DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 14-02500
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Stephanie Hess, Esq., Department Counsel
For Applicant: *Pro se*

12/31/2015

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Decision

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant used marijuana between August 2001 and late December 2012, including after he was granted a Department of Defense (DOD) security clearance. He recalls two occasions where he used marijuana from 2011 through 2012, although he admits that he could possibly have used it two more times during that period. Applicant denies any future intent to use marijuana, but he could not rule out future use. Clearance is denied.

Statement of the Case

On October 14, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant,[1] detailing the security concerns under Guideline H, Drug Involvement, and Guideline E, Personal Conduct, and explaining why it was unable to find it clearly consistent with the national interest to grant or continue his security clearance eligibility. The DOD CAF took the action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel*

[1] Applicant's last name was misspelled and the case number was incorrect in the SOR.

Security Clearance Review Program (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

Applicant answered the SOR allegations on October 29, 2014, and he requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On June 8, 2015, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On June 29, 2015, I scheduled the hearing for July 29, 2015.

At the hearing, two Government exhibits (GEs 1-2) were admitted into evidence without objection. Department Counsel's letter forwarding discovery to Applicant on February 5, 2015, was marked as a hearing exhibit (HE 1) for the record, but was not admitted as an evidentiary exhibit. Applicant and his father testified, as reflected in a transcript (Tr.) received on August 6, 2015.

I held the record open until August 14, 2015, for post-hearing submissions from Applicant. No documents were received by the deadline, so the record closed on that date.

Findings of Fact

The SOR alleges under Guideline H that Applicant used marijuana with varying frequency from approximately August 2001 to December 2012 (SOR ¶ 1.a), including after he had been granted a security clearance in January 2012 (SOR ¶ 1.b). Under Guideline E, Applicant allegedly falsified his August 2011 Electronic Questionnaire for Investigations Processing (e-QIPs) by indicating that he had used marijuana only from October 2005 to November 2005 when he was a sophomore in college (SOR ¶ 2.a).

When he answered the SOR, Applicant admitted the drug use allegations, elaborating in part that he had used marijuana "on December 31 with a group of friends with whom I had [a] trusting relationship." About his use of marijuana while he held a DOD security clearance, Applicant explained that he "hadn't considered the position of trust granted to [him] by the DOD and its set of concomitant responsibilities." In response to the Guideline E allegation, Applicant denied any intent to conceal information.

Applicant's admission to using marijuana, including at an "event" after he had been granted a DOD security clearance, is accepted and incorporated as a finding of fact. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact:

Applicant is a 28-year-old software systems engineer with a bachelor's degree awarded in May 2010.[2] He has worked for a defense contractor since August 2011, and

[2] It took Applicant five years to graduate from college. (GE 1.) According to Applicant's father, when Applicant became overwhelmed, he fell behind in his studies and dropped a number of college courses "because things got a little bit tough." (Tr. 70.) It is unclear when Applicant was officially a sophomore in college. Available residence information indicates that he moved from a dormitory at the end of the fall semester 2006 into an apartment in February 2007. He resided off campus at a different address from August 2007 to May 2008,

has held a DOD secret clearance since January 2012. (GEs 1, 2.) Applicant is single and lives at home with his father and stepmother. (GEs 1, 2.)

Applicant was a full-time college student from September 2005 to May 2010. (GEs 1-2.) Applicant worked in student dining during the school year and in the gaming industry during summer breaks. Following his graduation, he worked part-time in the charity gaming industry until December 2010. He was then unemployed until August 2011, when he began working for his current employer. (GEs 1-2.)

On August 25, 2011, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP) for a secret security clearance. Applicant responded affirmatively to question 23 inquiring into whether he had illegally used any controlled substance, including marijuana, in the last seven years, and he indicated that he used marijuana between approximately October 2005 and November 2005 [sic]. About the frequency of his use, Applicant stated, "Minimal usage of marijuana, freshman and sophomore years of college, less than 10 times total. No future use expected either." (GE 2.) Applicant was granted his secret clearance around January 2012.[3] (GE 1.)

On April 16, 2013, Applicant completed and certified to the accuracy of an e-QIP on which he disclosed that he had used marijuana with friends between approximately August 2001 and December 2012. As for the frequency of his drug use, Applicant stated, "Rarely. Only 2-4 times in past 2 years (2 I can recall, one or maybe two that I might not). More frequently from 2009-2010 and approximately 2002-2003." He added in explanation the following:

> I don't really enjoy it, just doesn't appeal to me. Once in a blue moon, when I am comfortable with people I'm with, and in a controlled, private environment, I have allowed myself to be cajoled. I am also cognizant that it has not been a criminal offense to use THC during the duration that I have held my Secret clearance. (GE 1.)

At his security clearance hearing, Applicant initially affirmed the accuracy of the drug information he detailed on his April 2013 e-QIP. (Tr. 34.) While he "almost never smoked marijuana," he recalled that he used marijuana maybe a dozen times from 2002-2003 and then half a dozen times from 2009-2010. (Tr. 36-37.) When asked to clarify the dates of

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lived with his parents that summer from May 2008 to August 2008, rented an apartment in the same locale as the university from August 2008 to December 2008, and went home for semester break from December 2008 to February 2009. In March 2009, he moved into an apartment in another town and resided there through graduation. Applicant did not account for the one month where he lived with a friend. While there appears to be a break with his last move in March 2009, he would have been a junior in college by then, given his graduation date in May 2010.

[3] The evidence does not reflect the date on which Applicant was granted his clearance. On his April 2013 e-QIP, Applicant gave an estimated date of November 2011 as to when he was granted a secret clearance. (GE 1.) The SOR alleges that Applicant used marijuana after being granted a security clearance in January 2012. Whether Applicant was granted his clearance in November 2011 or January 2012, he admits that he used marijuana in December 2012 while he possessed a security clearance.

drug use from October 2005 to November 2005 listed on his August 2011 e-QIP, given the inconsistency with his detailed response that he used the drug during his freshman and sophomore years of college, Applicant testified that he meant to indicate a date of October 2004 for his drug use. (Tr. 38.) The evidence shows that Applicant was still in high school in 2004. (GE 1.) When asked why he had not disclosed his marijuana use in 2009 on his August 2011 e-QIP, Applicant indicated that he could not recall a single instance of using marijuana in 2009 or 2010. Instead, he recalled his drug use as occurring during his sophomore year, when he stayed with friends for one month until he could move into an apartment. He explained his marijuana use as follows:

> My friend was a habitual—habitual user who always—I don't want to say he was disappointed because that's solely he liked me for who I was and we had a good friendship. But I guess that's the best words. Disappointed that, you know, that I never smoked with him. But eventually, I gave in and I'd say a half a dozen times that month I—I—I smoked marijuana after realizing that it helped get me to sleep and that is what I believe when I was referencing when I said from 2009 to 2010 but that was in the winter of 2007 to 2008. I—I understand that it seems fishy but I have to say right now I think that was—that was a mistake in putting 2009—2009. But regardless, you're saying why didn't I put it there, well, I did, you know. I said freshman and sophomore years of college and that was my sophomore year of college. And so, I should have extended the date to compensate for that. You know, obviously, that 11/2005 on page 40, section 23, question 1 to 11/2005 should have been later, yes. My memory isn't--isn't--my working memory isn't that bad. I can see a section where I'm writing information. Even if I was seeking to like—even if I was seeking to conceal information that would be the most lazy attempt in the history of man. (Tr. 40-42.)

Applicant agreed that it would be reasonable to infer from his August 2011 e-QIP that he had not used marijuana since his sophomore year in college. He denied that he had used marijuana in 2010. When asked to confirm that he had used marijuana after his sophomore year, Applicant responded, "No, I—I—I can't say that in certainty." (Tr. 42-43.) About whether he was aware as of his August 2011 e-QIP that he had used marijuana after 2005, Applicant initially responded, "Yes that is correct." (Tr. 43.) However, in response to whether he knew that he had used marijuana as recently as 2009, Applicant answered, "No. Oh, at the time I don't know." (Tr. 43-44.) Applicant later testified that he "made a mistake" when he indicated that he used marijuana with his roommate from 2009 to 2010. (Tr. 46.)

Residence information for Applicant shows that he lived in a college dormitory during his freshman year and the first semester of his sophomore year. In February 2007, he moved into off-campus housing. He moved to another town in March 2009, while he was still in college. (GEs 1, 2.)

Based on the available information, Applicant is found to have used marijuana recreationally starting around August 2001, when he was in high school, including up to a

dozen times from 2002 to 2003. (GE 1.) Peer pressure was a factor in his early usage. (Tr. 23-24.) He used marijuana fewer than ten times while in college between October 2005 and May 2010, most frequently during one month when he lived with a friend before moving into an apartment. (GE 1; Tr. 46.) Applicant socialized with friends who smoked marijuana in his presence, including times when he chose not to use the drug himself. (Tr. 26.) The marijuana he used was provided to him free of charge. He did not purchase it or contribute funds toward its purchase. (Tr. 23.) In 2011 and 2012, Applicant used marijuana from two to four times (GE 1), after he had told the DOD that he did not intend to use marijuana in the future. (GE 2.) His last use of marijuana occurred on December 31, 2012. (GE 1.) He held a DOD secret clearance at that time, although he gave no consideration to the obligations of his security clearance when he used marijuana. (Tr. 27.) Applicant used marijuana despite his diagnosed anxiety disorder and the fact that marijuana caused him "unusually bad side effects, such as panic." (Tr. 24.)

Applicant admits that "most of [his] marijuana usage was not in compliance with the law." Yet, citing his state's decriminalization of possession of minor amounts of marijuana, the legalization of recreational use of marijuana in some other states, his "overall lack of interest in using marijuana," and his exercise of good judgment "the many, many, many times [he] had an opportunity to use marijuana and chose not to [use]," Applicant submits that his noncompliance with the drug laws should not raise significant security concern. (Tr. 26.) Applicant denies any intent to use marijuana in the future, but when asked whether he could conceive of a situation where he would use marijuana, Applicant responded affirmatively. About the circumstance, Applicant testified that he could see himself "hypothetically using marijuana if [he] met a real pretty girl and [he] wanted to . . . make some sort of an impression. . . ." (Tr. 47.)

Applicant denies that he knowingly falsified his August 2011 e-QIP when he reported his use only in 2005 in college. His explanation is that his earlier use around 2001 was outside the seven-year scope of the inquiry and his marijuana use was not continuous or an ongoing habit. (Tr. 29-30.)

Applicant's father, who has worked for Applicant's employer for some 20 years and holds a higher-level security clearance (Tr. 53, 70), attests to Applicant being loyal to his friends, his family, and to our country. In his experience, Applicant has been forthright about his mistakes and has taken responsibility for them. (Tr. 52-54.) He has never seen Applicant use marijuana, although Applicant told him that he used marijuana and did not care for it. Applicant's father was concerned primarily about Applicant's use of alcohol when he was in college, given Applicant is on psychiatric medications for his anxiety. (Tr. 50-51.) Applicant's father remarked about Applicant's need for social acceptance by his peers to where he believes that Applicant may at times "go along to get along." (Tr. 51.) Applicant has two longtime close friends. Applicant's father does not believe that either friend uses illegal drugs, including marijuana. (Tr. 66-68.) He also does not believe that Applicant deliberately falsified his initial security clearance application. Applicant asked him for advice at the time, and he told his son to tell the truth. (Tr. 62-63.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant's eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of 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. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that 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. Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." *See also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline H, Drug Involvement

The security concern for drug involvement is articulated in AG ¶ 24:

> Use of an illegal drug or misuse of a prescription drug can raise questions about an individual's reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.

Under AG ¶ 24(a), drugs are defined as "mood and behavior altering substances," and include:

> (1) Drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens), and
>
> (2) inhalants and other similar substances.

Under AG ¶ 24(b), drug abuse is defined as "the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction." Disqualifying condition AG ¶ 25(a), "any drug abuse," applies because Applicant used marijuana while socializing with friends at times between August 2001 and December 2012. He used marijuana due to peer pressure from 2002 to 2003 on a dozen occasions, fewer than ten times in college between October 2005 and May 2010, and two to four times between 2011 and December 2012. AG ¶ 25(g), "any illegal drug use after being granted a security clearance," also applies. His use of marijuana on December 31, 2012, occurred while he held a DOD security clearance. It is unclear whether Applicant held his security clearance when he used marijuana otherwise in 2011 or 2012. Finally, AG ¶ 25(h), "expressed intent to continue illegal drug use, or failure to clearly and convincingly commit to discontinue drug use," is implicated in that while Applicant denies any intent to use marijuana in the future, he candidly admits that he could see himself using marijuana again to impress an attractive woman.

Mitigating condition AG ¶ 26(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," is minimally established. There is no evidence that Applicant has used marijuana since late 2012, and his drug use was for the most part sporadic over the years. However, the recurrence of his marijuana use after college, when Applicant was gainfully employed by a defense contractor and after he had indicated, "No future use expected," makes it difficult to conclude that he is unlikely to use marijuana again, especially where he has not clearly and convincingly committed to no future drug involvement.

AG ¶ 26(a) requires a demonstrated intent not to use any illegal drugs in the future, which may be shown by the following:

> (1) disassociation from drug-using associates and contacts;
>
> (2) changing or avoiding the environment where drugs were used;

(3) an appropriate period of abstinence; and

(4) a signed statement of intent with automatic revocation of clearance for any violation.

Applicant testified that there were "many, many, many times" where he had the opportunity to use marijuana and chose not to use marijuana. He did not detail, and he was not asked about the circumstances. Nor did he provide information about the friends with whom he smoked marijuana over the years. Applicant likely socialized in college with some friends and acquaintances not involved in his high school use. Concerning his more recent involvement in 2011-2012, he was again living with his parents and so could have renewed his association with old friends involved in his high school drug use. While I cannot speculate in this regard, Applicant has not shown that he made a concerted effort to avoid persons involved in illegal drug use. Even assuming that he no longer associates with the "habitual user" involved in his more frequent use of marijuana just prior to him moving into an apartment in college, Applicant's college graduation, his return home, and his employment with a defense contractor did not prevent him from using marijuana in 2011 and 2012. Applicant's present abstinence of 2.6 years as of his security clearance hearing is not long enough to guarantee against relapse, particularly given his admission that he could conceive of circumstances conducive to him using marijuana again. Additionally, Applicant has not executed the statement of intent to abstain required of AG ¶ 26(b)(4).

Applicant's father testified about Applicant's need for social acceptance by his peers to where he believes that Applicant may at times "go along to get along." Despite the reported adverse effects of marijuana on him, Applicant used marijuana on several occasions over the years in social contexts, including after he had indicated on his August 2011 e-QIP that he did not expect to use marijuana in the future. He gave no consideration to his security clearance status when he used marijuana in late December 2012, but that in itself raises concerns about whether he can be counted on to comply with security requirements. He does not intend any future drug use, but the risk of relapse cannot be discounted based on the evidence before me. The drug involvement concerns are not fully mitigated.

Guideline E, Personal Conduct

The security concerns about personal conduct are articulated in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified 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.

The SOR alleges that Applicant falsely certified to the accuracy of his August 2011 e-QIP when he reported his marijuana use as fewer than ten times from October 2005 to November 2005 during his freshman and sophomore years in college. The reference to November 2005 is attributed to typographical error, given Applicant started college in September 2005. He would have been a sophomore during the 2006-2007 academic year. Yet, a reasonable inference of falsification could be drawn based on his April 2013 e-QIP where he reported that he used marijuana "more frequently from 2009-2010." Given the seven-year scope of the drug activity question, Applicant would have been required to report any illegal drug use that occurred in 2009 or 2010 on his August 2011 e-QIP.

Applicant asserts that he completed his 2011 e-QIP to the best of his knowledge and that any discrepancies are because his memory is imperfect. (Tr. 31.) Under ¶ E3.1.14 of DOD Directive 5220.6, the Government has the burden of establishing controverted facts. In this case, the Government has the burden of proving that Applicant knowingly and willfully misrepresented his drug use on his August 2011 e-QIP. AG ¶ 16(a) is not established when omissions are due to misunderstanding, inadvertent mistake, or other cause that could negate the willful intent. That disqualifying condition provides:

> (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 security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

The DOHA Appeal Board has explained the process for analyzing falsification cases, stating:

> (a) when a falsification allegation is controverted, Department Counsel has the burden of proving falsification; (b) proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred; and (c) a Judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning the applicant's intent or state of mind at the time the omission occurred. [Moreover], it was legally permissible for the Judge to conclude Department Counsel had established a prima facie case under Guideline E and the burden of persuasion had shifted to the applicant to present evidence to explain the omission.

Applicant is the sole source of information about his marijuana involvement, but his accounts have been inconsistent. In addition to the factual contradiction between the dates for his drug use and his detailed explanation reported on his August 2011 e-QIP, there is the discrepancy between the two e-QIPs about the dates of his drug use. Applicant did not report any drug use occurring in 2009 or 2010 on his August 2011 security clearance application. Applicant also did not report any marijuana use before 2005, although he was not required to do so. His marijuana use started around August 2001, and he used the drug more frequently from 2002 to 2003. At his hearing, he accurately explained that his use in 2001 was not within the seven-year scope of the inquiry on his August 2011 e-QIP.

(Tr. 29-30.) Section 23 covering the illegal use of drugs specifically asks about any illegal use of a controlled substance in the last seven years. In the case of an affirmative response, the applicant is then asked to provide "the date(s) of use or activity, identify the controlled substance(s), and explain the use or activity." It does not direct the applicant to provide dates for any use that occurred beyond the seven years. The April 2013 e-QIP is contrasted in that the applicant is specifically asked for the month and year of first use and the month and year of most recent use. Applicant provided the salient dates, including that he used marijuana more frequently from 2002 to 2003 and from 2009 to 2010.

At his hearing, he initially confirmed on cross-examination that it was accurate to state that he used marijuana more frequently between 2009 and 2010. Yet, when asked whether he also used marijuana more frequently between 2002 and 2003, Applicant responded that he recalled one instance where he was living with someone and another instance where he was friendly with persons who were frequent users. He indicated that the dates of 2009-2010 and 2002-2003 were accurate, but not precise. (Tr. 35.) He added that those two periods "stick out in [his] memory as times when [he] voluntarily used marijuana." (Tr. 35-36.) Notwithstanding that testimony, when asked directly why he did not list his 2009 drug use on his 2011 e-QIP, Applicant responded that 2009 to 2010 made no sense to him in that he could not recall a single instance of using marijuana in 2009 or 2010. When asked to explain the discrepancy, Applicant described an instance during his sophomore year in college where he was delayed in moving into an apartment. He resided for one month with a friend, whom he described as a habitual user of marijuana, and he used marijuana with this friend. He recalled the use as occurring in the winter of 2007 to 2008 rather than the previously disclosed date of 2009-2010. (Tr. 40-41.)

Available residence information for Applicant shows that he moved into an apartment during the spring semester in 2007, which would have been during his second year in college. When he completed his April 2013 e-QIP, he was five or six years removed from any marijuana use as a college sophomore. While inaccurate recall is a possibility, Applicant correctly noted on both e-QIPs that he graduated from college in May 2010. It is difficult to believe that he would have reported in April 2013 that he used marijuana from 2009 to 2010 if he recalled his use as occurring as a college sophomore. He would not have been a sophomore in 2009 or 2010. The evidence shows that he rented an apartment in another town starting in March 2009. Use of marijuana for a month preceding that move would be consistent with the 2009-2010 date disclosed on his April 2013 e-QIP, and with his initial validation of the 2009-2010 usage on cross-examination at his hearing.

Applicant's August 2011 e-QIP gives the impression that he abstained from marijuana after his sophomore year of college through at least August 25, 2011. When shown that his November 2005 date for a latest use could not be reconciled with his admission that he used marijuana in his sophomore year of college, Applicant incongruously responded that he meant October 2004. On the other hand, Applicant was candid about his marijuana use on his April 2013 e-QIP, admitting his then relatively recent drug involvement on December 31, 2012. Absent any evidence that Applicant's marijuana use has been more extensive than he disclosed in April 2013, his candor at that time weighs in his favor when determining whether he deliberately misrepresented his drug use

on his first application. The evidence falls short of demonstrating that Applicant intentionally concealed aspects of his drug involvement when he completed his e-QIP in August 2011.

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 his conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(a).[4] Applicant's marijuana use during high school and college is only partially attributable to youthful indiscretion. His desire for social acceptance has made him susceptible to peer pressure, and he has not overcome the concerns in that regard. On December 31, 2012, he used marijuana while possessing a security clearance without giving any consideration to the obligations of a security clearance. He seems to not understand that marijuana use continues to be illegal under federal law and is prohibited by the DOD. The hypothetical circumstance under which he indicated that he could see himself using marijuana—to impress an attractive woman—shows that he lacks the requisite good judgment for security clearance eligibility. After considering all the facts and circumstances, I conclude that it is not clearly consistent with the national interest to continue his security clearance eligibility.

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
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant

[4]The factors under AG ¶ 2(a) are as follows:

> (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.

Conclusion

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

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Elizabeth M. Matchinski
Administrative Judge