at page 24 line 6 to page 25 line 10, and GX 1 at page 23.)

2.c. Applicant admits that he falsified his December 4, 2024, SF-86, in response to “Section 23-Illegal Use of Drugs . . . In the last seven (7) years,” when he answered, “No,” to the posited question. He admittedly failed to disclose his illegal marijuana use noted above in SOR subparagraphs 1.a. and 1.b. (TR at page 25 line 23 to page 26 line 11, and GX 1 at pages 23~24.)

2.d. Applicant admits that he falsified material facts on a set of interrogatories entitled “Drug Involvement and Substance Misuse,” subscribed and sworn by Applicant on October 1, 2025. He answered, “Last time Using Marijuana was last year in the summer of 2024,” when in fact Applicant used marijuana the prior month, September of 2025. (TR at page 26 line 12 to page 33 line 5, GX 3 at page 10, and GX 4 at page 13.)

2.e. (This allegation has been discussed above.)

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 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. 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, an “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 applying for national security eligibility 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 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, “[a]ny 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 the guideline 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 seven conditions that could raise a security concern and may be disqualifying. Two conditions are established:

(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.

Appellant used marijuana on a monthly basis from about January 2022 until his last usage in September of 2025, a period of nearly four years. Therefore, AG ¶ 25 (a) and (c) are established.

The guideline at AG ¶ 26 contains four conditions that could mitigate security concerns. Two conditions may be 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.

Neither of these apply. Applicant's last usage was about a year ago. In his Answer to the SOR, Applicant averred that he would continue its usage. It was in response to March 2026 interrogatories that Applicant recanted his intent. With the exception of SOR subparagraph 1.c, Drug Involvement and Substance Misuse is found against Applicant.

Guideline E - Personal Conduct

The security concern relating to the guideline 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 action, or cancellation of further processing for national security eligibility:

(a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, cooperation with medical or psychological evaluation, or polygraph examination, if authorized and required; and

(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. Two are potentially applicable in this case:

(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.

Applicant not only falsified his December 2024 SF-86 as to three entries regarding his marijuana usage, but he also falsified his response to one of the Government's interrogatories in October 2025. The evidence is sufficient to raise these disqualifying conditions. I find no mitigation condition that is applicable. Personal Conduct is found against Applicant.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's 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.

According to AG ¶ 2(c), the ultimate determination of whether to grant national security eligibility must be an overall commonsense judgment based upon careful consideration of the applicable 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. Overall, the record evidence leaves me with questions or 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 G:	AGAINST APPLICANT
Subparagraphs 1.a. and 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a~2.e:	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 eligibility for a security clearance. Eligibility for access to classified information is denied.

Richard A. Cefola
Administrative Judge