



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



In the matter of:)
)
) ISCR Case No. 25-01007
)
Applicant for Security Clearance)

Appearances

For Government: Nicholas T. Temple, Esq., Department Counsel
For Applicant: Denise Moffett, Esq.

09/04/2026

Decision

HARVEY, Mark, Administrative Judge:

Security concerns arising under Guidelines H (drug involvement and substance misuse) and I (psychological conditions) are mitigated; however, Guideline E (personal conduct) security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On January 20, 2023, Applicant completed and signed a security clearance application (SCA). (Government Exhibit (GE) 1) On December 19, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 1)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security

clearance for Applicant and referred the case to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guidelines H, I, and E. (Hearing Exhibit (HE) 1) On January 9, 2026, Applicant provided a response to the SOR and requested a hearing. (HE 2) On June 1, 2026, Department Counsel was ready to proceed.

On June 11, 2026, the case was assigned to me. On June 3, 2026, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing for August 11, 2026. (HE 3) The hearing was held as scheduled.

Department Counsel offered ten exhibits into evidence; Applicant offered one exhibit into evidence; there were no objections; and I admitted all proffered exhibits into evidence. (Transcript (Tr.) 15-19; GE 1-GE 10; Applicant Exhibit (AE) A) There was no request for administrative notice. (Tr. 17) On August 24, 2026, DOHA received a transcript of the hearing. The record was not held open after the hearing. (Tr. 112)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted SOR ¶¶ 1.a through 1.d, 2.a, 2.b, 3.a, and 3.b. He denied the allegations in SOR ¶¶ 3.c and 3.d, and he provided explanatory and mitigating information. (HE 2) His admissions are accepted as findings of fact.

Applicant is a 64-year-old air crew contractor, who has worked for the same employer since 2013. (Tr. 91, 92; GE 1) In 1980, he graduated from high school. (Tr. 91) In 1985, he received a bachelor's degree in aircraft maintenance management. (Tr. 91) He has a maintenance engineer's license and an airframe and powerplant license. (Tr. 91-92) He has not served in the military. (Tr. 92) He married in 1990, and he was divorced in 1992. (Tr. 92) He does not have any children. (Tr. 92) He has been deployed a total of about 40 months to Afghanistan and about four years to Iraq. (Tr. 114-116)

Drug Involvement and Substance Misuse

SOR ¶ 1 alleges security concerns under the drug involvement and substance misuse guideline. SOR ¶ 1.a alleges, and Applicant admitted, from about 1977 through at least December of 2022, he purchased and used marijuana with varying frequency. (HE 2) At the hearing, he denied that he used marijuana from 1977 to 2018. (Tr. 55-56) He also denied that he used marijuana after December of 2022.

SOR ¶ 1.b alleges, and Applicant admitted, from at least November of 2018 through December of 2022, he purchased and used marijuana while holding a sensitive position, i.e., one in which he held a security clearance. (HE 2)

SOR ¶ 1.c alleges, and Applicant admitted, in about December 2018, he tested positive for marijuana on a urinalysis administered by a hospital. (HE 2) SOR ¶ 1.d alleges, and he admitted, upon his discharge from a hospital in December 2018, he was instructed not to drink alcohol or use drugs. (HE 2) He continued to use marijuana through at least December of 2022 notwithstanding the medical recommendation. (HE 2)

Applicant acknowledged that off-duty marijuana use was incompatible with his employment duties because “It would alter your mental cognition in trying to perform your duties,” and “it could be [or] cause a risk to the aircraft or the crew on the aircraft.” (Tr. 92-93) However, he denied that his marijuana uses placed lives at risk because he used marijuana while he was on leave. (Tr. 93) If his employer learned of his marijuana use, it would have been possible grounds for termination of his employment. (Tr. 93-94)

Regarding future marijuana use, Applicant said, “I no longer feel the need to augment my spirituality with cannabis use. I’m in tune spiritually on a reality-based persona that doesn’t include drugs or alcohol.” (Tr. 90) His current alcohol consumption is at a moderate level. (Tr. 90) On August 9, 2026, he completed a written promise not to use illegal drugs in the future. (AE A) He stated, “I intend to abstain from all drug involvement and substance misuse. I acknowledge that any future involvement or misuse is grounds for revocation of national security eligibility.” (AE A) He has not received drug or substance abuse counseling or treatment except as part of concurrent training. (Tr. 97)

Psychological Conditions

SOR ¶ 2 alleges security concerns under the psychological conditions guideline. SOR ¶ 2.a alleges, and Applicant admitted, in about December of 2018, he was admitted to a hospital for psychosis. He was diagnosed with Bipolar Disorder II. Upon discharge, he failed to follow treatment advice by discontinuing prescribed medications without first consulting with a physician and by continuing to use marijuana against medical advice, as set forth in SOR ¶ 1.d, above. (HE 2)

Applicant was unable to sleep and was experiencing grief. (Tr. 64-65) He was admitted for about two weeks of inpatient mental health treatment because he was experiencing a religious delusion. (Tr. 65-66) He believed the delusion was caused by sleep deprivation and marijuana use. (Tr. 66)

A December 2, 2018 medical note stated:

No [history] of depression [suicidal ideation (SI)], [homicidal ideation (HI)], or mania. [Applicant] does smoke [marijuana] occasionally, but denies other substances. While no clear [history] of prior manic episodes, [he] may have some concerning symptoms of hypomania such as family described him as always being very fixated on religion and that he will spend all of his money on friends and family to the point where his mother has to oversee his finances. . . . Patient returned home for Thanksgiving on Nov 21st, and

family initially noted no new behavioral changes. However, over the last week, they have noted numerous new delusions. He also has had [decreased need for sleep (DNFS)], increased energy over the last week, [hypertalking], elevated and irritable mood, and distractibility. Family states he cannot complete one task before starting on the next. He seems euphoric frequently but then can become very irritable when he speaks about his more disturbing delusions. Family notes he has smoked [marijuana] over the last week. He and Family deny low mood, anhedonia, SI, or HI or aggression. No known hallucinations. As patient's symptoms only worsened, he was brought to the [emergency department] through the help of a family friend. . . . (GE 6 at 285-286, .pdf 394-395)

A December 3, 2018 medical note stated:

[Applicant] does endorse regular marijuana use for the past week. However he has used marijuana irregularly for the past many years with no evidence of similar effects. Also cannot rule out [schizophrenia] given delusions and disorganized thought process. [Seasonal Affective Disorder] and Major Depressive Disorder with psychosis are less likely at this time given no history of mood symptoms. (GE 6 at 115, .pdf 224)

A December 8, 2018 medical note stated:

While no clear history of prior manic episodes, [Applicant] may have some concerning symptoms of hypomania -- such as family described him as always being very fixated on religion and that he will spend all of his money on friends and family to the point where his mother has to oversee his finances. (GE 6 at 285, .pdf 394)

A December 12, 2026 medical note stated:

Patient was [lying] on his bed this morning. He reports being upset and frustrated that he is not allowed to leave today as initially planned 2/2 orthostatics in s/o starting Depakote. He states that "this whole incident with me being here started because I was too polite to my mother and went to the hospital when all I needed was some sleep." When asked if this has ever happened before **he states there have been previous instances where he had not slept and was delusional and that it did indeed resolve with sleep.** (GE 6 at 143; .pdf 252 (emphasis added))

Applicant's December 17, 2018 discharge instructions include the following note, "Take your medicines as your doctor told you, do not stop taking them unless your doctor tells you to do so. Follow up with your doctor as scheduled. Do not drink alcohol or use drugs." (GE 6 at 119, .pdf 228)

Applicant said the initial diagnosis was that the delusion might be organic in nature, and Applicant received a spinal tap. (Tr. 67-69) A psychological source for his psychosis was ruled out, and the provisional diagnosis was bipolar disorder; however, he did not have a history of manic or significant depressive episodes. (Tr. 69) Inpatient treatment providers recommended outpatient therapy and abstinence from marijuana use. (Tr. 70) He attended therapy for two months with Dr. M (three or four sessions), and then he discontinued therapy. (Tr. 71) He did not receive any therapy or psychiatric medications after 2018. (Tr. 72) Applicant has family members and friends who are supportive and could monitor his mental health for problems. (Tr. 72-75) He believes his mental-health hospitalization in 2018 was a unique and isolated incident, and it is fully resolved. (Tr. 78)

In regard to financial issues, Applicant denied that he had problems managing his finances. (Tr. 83-84) He said he was building a hot rod, and his mother wrote the checks. (Tr. 85-86) His mother handled his finances when he was deployed. (Tr. 88) He purchased a home for his mother. (Tr. 89) His mother believed he was sometimes too generous. (Tr. 88-89)

Applicant said he believed his psychosis in 2018 was a cannabis-induced condition. (Tr. 79) He did not provide specific information about his use of marijuana before his psychosis, such as the potency of the marijuana he was using and the number of times he used marijuana before being admitted for mental-health treatment.

Applicant did not timely report his mental-health hospitalization to his employer until he completed his SCA. (Tr. 79) Applicant's mother called his employer and informed his employer of the hospitalization; however, Applicant did not know what his mother told his employer. (Tr. 80) There is no evidence that his employer was aware that he was admitted for mental-health treatment.

SOR ¶ 2.b alleges in about April 2025, Applicant was evaluated by a licensed psychologist, Dr. N, at the behest of the DCSA. Based on review of his background records, mental health treatment records, self-report questionnaire, and clinical interviews and observations, Dr. N opined, "the unresolved security concerns brought on by his lack of candor, discrepancies and omissions in his self-report, and his use of illegal drugs while possessing a clearance and putting at risk his emotional and mental stability argue for a guarded prognosis about future risk of symptoms or impairments." (GE 4 at 8, .pdf 105)

Dr. N's April 29, 2025 evaluation stated:

Any manic episode with grandiose delusions that requires hospitalization for stabilization indicates a potential impairment in judgment and reality testing, raising concerns about emotional and mental stability as it relates to safeguarding classified information. The possible connection between [Applicant's] marijuana use and this manic episode also factors into a guarded prognosis as he resumed his use despite known adverse effects and possessing a security clearance. **While the manic episode seems**

singular and fully resolved, an added concern is his noncompliance with medical advice by discontinuing medications without further consultation with his psychiatrist. Ideally, it would have provided clarity were he to continue his follow up visits with Dr. [M] for at least the remainder of 2019 rather than ceasing outpatient care only two months after his discharge from the hospital.

His use of an illegal drug while in a cleared position may also demonstrate disregard for rules, laws, and obligations, which is also a serious trustworthiness concern. [Applicant] also demonstrated a failure to be forthcoming about the extent of his marijuana use, which violates the foundational expectation of honesty for clearance holders. It is worth repeating that [he] reported circumscribed use of marijuana only in response to specific losses in his life. While loss can certainly be painful, it is an experience that all endure. Moreover, it is certainly the expectation for clearance holders that they cope with such life events without resorting to illegal drugs. It is recommended that [Applicant] continue to abstain from all illegal drugs.

The intersection of a serious psychiatric episode with a suspected drug-related trigger combined with resumption of use without full disclosure or insight significantly undermines confidence in [Applicant's] judgment and trustworthiness. The highly favorable report from his direct supervisor for the past eight years is a counterweight to the concerns. As noted above, **his occupational functioning has been without noticeable problems or impairment since he joined [his current employer] in 2013; this supports the argument that [he] does not suffer from a chronic psychological condition that impairs his stability, judgment, reliability, and trustworthiness.** However, the unresolved security concerns brought on by his lack of candor, discrepancies and omissions in his self-report, and his use of illegal drugs while possessing a clearance and putting at risk his emotional and mental stability argue for a guarded prognosis about future risk of symptoms or impairments. (GE 4 at 7-8, .pdf 104-105 (emphasis added))

Applicant said he told Dr. M that he did not want to continue taking his prescribed medications because they made him drowsy. (Tr. 25) Dr. M noted Applicant's decision to stop taking his medication. (Tr. 25, 47-48; GE 7 at 3, .pdf 731) In January of 2019, Dr. M indicated in Applicant's medical record that he tolerates his medication well. (Tr. 51-54; GE 7 at 1-3, .pdf at 728-731) He stopped attending appointments with Dr. M around May of 2019 because he believed Dr. M was overcharging him for the treatments. (Tr. 26) Applicant uses spiritual aids such as the Bible and his faith to cope with grief. (Tr. 26) Dr. M did not diagnose Applicant with Bipolar Disorder or Cannabis Use Disorder. (Tr. 27) Applicant felt better after he stopped taking his medications. (Tr. 77)

Personal Conduct

SOR ¶ 3 alleges security concerns under the personal conduct guideline. SOR ¶ 3.a cross alleges, and he admitted, information set forth in SOR ¶¶ 1.a and 1.b, above, concerning his marijuana use.

SOR ¶ 3.b alleges, and Applicant admitted, the marijuana use set forth in SOR ¶ 1.b., above, which occurred during the course of Applicant's employment. Although he was aware that his employer considered illegal drug use to be a reportable event, he deliberately failed to self-report the information out of fear that doing so would lead to his termination. At his hearing, he admitted he was aware of the requirement to report his marijuana use to his employer, and he did not report his marijuana use at the time it was occurring. (Tr. 60) He was concerned about the negative impact that disclosure of his marijuana use would have on his employment. (Tr. 61)

SOR ¶ 3.c alleges Applicant falsified material facts on his January 20, 2023 SCA in response to "Section 23 – Illegal Use of Drugs or Drug Activity . . . Provide an estimate of the month and year of first use." He disclosed that his first use of marijuana was in "11/2018," and he thereby deliberately failed to disclose that his marijuana use first began in approximately 1977.

Applicant's January 20, 2023 SCA states:

You answered "Yes" to in the last seven (7) years having illegally used a drug or controlled substance. Provide the type of drug or controlled substance: THC (Such as marijuana, weed, pot, hashish, etc.).

[Applicant's] Explanation

I consumed cannabis to sooth my grieving heart.

Provide an estimate of the month and year of first use

Month/Year: [Applicant's answer] 11/2018.

Provide an estimate of the month and year of most recent use

Month/Year: [Applicant's answer] 12/2022.

Provide nature of use, frequency, and number of times used

[Applicant's answer] I smoked marijuana at least twice a year, as I visited the gravesites of my loved ones.

* * *

Was your use while possessing a security clearance? Yes: {x} No: { }

* * *

Do you have an additional instance(s) of illegal use of a drug or controlled substance to enter? Yes: { } No: {x}

* * *

Have you EVER illegally used or otherwise been illegally involved with a drug or controlled substance while possessing a security clearance other than previously listed? Yes: { } No: {x} (GE 1 at 26-27, .pdf 30-31 (emphasis added))

In his SOR response, Applicant said he did not intend to deceive the government. (HE 2) At his hearing, he said he believed the SCA asked him to disclose his marijuana used in the previous seven years. (Tr. 21, 95) He disclosed marijuana use on his 1993 SCA. (Tr. 22)

SOR ¶ 3.d alleges Applicant falsified material facts during an April 18, 2023 interview with an Office of Personnel Management (OPM) investigator about his illegal drug use. He stated that prior to November 2018, he had not used any illegal drug, and thereby deliberately failed to disclose the full extent of the drug use set forth in SOR ¶ 1.a., above.

Applicant's April 18, 2023 summary of interview states:

Subject listed marijuana use, for grief 11/2018 to 12/2022, was discussed. All details were consistent with what was provided on the form except as noted. Subject used the drug eight times by smoking. Subject's drug use was to deal with grief he felt at the passing of his goddaughter [name omitted], and his father. Subject's use was always alone when visiting the grave sites of his father and the grandparents of the goddaughter's, whom Subject knew due to being a lifelong friend of [name omitted], the goddaughter's mother. The use at the grandparent's cemetery was in [location omitted], and father's cemetery in [location omitted]. Smoking the marijuana helped relieve the stress of the losses. Subject felt that it helped him to relax. . . . **Prior to 11/2018, Subject had not used any illegal drug.** Most recent use of marijuana was 12/2022. Subject no longer uses marijuana, or any other illegal drug, and has no intent on doing so in the future.

The uses were always by smoking on the anniversary of the passing of [name omitted] and his father. **The first (11/2018)**, second (11/2019), fourth (11/2020), sixth (11/2021) and eighth and final use (12/2022) were all at (location omitted). The third (8/2020) was at (location omitted). The fifth (8/2021), and seventh (8/2021), uses were at (location omitted). There were no other individuals involved, and no legal action has been taken.

Subject was aware he should not be using illegal drugs while possessing a security clearance, but did not consciously think about using marijuana while having a security clearance during the period of use. Subject stopped using marijuana immediately in 12/2022, while completing his security clearance update. Subject realized marijuana use was an activity he should not be doing; it was a moment of self-awareness for job preservation. About a day after submitting his security clearance update, [his company's] security officer, emailed subject and told Subject he had to submit a statement about the marijuana use by 1/18/2023, to which Subject complied. Subject's statement included that the marijuana use was for grief relief, and provided dates of use. After reading Subject's statement, [his security officer] sent an email and followed up with some phone calls. Subject was provided written guidance of reportable offenses. **Subject provided he did not intentionally fail to report the use, and said so in his company statement.**

Subject has annual training on reportable items, around November or December of each year. **When asked why he did not report the use, since he had received annual training, Subject stated it was for self-preservation for job retention. Subject thought if he self-reported, he may be fired because of violating rules (Subject knew using marijuana violated rules).** Subject listed the hospitalization on the security questionnaire, and obtained a copy of his medical record. Subject saw the drug test information within the medical record, and reported the drug use on the security questionnaire. Subject believed his hospital record would be obtained for the clearance investigation, and that the drug use and test would be discovered. Subject would not have continued the marijuana use, had the notes not been in the medical record. . . . Subject realized that with the security questionnaire, he had to admit to the use, and the consequences for not reporting was possible termination of his job, loss of clearance, or both, but had to move on from the use. . . . Subject is aware that drug use is illegal under Federal law, and prohibited while working for any Federal agency. . . . [T]here was no criminal activity, and no impact on employment or clearance. Subject tested positive for cannabis in 12/2018, when hospitalized at [location omitted]; there were no other positive tests. Subject has not had a drug test since 12/2018. (GE 3 at 16-17, .pdf 88-89 (emphasis added))

On September 10, 2025, in response to a DOHA interrogatory about the accuracy of his April 18, 2023 summary of interview, Applicant said, "The interview notes appear to be accurate. However, after reviewing the interview, I did not disclose marijuana use after my failed marriage in 1991 and when I was in high school. This was mentioned in [the] 2014 interview, and I wasn't trying to hide the use." (Tr. 22-23; GE 3 at 20, .pdf 92)

Dr. N provided a mental health evaluation in which he discussed Applicant's marijuana use as follows:

In 2023, [Applicant] reported to [his current employer] that between late November 2018 and early December 2022 he used cannabis/marijuana; he reported this use after obtaining records of his 2018 hospitalization and saw the history of drug use he reported. [Applicant] realized this was going to be disclosed in his security clearance investigation. He described marijuana use as "a crutch" following the death of his goddaughter in November 2018 and the death of his father in August 2020. He smoked marijuana in the form of joints when visiting their respective grave sites on the anniversary of their passing and his use was limited to only those occasions. He wrote, "I smoked marijuana at least twice a year, as I visited gravesites of my loved ones." **However, family reported that he was smoking marijuana regularly for a week before he was hospitalized in 2018.** He said it was his oversight to not report this and that he did not intend to smoke marijuana again.

* * *

The information pertaining to [Applicant's] marijuana use is more convoluted in terms of diagnostic considerations. He does not report a history of sufficient adverse consequences and behaviors related to his marijuana use that would warrant a diagnosis of Cannabis Use Disorder. However, it is not clear whether the extent of his marijuana use is known given concerns about his lack of candor in prior statements and in his responses in this evaluation. **He was not forthcoming about the span of his marijuana use until he was presented with his own prior statements that differed from what he was telling this evaluator.** Moreover, when the release of his hospitalization records compelled his disclosure, he claimed that his use of marijuana was restricted to isolated occasions of remembrance of bereaved. Therefore, the impression that [Applicant] does not meet diagnostic criteria for Cannabis Use Disorder is not without some reservation. It is also concerning, and possibly revealing, that [Applicant] resumed marijuana use after his hospitalization in 2018 when such a disturbance of mood and thought was considered influenced by this substance. (GE 4 at 4, 6-7, .pdf 103-104 (emphasis added))

At his hearing, Applicant said he used marijuana from 2018 to 2022 for the reasons stated in his OPM interview in 2023. (Tr. 24) He did not want to disclose his marijuana use to his employer because he believed it would have adverse employment consequences. (Tr. 93) He stopped using marijuana in December of 2022 because he was going to complete his SCA, and he did not believe he needed to use marijuana to obtain spiritual results. (Tr. 94-95, 97) His hearing statement about the frequency of his marijuana use from 2018 to 2022, possession of a security clearance while using

marijuana, requirement to report illegal drug use to security, reason for disclosing his marijuana use on his SCA, and other details were consistent with his OPM summary of interview. (Tr. 54-62) He did not use any marijuana after December of 2022 because he did not want to jeopardize his security clearance. (Tr. 23)

Character Evidence

Two of Applicant's supervisors at his current employment spoke on Applicant's behalf at his hearing. (Tr. 28-43) The general sense of their statements is that Applicant is conscientious about following rules, dependable, diligent, trustworthy, and professional. They did not provide any evidence that he used illegal substances or committed any misconduct in the workplace.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy" to have access to such information. *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. Thus, an adverse decision should not be construed to suggest that it is based on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President,

Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Drug Involvement and Substance Misuse

AG ¶ 24 provides the security concern arising from drug involvement and substance misuse, stating:

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.

AG ¶ 25 lists conditions that could raise a drug involvement and substance misuse security concern and may be disqualifying in this case as follows: “(a) any substance misuse (see above definition);” “(b) testing positive for an illegal drug;” “(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.” AG ¶¶ 25(a), 25(b), 25(c), and 25(f) are established. Discussion is in the disqualification and mitigation analysis, *infra*. AG ¶ 26 lists conditions that could mitigate drug involvement and substance misuse security concerns:

(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;

(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;

(c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and

(d) satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board concisely explained an applicant’s responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an applicant’s security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. *See Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. *See Directive ¶ E3.1.15*. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.” *Directive, Enclosure 2, [App. A] ¶ 2(b)*.

Discussion of Disqualifying and Mitigating Conditions

A person who knowingly uses marijuana is also in possession of marijuana. Applicant admitted from about 1977 through December of 2022, he possessed and used marijuana with varying frequency. He denied that he used marijuana from 1977 to 2018. He admitted from November of 2018 through December of 2022, he possessed and used marijuana while holding a sensitive position, i.e., one in which he held a security clearance. He admitted, in about December of 2018, he tested positive for marijuana on a urinalysis administered by a hospital. Upon his discharge from a hospital in December of 2018, mental health providers instructed him not to use marijuana; however, he continued to use marijuana until December of 2022 notwithstanding the medical recommendation.

Marijuana is listed on Schedule I of the Controlled Substances Act (CSA). See 21 U.S.C. § 812(c); Drug Enforcement Administration (DEA) listing at <https://www.dea.gov/drug-information/drug-scheduling> (information link on bottom of web page). His multiple possessions of marijuana are federal crimes. Drugs listed as Schedule I Controlled Substances, have “no ‘currently accepted medical use in treatment.’” 21 U.S.C. § 812(a)(1)(B). ISCR Case No. 24-01307 at 3 (App. Bd. July 17, 2025). See DEA website, *supra*; Executive Order, *Increasing Medical Marijuana and Cannabidiol Research* (December 18, 2025). The scheduling of marijuana is under DEA review, and it may be downgraded from Schedule I to Schedule III, which would permit marijuana possession and use based on prescriptions. *Id.*

The Appeal Board has “never established a ‘bright line’ rule as to recency of drug use. The extent to which security concerns may have become attenuated through the passage of time is a question that must be resolved based on the evidence as a whole.” See ISCR Case No. 14-01847 at 3 (App. Bd. Apr. 9, 2015). See *also* ISCR Case No. 24-01307 at 5 (App. Bd. July 17, 2025) (stating same).

Applicant established some mitigation under AG ¶¶ 26(a) and 26(b) because he eventually acknowledged his marijuana involvement, and he provided evidence of actions taken to overcome this problem by his abstinence after December of 2022. He provided 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.

AG ¶ 26(a) applies to the drug offenses alleged in the SOR. His most recent drug offenses were marijuana possession and use in December of 2022, which was about 42 months before his security clearance hearing. His drug offenses are not recent; and they “happened under such circumstances that it is unlikely to recur [and do] not cast doubt on [his] current reliability, trustworthiness, [and] good judgment.” Drug involvement and substance misuse security concerns are mitigated.

Psychological Conditions

AG ¶ 27 articulates the security concern for psychological conditions:

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

AG ¶ 28 provides psychological conditions that could raise a security concern and may be disqualifying in this case:

- (a) behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;
- (b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;
- (c) voluntary or involuntary inpatient hospitalization; and
- (d) failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions.

AG ¶¶ 28(b), 28(c), and 28(d) apply. AG ¶ 28(a) does not apply because the SOR does not allege any behavior "not covered under any other guideline." Discussion is in the disqualification and mitigation analysis, *infra*. AG ¶ 29 lists psychological conditions mitigating conditions, which are potentially applicable:

- (a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
- (b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently

receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

(c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;

(d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; and

(e) there is no indication of a current problem.

Discussion of Disqualifying and Mitigating Conditions

Applicant admitted, in about December of 2018, he was admitted to a hospital for psychosis. He was initially diagnosed with Bipolar Disorder II. Upon discharge, he failed to follow treatment advice by discontinuing prescribed medications without first consulting with a physician and by continuing to use marijuana against medical advice.

Dr. N's April 29, 2025 evaluation stated:

The possible connection between his marijuana use and this manic episode also factors into a guarded prognosis as he resumed his use despite known adverse effects and possessing a security clearance. **While the manic episode seems singular and fully resolved**, an added concern is his noncompliance with medical advice by discontinuing medications without further consultation with his psychiatrist. Ideally, it would have provided clarity were he to continue his follow up visits with Dr. [M] for at least the remainder of 2019 rather than ceasing outpatient care only two months after his discharge from the hospital. (GE 4 at 7-8, .pdf 104-105 (emphasis added))

Dr. N's guarded prognosis was largely premised on Applicant's marijuana use and false statements:

[Applicant's] use of an illegal drug while in a cleared position may also demonstrate disregard for rules, laws, and obligations, which is also a serious trustworthiness concern. [Applicant] also demonstrated a failure to be forthcoming about the extent of his marijuana use, which violates the foundational expectation of honesty for clearance holders. It is worth repeating that [he] reported circumscribed use of marijuana only in response to specific losses in his life. While loss can certainly be painful, it is an experience that all endure. Moreover, it is certainly the expectation for

clearance holders that they cope with such life events without resorting to illegal drugs. It is recommended that [Applicant] continue to abstain from all illegal drugs.

The intersection of a serious psychiatric episode with a suspected drug-related trigger combined with resumption of use without full disclosure or insight significantly undermines confidence in [Applicant's] judgment and trustworthiness. The highly favorable report from his direct supervisor for the past eight years is a counterweight to the concerns. As noted above, **his occupational functioning has been without noticeable problems or impairment since he joined [his current employer] in 2013; this supports the argument that [he] does not suffer from a chronic psychological condition that impairs his stability, judgment, reliability, and trustworthiness.** However, the unresolved security concerns brought on by his lack of candor, discrepancies and omissions in his self-report, and his use of illegal drugs while possessing a clearance and putting at risk his emotional and mental stability argue for a guarded prognosis about future risk of symptoms or impairments. (GE 4 at 7-8, .pdf 104-105 (emphasis added))

AG ¶ 29(a) is not applicable because the initially diagnosed Bipolar Disorder is not established as a current concern. Dr. M did not include it in his diagnosis, and Dr. N assessed that the 2018 manic episode was "fully resolved." AG 29(b) is not established because Applicant is not currently receiving counseling or treatment, and there is no favorable prognosis by a duly qualified mental health professional. AG ¶ 29(c) is not established because there is no recent favorable opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government.

AG ¶¶ 29(d) and 29(e) are established because the past psychological/psychiatric condition was based on marijuana psychosis combined with insomnia; this condition was temporary; his marijuana abuse has been resolved, as indicated in my Guideline H analysis section, *supra*; and he no longer shows indications of emotional instability. There is no indication of a current mental health problem. Essentially the mental health issue that led to his hospitalization in 2018 has not resurfaced in about eight years. Applicant established that his mental health conditions are unlikely to result in a risk to classified information. Psychological conditions security concerns are mitigated.

Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern, stating:

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 information. Of special interest is any failure to provide truthful

and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. . . .

AG ¶ 16 provides personal conduct conditions that could raise a security concern and may be disqualifying 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;

(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;

(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; and

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, 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. This includes, but is not limited to, consideration of:

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;

(2) any disruptive, violent, or other inappropriate behavior;

(3) a pattern of dishonesty or rule violations; and

(4) evidence of significant misuse of Government or other employer's time or resources.

AG ¶¶ 16(a) and 16(b) apply to Applicant's false statements alleged in SOR ¶¶ 3.c and 3.d. AG ¶ 16(d) applies because Applicant failed to disclose his marijuana use to his security officer or employer as alleged in SOR ¶ 3.b. AG ¶ 16(c) does not apply because the adverse information under Guideline E in SOR ¶¶ 3.b, 3.c, and 3.d is sufficient for an adverse determination. AG ¶ 16(d) does not apply because the adverse information about marijuana involvement is explicitly covered under Guideline H. SOR ¶ 3.a cross alleges his marijuana involvement in SOR ¶ 1. Further details will be discussed in the disqualification and mitigation analysis, *infra*. 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; and
- (f) the information was unsubstantiated or from a source of questionable reliability.

Discussion of Disqualifying and Mitigating Conditions

"Applicant's statements about his intent and state of mind when [he] executed his Security Clearance Application [and during his OPM interview] were relevant evidence, but they [are] not binding on the Administrative Judge." ISCR Case No. 04-09488 at 2 (App. Bd. Nov. 29, 2006) (citation omitted). In ADP Case No. 17-03932 at 3 (App. Bd. Feb. 14, 2019), the Appeal Board recognized the importance of circumstantial evidence of intent in falsification cases:

When evaluating the deliberate nature of an alleged falsification, a Judge should consider the applicant's *mens rea* in light of the entirety of the record evidence. See, e.g., ADP Case No. 15-07979 at 5 (App. Bd. May 30, 2017). As a practical matter, a finding regarding an applicant's intent or state of mind may not always be based on an applicant's statements, but rather may rely on circumstantial evidence. *Id.*

In ISCR Case No. 01-03132 at 2 (App. Bd. 2, Aug. 8, 2002), the Appeal Board addressed the requirement for full and candid responses to security questions in the context of an investigative interview:

Although a deliberate omission could be distinguished from a falsehood, such a deliberate omission can serve to impede the search for truth. If an applicant gives narrowly worded, technically correct answers to an investigator's questions, but deliberately fails to tell the investigator the whole truth, then the applicant is not providing full, frank and candid answers to the investigator. An interview conducted as part of a security clearance investigation is not a forum for an applicant to split hairs or parse the truth narrowly. The federal government has a compelling interest in protecting and safeguarding classified information. *Department of Navy v. Egan*, 484 U.S. 518, 527 (1988). That compelling interest includes the government's legitimate interest in being able to make sound decisions (based on complete and accurate information) about who will be granted access to classified information. An applicant who deliberately fails to give full, frank, and candid answers to the government in connection with a security clearance investigation or adjudication interferes with the integrity of the industrial security program.

More recently, the Appeal Board cited ISCR Case No. 01-03132 (App. Bd. Aug. 8, 2002), and stated:

The Directive is clear that an applicant's failure to respond truthfully and candidly during a national security investigation is of special concern, specifically stating that the "refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives" in connection with an investigation and adjudication will normally result in an unfavorable eligibility determination. Directive ¶ 6.2; AG ¶ 15. . . . A person holding a security clearance has a duty to *fully* disclose conduct of security concern, and the record supports a conclusion that Applicant failed in this regard.

See ISCR Case No. 24-00278 at 3 (App. Bd. Jan. 14, 2026) (emphasis in original).

Applicant knew he used marijuana prior to 2018. His January 20, 2023 SCA asks:

Have you EVER illegally used or otherwise been illegally involved with a drug or controlled substance while possessing a security clearance other than previously listed? Yes: { } No: {x} (GE 1 at 26-27, .pdf 30-31 (emphasis in original))

Applicant's April 18, 2023 OPM interview about his illegal drug use thoroughly discussed his history of marijuana use. The OPM summary of interview states, "Prior to 11/2018, Subject had not used any illegal drug. Most recent use of marijuana was 12/2022." (GE 3 at 16, .pdf 88)

On September 10, 2025, in response to a DOHA interrogatory about the accuracy of Applicant's April 18, 2023 summary of interview, Applicant said, "The interview notes appear to be accurate. However, after reviewing the interview, I did not disclose marijuana use after my failed marriage in 1991 and when I was in high school. This was mentioned in [the] 2014 interview, and I wasn't trying to hide the use." (Tr. 22-23; GE 3 at 20, .pdf 92)

In his SOR response, Applicant said during his OPM interview, he did not intend to deceive the government. At his hearing, he said he believed he was asked to disclose his marijuana used in the previous seven years. He disclosed marijuana use on his 1993 SCA. I find that he intentionally made false statements on his SCA and to the OPM interviewer when he did not disclose his marijuana use prior to November of 2018. His failures to candidly admit at his hearing and in his SOR response that he intentionally made false statements on his SCA and during his OPM interview are not used for disqualification purposes; however, they show a lack of rehabilitation.

Although Applicant was aware that his employer considered illegal drug use to be a reportable event, he deliberately failed to timely self-report his marijuana use because he was afraid that doing so would lead to his termination or other adverse employment actions.

None of the mitigating conditions fully apply. Applicant intentionally failed to disclose his marijuana possession and use prior to 2018 on his SCA and during his OPM interview. He failed to timely disclose his marijuana involvement to his employer. These actions, including his false statements during the security clearance process, continue to cast doubt on his reliability, trustworthiness, and good judgment. Personal conduct security concerns are not mitigated.

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 the 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), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guidelines H, I, E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 64-year-old air crew contractor, who has worked for the same employer since 2013. In 1985, he received a bachelor's degree in aircraft maintenance management. He has a maintenance engineer's license and an airframe and powerplant license. He has been deployed a total of about 40 months to Afghanistan and about four years to Iraq. His lengthy service in combat zones provides important mitigation.

Two of Applicant's supervisors at his current employment spoke on Applicant's behalf at his hearing. The general sense of their statements is that Applicant is conscientious about following rules, dependable, diligent, trustworthy, and professional. They did not provide any evidence that he used illegal substances or committed any misconduct in the workplace.

The disqualifying and mitigating information is discussed in the analysis section, *supra*. The reasons for denying Applicant access to classified information are more persuasive than the reasons for granting access to classified information.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. *See Dorfmont*, 913 F. 2d at 1401. "[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant's eligibility for access to classified information." ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No. 12-00270 at 3 (App. Bd. Jan. 17, 2014)).

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant mitigated drug involvement and substance misuse

and psychological conditions security concerns; however, he failed to mitigate 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:	FOR APPLICANT
Subparagraphs 1.a through 1.d:	For Applicant
Paragraph 2, Guideline I:	FOR APPLICANT
Subparagraphs 2.a and 2.b:	For Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraph 3.a:	For Applicant
Subparagraphs 3.b, 3.c, and 3.d:	Against Applicant

Conclusion

Considering all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge