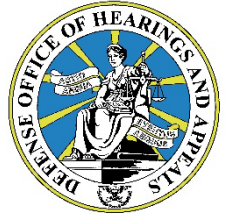




**DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:

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ISCR Case No. 25-01071

Applicant for Security Clearance

Appearances

For Government:

Tovah A. Minster, Esq., Department Counsel

For Applicant:

Pro Se

08/12/2026

Decision

CEFOLA, Richard A. Administrative Judge:

Applicant mitigated the security concerns under Guideline E (Personal Conduct). Applicant did not mitigate the security concerns under Guideline H (Drug Involvement and Substance Misuse) and Guideline J (Criminal Conduct). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a Questionnaire for National Security Positions on March 11, 2025 (Questionnaire). On September 30, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E (Personal Conduct), Guideline H (Drug Involvement and Substance Misuse), and Guideline J (Criminal Conduct). 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 January 16, 2026, Applicant responded to the SOR in writing (Answer) and requested that the case be decided on the written record in lieu of a hearing. In his Answer, Applicant admitted to the Guideline H allegation but denied the allegations under Guidelines E and J. On May 26, 2026, Department Counsel submitted the Government's written case in a File of Relevant Material (FORM). A complete copy of the FORM, consisting of Government Exhibits (GE) 1 to 5, and the Government's arguments in support of the SOR, was received by the Applicant on June 14, 2026. He was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. He timely submitted an additional statement on June 14, 2026 (Response). The case was assigned to me on August 3, 2026, and all exhibits were admitted without objection.

Findings of Fact

Applicant is 69 years old, has been married since 1979, and has two grown children. He completed high school and some college work. Applicant has been employed by a defense contractor since 2010 as a technical specialist and applied for a security clearance in connection with this employment. He previously held a public trust position, which he applied for on March 11, 2019. (Response; GE 3 at 5, 9-10, 14, 19-20; GE 4)

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

The Government alleged that Applicant is ineligible for a security clearance due to his use of marijuana. The following facts pertain:

1.a. Use of marijuana from January 1976 – June 2025: Applicant admitted to the alleged conduct in both his Questionnaire and his Answer to the SOR. In his August 14, 2025, responses to interrogatories, he likewise listed his first use as January 1976 and last use as June 2025, with a frequency of two times per week. He later qualified his drug use in his Response, explaining that he did not use marijuana continuously during that time period and claimed, without specificity, that he had "abstain[ed] for decades." In his March 11, 2019, public trust application, he indicated he had not used drugs during the preceding seven years. But in the interview summary with a defense investigator from June 10, 2025, which Applicant certified as accurate on August 14, 2025, he explained he "used (marijuana) from 01/1976, estimated, to 06/2025." He went on to specify that he used the drug at home in the evenings to manage insomnia two times per week, and it was likely he would continue to use the drug, though he was willing to quit "if required for employment purposes." He also noted in his Response that his "decision to use the substance again was prompted by (his) increasing issues with insomnia and stress and the fact that it was now legal in (his home state)." He provided no more specificity as when he began using the drug again, but acknowledged in his responses to interrogatories that he was aware marijuana remained illegal under federal law. He also stated in his

interrogatory responses that he did not intend to continue to use illegal drugs in the future. (Answer; Response; GE 3 at 25; GE 4 at 18; GE 5 at 6, 11-12)

SOR Paragraph 2 (Guideline E: Personal Conduct)

The Government alleged that Applicant is ineligible for a security clearance because he had engaged in conduct that involved questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations. The following findings of fact pertain:

2.a. False Statement in 2019 Questionnaire: Applicant denied the allegation as drafted in the SOR. On March 11, 2019, he submitted his Questionnaire wherein in Section 21 – Illegal Drugs, he answered, “No,” to a question asking if, in the last year, he had illegally used any controlled substances, for example, marijuana...”? As noted in the SOR ¶ 1.a discussion above, Applicant maintained in his Response that when he filled out the Questionnaire, not only had he not used marijuana in the last year, he in fact had not used it in the previous seven years. (Answer; Response; GE 4 at 14-15)

2.b. Failure to disclose drug use to defense investigator on August 15, 2019: Applicant denied the allegation as drafted in the SOR. On August 15, 2019, Applicant was interviewed by a defense investigator. He did not mention drugs or drug use, nor was he asked any questions about the topic. (GE 5 at 9-11)

SOR Paragraph 3 (Guideline J: Criminal Conduct)

The Government alleged that Applicant is ineligible for a security clearance due to certain criminal activity. The following findings of fact pertain:

3.a. Cross-allegation with subparagraph 1.a: See SOR ¶ 1.a discussion above.

Whole Person and Mitigating Evidence

Applicant submitted an additional statement elaborating on his use of marijuana. He generally asserted that there were decades of abstinence between the time he started using marijuana in January 1976 and his last use in June 2025. He did not provide further detail about the time frames and did not disclose when he resumed use of the drug. He also maintained that given his period of abstinence, his answers about drug use in the 2019 Questionnaire were accurate.

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 the 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 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, "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 to the allegations under Guideline H:

- (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; and
- (g) expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.

The burden therefore shifts to Applicant to mitigate security concerns under Guideline H. The guideline includes the following conditions in AG ¶ 26 that could potentially 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 use of marijuana from 1976 until the undisclosed time he stopped prior to filling out his 2019 Questionnaire predated the legalization of recreational use in his home state. But had he ceased using the drug at that time, AG ¶ 26(a) would apply. At some point however, Applicant started using marijuana again and continued to use it after completing a Questionnaire in March 2025. The Appeal Board has specifically noted that use of the drug after being placed on notice is incompatible with security clearance eligibility standards and raises substantial questions about an applicant's judgment, reliability, and willingness to comply with laws, rules, and regulations. ISCR 20-02974 at 6 (App. Bd. Feb. 1, 2022). See *also* ISCR 07-00852 at 3 (App. Bd. May 27, 2008) (Use of marijuana after having submitted a security clearance application undercuts an applicant's promise to avoid such conduct in the future). In his response to interrogatories Applicant stated he did not intend to continue to use illegal drugs in the future. He previously told a defense investigator however that he was likely to use the drug again, but would quit if required for employment purposes. This ambiguity presents as a failure to clearly and convincingly commit to discontinue his use and, as such, AG ¶ 26(b) does not apply. Accordingly, SOR ¶ 1 is found against Applicant.

SOR Paragraph 2 (Guideline E: Personal Conduct)

The security concerns relating to the guideline for personal conduct are set out in AG ¶ 15, which states:

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 facts of this case establish the following potentially disqualifying condition set forth in AG ¶ 16 to the allegations under Guideline E:

(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.

As the Appeal Board has noted, "a person holding a security clearance has a duty

to fully disclose conduct of security concern.” ISCR 24-00278 at 3 (App. Bd. Jan. 14, 2026). Moreover, a falsification of a security questionnaire constitutes misconduct that casts serious doubt on an applicant’s judgment, reliability, or trustworthiness. ISCR 22-00657 at 4 (App. Bd. Apr. 18, 2023). In this case, Applicant denied having used any illegal drugs from March 11, 2018 – March 11, 2019, despite an apparent admission in his Answer to the SOR. Additionally, he did not mention any drug use to a defense investigator on August 15, 2019. The burden then shifts to Applicant to mitigate security concerns under Guideline E.

The guideline includes the following conditions in AG ¶ 17 that could potentially mitigate security concerns arising from Applicant’s personal conduct:

- (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.

Regarding SOR ¶ 2.a, in his 2025 Questionnaire and in his responses to interrogatories, Applicant provided the dates of both his first (1976) and last (2025) use of marijuana, listing frequency of use as two times per week. In his 2025 interview with a defense investigator, he stated more specifically that he “has used (marijuana) from 01/1976, estimated, to 06/2025.” In his Response, Applicant clarified that he had in fact abstained for decades during the time frame – including when filling out his 2019 Questionnaire. Applicant’s lack of specificity in his various responses did not add any clarity to the facts regarding the time frames during which he used marijuana. That said, the explanation he provided in his Response suggests the application of AG ¶ 17(c) inasmuch as the conduct 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. SOR ¶ 2.a is found for Applicant.

Regarding SOR ¶ 2.b, there is no evidence in the record showing Applicant was asked anything about drug use by the defense investigator in 2019. Further, given the conclusions about his abstention for a time period prior to filling out the 2019

Questionnaire, AG ¶ 17(c) applies as well for the same reasons discussed above. SOR ¶ 2.b is found for Applicant.

SOR Paragraph 3 (Guideline J: Criminal Conduct)

The security concern for criminal conduct is set out in AG ¶ 30:

Criminal activity creates doubt about an Applicant's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations.

The facts of this case establish the following potentially disqualifying conditions set forth in AG ¶ 31 to the allegations under Guideline J:

(a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness; and

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

The burden therefore shifts to Applicant to mitigate security concerns under Guideline J. The guideline includes the following conditions in AG ¶ 32 that could potentially mitigate security concerns arising from Applicant's criminal conduct:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

The analysis discussed in SOR ¶ 1.a above pertains. Moreover, Applicant acknowledged awareness of federal law prohibiting marijuana use but persisted, nonetheless – all while working for a defense contractor. The recency of Applicant's last use renders both mitigating conditions inapplicable. SOR ¶ 3.a is found against 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 statements included in his responses to interrogatories, his Answer, and his Response. Overall, however, the Guideline H and J issues in the record evidence leave me with 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:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a – 2.b:	For Applicant
Paragraph 3, Guideline J:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, I conclude that it is not clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

RICHARD A. CEFOLA
Administrative Judge