



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



In the matter of:)
)
) ISCR Case No. 25-00549
)
Applicant for Security Clearance)

Appearances

For Government: Nicole A. Smith, Esq., Department Counsel
For Applicant: *Pro se*

08/27/2026

Decision

GOLDSTEIN, J., Administrative Judge:

Applicant failed to mitigate the security concerns under Guidelines H (drug involvement and substance misuse) and E (personal conduct), regarding his use of marijuana and failure to disclose his recent marijuana use to the government. Applicant's eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on July 9, 2024. On March 4, 2026, the Defense Counterintelligence and Security Agency (DCSA) issued him a Statement of Reasons (SOR) detailing security concerns under Guideline H (drug involvement and substance misuse) and E (personal conduct). DCSA issued the SOR 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 Security Executive Agent Directive (SEAD) 4, *National Security Adjudicative Guidelines* (AG) effective within the DOD on June 8, 2017.

Applicant answered the SOR on March 30, 2026 (Answer). He attached two letters of recommendation to his Answer. He requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge.

On June 2, 2026, the Government was ready to proceed to the hearing. On June 17, 2026, the case was assigned to me. On July 8, 2026, DOHA issued a notice scheduling a hearing for August 12, 2026. The hearing proceeded as scheduled. The Government proffered eight exhibits, which I admitted as Government Exhibits (GE) 1 through 8 without objection. Applicant testified, called one witness, and presented Applicant Exhibit (AE) A. At Applicant's request, I held the record open until close of business August 12, 2026, to provide him with an opportunity to supplement the evidentiary record. Applicant submitted AE B through AE E, which I admitted without objection. DOHA received the hearing transcript (Tr.) on August 24, 2026.

Findings of Fact

In Applicant's answer to the SOR, he admitted to all of the allegations. SOR ¶¶ 1.a through 1.c alleged that Applicant used marijuana with varying frequency from October 2008 to April 2024; that he used marijuana after completing an SCA in June 2021; and that he continued to use marijuana from about July 2023 to about April 2024, while holding a security clearance or sensitive position. SOR ¶¶ 2.a through 2.h alleged Applicant made a series of intentionally false statements about his marijuana use, detailed below. SOR ¶¶ 2.i and 2.j alleged that Applicant received verbal warnings from his employer. After a thorough and careful review of the pleadings and exhibits, I make the following findings of fact.

Applicant is 37 years old. He earned a bachelor's degree in 2013. He has been employed by various government contractors since March 2021. He is unmarried and has one minor child for whom he provides child support. (GE 5; Tr. 36-37)

Applicant first used marijuana in 2008 with coworkers. From 2008 to 2014, he used it approximately three times every two months. His statements about his frequency of marijuana use from 2014 to 2024 vary, as discussed below. He acknowledged that his marijuana uses typically occurred with extended family members. He admitted he last used marijuana in April 2024 when his grandmother passed away. He was unable to recall the number of times he used marijuana between 2021 and 2024 but claimed it was not weekly use. (Tr. 40-47, 68-71)

Applicant previously worked for a federal contractor from August 2014 to August 2016. During that period, he occupied a public-trust position. He completed an SCA in relation to that position in October 2014. On it, he falsely denied any illegal drug use in the preceding seven years, as alleged in SOR ¶ 2.a. (GE 1) On December 5, 2014, Applicant participated in a subject interview with an authorized investigator for DOD. He disclosed to the investigator that he first used marijuana in fall 2008 and that he had last used it on Thanksgiving Day in 2014. He indicated that he did not intend to use marijuana in the future because he wanted to be healthy and drug use is illegal. (GE 2 at 3)

Applicant completed another SCA dated June 1, 2021. (GE 3) In response to "Section 23 – Illegal Use of Drugs or Drug Activity, Illegal Use of Drugs or Controlled Substances In the last seven (7) years, have you illegally used any drugs or controlled

substances? Use of a drug or controlled substance includes injecting, snorting, inhaling, swallowing, experimenting with or otherwise consuming any drug or controlled substance?” he falsely reported marijuana use beginning in May 2011 to approximately March 2020, as alleged in SOR ¶ 2.b. He noted that during that timeframe, he experimented with marijuana when he was in college, that he used it as a young adult to treat school anxiety, and that he used it on a vacation. He estimated that he had tried marijuana “about 10 or 12 times over the 9 year span.” (GE 3)

Applicant falsified material facts during a July 7, 2021, subject interview when he told the investigator he began using marijuana in May 2011 as alleged in SOR ¶ 2.c. He began using marijuana in about October 2008, as previously established. (GE 8 at 10)

On January 28, 2022, Applicant was issued an SOR that alleged he used marijuana from October 2008 to at least March 2020 and that he used it after having been granted access to a public trust position in May 2015. He answered the SOR and admitted that he used marijuana “on rare occasions” from October 2008 to March 2020. (GE 4) The SOR was resolved in his favor and Applicant possessed a Top Secret clearance from 2021 until June of 2024, when his employer attempted to obtain upgraded access to Sensitive Compartmented Information (SCI) for him. (GE 7 at 4)

On June 7, 2024, Applicant participated in a polygraph examination related to his application for access to SCI. During the course of that examination, he admitted that he used marijuana about 15-20 times per month since about 2019. Two days later, he was terminated from the contract by his employer and his access to government spaces was removed. (GE 6) Applicant testified that he overstated the frequency and was not using marijuana every week and that there were periods up to a year or two that he would go without smoking marijuana. (Tr. 46-47)

Applicant completed a third SCA on July 9, 2024. In response to Section 23, which asked “In the last seven (7) years, have you illegally used any drugs or controlled substances? Use of a drug or controlled substance includes injecting, snorting, inhaling, swallowing, experimenting with or otherwise consuming any drug or controlled substance,” he again reported marijuana use from May 2011 to March 2020 and claimed he used it about 10 to 12 times over a nine-year span, as alleged in SOR ¶ 2.d. (GE 5)

On August 14, 2024, Applicant completed a security clearance eligibility evaluation form for a new employer. As alleged in SOR ¶ 2.f, he disclosed only that he “tried marijuana during college, and another time after [he] graduated.” (GE 7 at 3) On September 23, 2024, during another subject interview about his illegal drug use, he falsely told the investigator he first used marijuana in May 2011 and falsely asserted that he had intermittently smoked marijuana “about 5 to 8 times in total” as alleged in SOR ¶ 2.e. (GE 8)

Subsequently, on December 11, 2024, Applicant was interviewed by personnel from his employer’s security program about his drug use. During that interview, he disclosed he only used marijuana “between 2013 and the summer of 2020 or 2021” as

alleged in SOR ¶ 2.g. He estimated the frequency to have been “once, twice or three times a week for various time intervals” and noted he would “then go extended periods of not smoking marijuana.” (GE 7 at 5) He reported that within this timeframe from 2013 to 2021, he collectively smoked marijuana for about one year’s worth of that timeframe and admitted to his employer that he “lied” on the Security Clearance Eligibility Evaluation Form. (GE 7 at 5)

On January 5, 2026, Applicant responded to DOHA-issued interrogatories. He falsely limited his reporting of his drug use to between May 2011 and March 2021, and again incorrectly estimated he used marijuana between five and eight times total, alleged in SOR ¶ 2.h. He claimed the last time he used marijuana was in 2021 and that he had no future intent to use illegal drugs. (GE 8 at 4-5) He also was asked to explain discrepancies in his reporting of the number of times he used marijuana in his July 2021 subject interview, his September 2024 subject interview, and his November 2024 subject interview. In his explanation, he explicitly stated, “I did not smoke marijuana in 2024” and claimed to have only had a contact high from being around family members that were using marijuana. (GE 8) He admitted in his testimony that he should have put that he had used marijuana in 2024. (Tr. 68)

As alleged in SOR ¶ 2.i, Applicant received a verbal warning in about January 2024 from his employer for entering a Sensitive Compartmented Information Facility (SCIF) with an unauthorized cellphone, which was prohibited. He testified that this infraction occurred on his first visit to a SCIF and that it was an accident. The phone was detected when his alarm went off. (Tr. 78-79)

As alleged in SOR ¶ 2.j, Applicant received another verbal warning in January 2024 from his employer for connecting his employer-issued laptop to a wall outlet while working out in the employee gym facility, which was prohibited. He admitted this infraction and indicated he was unclear on the security rules for the gym because he had been told electronics were permitted in the gym. (Tr. 80-81)

Applicant acknowledged that he is “ashamed and embarrassed of [his] past” and admitted he tried to hide it because he is afraid of being judged. (Tr. 22-23) He acknowledged, “Instead of healing and facing my past head-on, I tried to -- I did things to escape from my past and present. I let my past and fear and immaturity from that trauma limit/dictate my present reality.” (Tr. 105)

Applicant testified about steps he has taken toward rehabilitation. He frequents the gym, sees a therapist, and has moved away from his family members that use marijuana. He attends church. (Tr. 25, 72-112) He submitted photographs of at-home urine tests that he took showing negative results. (AE A, AE B) He stated the photos were from 2024 (Tr. 72) but later stated they were from January 2026 to August 2026. (Tr. 73) He testified, “I made a selfish, irresponsible, immature decision. Since then, I’ve been taking the necessary steps to mitigate those issues by attending therapy, improving my social needs by joining social clubs, activities such as kickball, hiking, and soon to be volunteering for the youth.” (Tr. 112)

Applicant's mother testified on his behalf. (Tr. 94-100) She indicated that life at their familial home was chaotic. She also noted that "[h]e's like the head of the house that take[s] care of the whole family. He's a great nurturer, an awesome father to his baby and take[s] care of his child." (Tr. 98)

Applicant's therapist, whom he has seen since approximately 2018, submitted a letter on Applicant's behalf. It noted:

Based on my clinical observations and ongoing treatment history, the client does not exhibit behavioral patterns consistent with compulsive or pathological lying, such as pervasive dishonesty across settings, impulsive fabrication without discernible motivation, or a pattern of deception that would raise concerns regarding judgment, reliability, or impulse control.

(AE C) However, the letter does not discuss Applicant's marijuana use or his false statements to the government about marijuana use.

Applicant submitted three other letters of recommendation. A letter from his manager for a couple of years between 2021 and 2022 reflected that Applicant "exhibited the utmost of integrity in doing his work duties. He almost always went above and beyond to help the team, solve problems, and to find creative solutions." (Answer at 6) Another, from a supervisor who worked with Applicant for six weeks, stated that Applicant is helpful and that he was satisfied with Applicant's work. (Answer at 5) Applicant's friend and colleague since 2019 reflected:

[Applicant's] current struggle is due to a natural cognitive tendency to misunderstand complex questions presented in certain terms, not intentional deception. While he is very thorough and gains a deep understanding once terms are clarified, this trait causes him to struggle and misspeak in standardized settings like interviews or forms, where he cannot seek clarification. I have never known him to lie or deceive; he answers based solely on his immediate, sometimes incomplete, understanding of the question's full import.

(AE D)

After testifying at the hearing, Applicant submitted an email with his post-hearing exhibits. It reflected in part:

Any conflicting information or incorrect dates provided during my investigations were not intentional. I do not have a clear recollection of the exact dates or years of these rare occurrences, especially over the past few years while I was experiencing a difficult period in my life. It was only after my grandmother's passing and my move to [another state] that I fully realized I was using an autopilot mindset to avoid facing personal challenges.

(AE E)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

The adjudicative 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(a), 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 access to classified information 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must 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 applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified 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 drugs, and the use of other substances that can cause physical

or mental impairment or are used in a manner inconsistent with their intended use 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.

Marijuana is a controlled substance under the Controlled Substances Act, 21 U.S.C. 802, *et seq.* Applicant illegally possessed marijuana when he used it at varying frequencies from 2008 to at least April 2024. Additionally, he used marijuana from July 2023 to about April 2024, after applying for and being granted a security clearance. AG ¶¶ 25(a), 25(c), and 25(f) are established.

I have considered all of 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.

No mitigating conditions fully apply. His last reported marijuana use was only two years ago. He provided a series of photographs of at-home urine tests that depict negative samples, but they are not independently verified. Given his long span of marijuana use

from 2008 to at least 2024 — a period of 16 years — two years is neither long ago nor infrequent. His use often occurred with family members and is likely to recur given his continued familial relationships, despite moving to a different state. Moreover, he admits that he used marijuana after submitting his 2021 SCA and while possessing a security clearance between July 2023 and April 2024, which demonstrates extremely poor judgment. Applicant's marijuana uses and past misconduct at work continue to cast doubt on his current reliability, trustworthiness, and judgment. His inconsistent statements about his marijuana use indicate that he has not fully acknowledged his drug involvement. The recency of his marijuana use and its circumstances preclude full application of any of the above mitigating conditions.

Guideline E: Personal Conduct

AG ¶ 15 expresses the security concern for personal conduct:

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. . . .

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions apply:

- (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;
- (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; and
- (c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information.

Applicant intentionally failed to disclose the full extent of his marijuana use on his October 2014, June 2021, and July 2024 SCAs. He also was not fully forthcoming with the timeframes or frequency of his marijuana use in subject interviews conducted in July 2021 and September 2024. He did not disclose the full extent of his marijuana use to his employer in August 2024 and December 2024. Nor did he honestly disclose his full marijuana use in his answers to interrogatories. He seemed to take responsibility at the beginning of the hearing when he admitted he tried to hide his marijuana use because he was afraid of being judged. Yet, his post-hearing explanation he asserted that all his falsifications were unintentional because he lacked “a clear recollection of the exact dates or years of these rare occurrences.” That claim is not credible. He knew the full extent of his marijuana use included use with coworkers in 2008 and he knew that he last used marijuana after his grandmother’s funeral in 2024. A lack of clear recollection of the frequency of his use does not excuse his intentional omissions. His omissions of accurate details of his marijuana use were an intentional effort to minimize his drug use and obtain a security clearance. The disqualifying conditions at AG ¶¶ 16(a) and 16(b) are applicable.

Applicant received verbal warnings from an employer after entering a SCIF with an unauthorized cellphone and for connecting his employer-issued laptop to a prohibited wall outlet. These incidents were not raised under Guideline K (Handling Classified Information) or Guideline M (Use of Information Technology Systems), but this conduct, when considered along with his falsifications, provides additional evidence of his questionable judgment. AG ¶ 16(c) applies.

AG ¶ 17 provides conditions that could mitigate security concerns in this case:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (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;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

None of the above mitigating conditions are fully applicable. He has yet to provide an accurate or realistic accounting of his marijuana use. He repeatedly made false statements to the government and his employer. While Applicant has participated in counseling since 2018, he continued to falsify information about his marijuana use through at least April 2024. Further, while his therapist opined that Applicant does not exhibit behavioral patterns consistent with compulsive or pathological lying, Applicant's intentionally false statements remain a concern to the government. His efforts to take positive steps toward rehabilitation like volunteering, working out, and moving away from his family members that use marijuana do not eliminate his vulnerability to manipulation caused by his intentionally false statements. His judgment and veracity remain in question and cast doubt upon his reliability, trustworthiness, judgment, and willingness to comply with rules and regulations.

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. Applicant grew up in a chaotic environment. He has worked hard to become successful, and he has been generous in his success by helping his family. He is respected by those who wrote letters on his behalf. However, he has done little to accept responsibility for using marijuana

while holding a security clearance and lying about it. He also engaged in misconduct that resulted in two verbal warnings in January 2024 for unauthorized cellphone and plugging in a laptop in an unauthorized area. His recent deception is not mitigated by the record evidence.

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. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility for a security clearance.

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.c:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a-2.j:	Against Applicant

Conclusion

Considering all of the circumstances, it is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

Jennifer I. Goldstein
Administrative Judge