



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:

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ISCR Case No. 23-02323

Applicant for Security Clearance

**Appearances**

For Government: Erin P. Thompson, Esq., Department Counsel

For Applicant: Grant Couch, Esq.

08/01/2025

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**Decision**

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MURPHY, Braden M., Administrative Judge:

Applicant mitigated security concerns about his drug involvement and substance misuse. He mitigated financial considerations security concerns about his delinquent debts. He did not mitigate personal conduct security concerns over his failure to disclose his drug use on his security clearance application. Applicant's eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on July 22, 2022. On November 14, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DSCA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E (personal conduct) and Guideline H (drug involvement and substance misuse). The DOD issued the SOR under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and Security Executive Agent Directive (SEAD) 4, *National Security Adjudicative Guidelines* (AG), effective June 8, 2017.

Applicant answered the SOR on December 4, 2023, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA).

On February 12, 2025, Department Counsel amended the SOR to add security concerns under Guideline F (financial considerations). The added allegations are based, in part, on a credit report made available through the DOD's Continuous Vetting Program. (Hearing Exhibit (HE) IV) Applicant answered the new allegations on March 10, 2025.

The case was subsequently assigned to me. After consulting with the parties, the case was initially scheduled for a video-teleconference hearing on April 22, 2025. On the day of the hearing, Applicant appeared but requested additional time to pursue retaining legal counsel. The hearing was then postponed until May 27, 2025. (April 22, 2025 Hearing Transcript (Tr. # 1) at 1-8) DOHA then issued a hearing notice for the rescheduled May 27, 2025 hearing, but that hearing was continued once Applicant retained counsel. On May 12, 2025, DOHA issued an amended hearing notice rescheduling the hearing for June 26, 2025, by video-teleconference through an online platform.

The hearing then convened as rescheduled. Department Counsel offered Government's Exhibits (GE) 1 through 6. Applicant offered Exhibits (AE) A through O. All exhibits were admitted without objection. Applicant also testified. After the hearing, Applicant submitted additional exhibits AE P through AE V, all of which I admitted without objection. DOHA received the hearing transcript (Tr.) on July 8, 2025. The record closed on July 10, 2025.

## **Findings of Fact**

Applicant admitted SOR ¶¶ 1.a and 1.b under Guideline E and SOR ¶¶ 2.a, 2.b, and 2.c under Guideline H in the original SOR, all without further comment. As to the added allegations under Guideline F, he admitted the debts at SOR ¶¶ 3.a, 3.b, 3.e, and 3.f, and he denied SOR ¶¶ 3.c and 3.d, all without further comment. His admissions are incorporated into the findings of fact. Additional findings follow.

Applicant is 32 years old. He has an associate degree and is pursuing a bachelor's degree. He has been married twice (2012-2017 and June 2020 to July 2021). He and his first wife have a daughter, age 12, and he has a son, age 7, from his second marriage. He lives with his girlfriend. Applicant enlisted in the Army after high school, in 2011. (GE 1; AE R; Tr. 9, 23, 42, 50-51)

In December 2020, while he was serving as an Army recruiter in State 1, Applicant used tested positive for tetrahydrocannabinol (THC) the chemical compound found in marijuana, during a random urinalysis. He was a staff sergeant (E-6) and he held a security clearance at the time, though he did not have classified access. (SOR ¶¶ 2.a, 2.b. 2.c) He acknowledged that he tested positive because he had used marijuana. As a result. Applicant received non-judicial punishment (NJP) under the Uniform Code of Military Justice (UCMJ) at a Field Grade Article 15 proceeding. He received an oral reprimand, forfeited \$1,881 pay for two months, and was reduced in rank to sergeant (E-5). He was also removed from recruiting duty. (GE 2, GE 3; Tr. 38-39) Applicant's rank

was later restored, and he was honorably discharged in July 2021. (AE Q; Tr. 26-27, 51-55)

Applicant then moved home to State 2. He was unemployed until May or June 2022, when he began working for company A. He worked there for about a year until he was sponsored by another cleared employer (company B). He worked at company B until July 2024 when the contract ended and he lost his clearance sponsorship. He then spent about six months working for a veteran's nonprofit organization until February 2025, when he was rehired and re-sponsored for a clearance by company A. (GE 1; Tr. 24-25, 57-59, 62-66)

When he prepared his SCA, Applicant did not disclose that he had used marijuana in the previous seven years, or that his marijuana use in December 2020 had occurred while he possessed a security clearance. (GE 1 at Section 23) In his SOR response, he admitted Guideline E SOR ¶¶ 2.a and 2.b, which allege that his failure to disclose his marijuana use on his SCA in answering these two questions was deliberately false.

During his December 2023 background interview, Applicant also did not volunteer his marijuana use or his NJP until he was confronted with evidence of his positive drug test. (GE 4 at 1) He then explained that he was counseled by his commanding officer and ordered to attend counseling through the Army Substance Abuse Program (ASAP), which he did, in January 2021. (GE 4 at 1-3)

Applicant then explained that he used marijuana (THC) in November 2020 while home in State 2 on holiday leave. He was at a party on Thanksgiving, and a friend asked him to try it through a vaping pipe. The friend said it would not show up on a drug test. Applicant also used the vaping pipe by himself at his parents' house later that weekend. He later tested positive for THC, in December 2020, as noted above. He had not tried marijuana before that weekend. (GE 4 at 2; Tr. 36-37, 43-44, 51, 56)

Applicant explained that he did not enjoy life as an Army recruiter. He found it a stressful job because there was less of a command structure and less unit camaraderie than in typical Army units, and he struggled to meet his recruiting quotas. He became depressed. This led to his decision to use marijuana. (Tr. 44-48, 54-55)

Applicant acknowledged during the interview that he did not disclose his NJP, his drug use, or his ASAP counseling on his SCA. He said he was advised by a family member to answer "no" to the SCA questions because the information would not come up in a background check. (GE 4 at 3) He also acknowledged that he was desperate and needed a job, and did not want anything to keep him from getting it. He knows what he did was wrong and would not do it again. (Tr. 35-36) He acknowledged that he knew he used drugs, including with a clearance, and he knew he tested positive. He acknowledged lying on his SCA. He explained that he understood that his lack of candor could show he was untrustworthy and that trustworthiness is "the most important thing" when working with classified information. (Tr. 59-61)

After he left the Army, Applicant purchased and smoked a legal cannabidiol (CBD) extract several times a day between August 2021 and January 2022. He stopped when

he decided to go back to school. (GE 4 at 3; Tr. 48, 52) This use was not illegal and is not alleged in the SOR.

Applicant no longer associates with the people in his State 2 hometown with whom he used marijuana and no longer uses marijuana or any CBD extract. He regrets his decision to use marijuana. He said he is more mature and wants to live a more stable lifestyle. He is also pursuing a college degree. He is subject to random drug testing at work. He has never used any other illegal drug and only takes prescription drugs as prescribed to him. He disavowed any further intent to use illegal drugs and signed a statement of intent to abstain. He recently took an online drug education course. (Tr. 37-40, 56; AE C, AE G)

As alleged, the six SOR debts total about \$43,732. They are established by credit reports in the record, from December 2024 and February 2025 (GE 5, GE 6) Applicant addressed the debts in his SOR response and provided an update. (AE K)

Applicant explained that he and his second wife ended their marriage around the time he left the Army. He thought he would easily be able to find a civilian job, but that did not materialize right away. He quickly became financially overextended. (Tr. 33-34, 58)

SOR ¶ 3.a (\$9,695) is a consumer account that has been charged off. This account remains pending. (Tr. 28)

SOR ¶ 3.b (\$385) is an insurance account that has been placed for collection. The account has been paid and resolved. (Tr. 29-30; AE U)

SOR ¶ 3.c (\$15,450) is a charged-off account with a credit union. Applicant denied this debt. He said he received an educational grant in about December 2023 for about \$3,600. He said he used that grant to make a lump-sum payment towards this debt. He believes he owes about \$12,000. He did not provide documentation. He is not otherwise on a payment plan for this debt. (Tr. 30-32, 67-68) He also said he received a settlement offer on this account but did not provide documentation. (Tr. 71-72)

SOR ¶ 3.d (\$6,135) is a charged-off credit card account with creditor A. Applicant denied this debt. He documented that he has been making payments on the account since 2023. As of February 2025, he owed \$2,120 (GE 6 at 4) and as of June 2025, he owed \$1,380. He regularly pays \$200 a month. (AE J at 2, AE L, AE M, AE N; Tr. 32-33, 68-70) This account is being resolved.

SOR ¶ 3.e (\$6,245) is a charged-off credit card account with creditor A. This is another credit card account with the same creditor. (GE 5, GE 6) Applicant began paying this debt in June 2025 at \$200 a month. (AE J at 1, AE L, AE M, AE N; Tr. 32-33, 68-70) This debt is being resolved.

SOR ¶ 3.f (\$5,822) is a credit card account with Bank C1 that has been charged off. The account is listed as charged off, in the amount owed, on both credit reports submitted by the Government. (GE 5, GE 6 at 5) Applicant asserted that the account is

being paid, and he cited AE A and AE B as evidence of his efforts at resolution. (Tr. 33, 70-71; AE A, AE B). However, those debts, owed to collection agency R, concern a different bank, Bank C2. A \$968 debt in collection to Bank C2 is also cited on GE 5 but is not listed on GE 6. This \$968 debt, now owed to collection agency R (Acct. #4770), has been paid and resolved (AE A, AE H, AE O) as is a different debt to Bank C2 also now with collection agency R, for \$782 (Acct. #6583). (AE B, AE I). Those debts, which are not alleged in the SOR, are therefore resolved, although the \$5,822 charged-off debt to Bank C1 (SOR ¶ 1.f) is not.

Applicant currently earns \$32.50 an hour, about \$4,400 net income per month. He has about \$4,000 in savings. (Tr. 25, 34-35; AE S, AE T) Applicant also has a 100% service-connected disability and now receives \$3,831 a month in veterans' benefits since April 2025. (Tr. 42-43; AE V) He owes about \$30,000 in student loans but they are deferred while he is taking classes. (Tr. 77-78)

On his post-hearing personal financial statement (PFS), Applicant listed \$8,295 in monthly income (net salary and VA benefits). He disclosed \$4,623 in monthly expenses, and noted three debt payments, totaling \$1,000, and listed a net remainder of \$2,672. (AE P)

Applicant expects to continue to address his debts as he is able. He has not had any credit counseling. He does not have any other delinquent debts or tax issues. He said he has learned from his past mistakes and is working towards being more financially stable. (Tr. 73-75)

Applicant was awarded two Army Commendation Medals, two Army Achievement Medals, three Army Good Conduct Medals, and appropriate service medals and ribbons. (AE Q) Work-related references attest to Applicant's integrity, accountability, and professionalism. He is regarded as responsible, reliable, and trustworthy, and someone who follows rules and regulations. (AE D, AE E, AE F)

## Policies

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

adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of several variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

## Analysis

### **Guideline H: Drug Involvement**

AG ¶ 24 details the security concern for drug involvement:

The illegal use of controlled substances, to include the misuse of prescription drugs, and the use of other substances that can cause physical or mental impairment or are used in a manner inconsistent with their intended use can raise questions about an individual’s reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person’s ability or willingness to comply with laws, rules, and regulations. *Controlled substance* means any “controlled substance” as defined in 21 U.S.C 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed above.

I have considered the disqualifying conditions for drug involvement under AG ¶ 25 and the following are potentially applicable:

- (a) any substance misuse (see above definition);
- (b) testing positive for an illegal drug; and
- (f) any illegal drug use while granted access to classified information or holding a sensitive position.

In late November 2020, Applicant used marijuana while at home on leave over Thanksgiving weekend. He tested positive for THC on a random drug test shortly thereafter, in December 2020. AG ¶¶ 25(a) and 25(b) apply.

As an Army recruiter, Applicant held a clearance at the time but did not have access to classified information. However, the fact that he held a clearance establishes his status as an individual in a sensitive position, as alleged in SOR ¶ 2.c. AG ¶ 25(f) applies.

The following mitigating conditions under AG ¶ 26 are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment; and
- (b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to: (1) disassociation from drug-using associates and contacts; (2) changing or avoiding the environment where drugs were used; and (3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement is grounds for revocation of national security eligibility.

Applicant used marijuana over a Thanksgiving weekend in late 2020, about four and a half years ago. He was in the Army at the time, and he held a clearance. He therefore should have known better. He received NJP in an Article 15 hearing, was reduced in rank for a period of time, and completed an Army substance abuse counseling program. He was allowed to leave the Army in July 2021 with an honorable discharge. For the next several months in 2021, he used CBD extract products several times a day. This is not alleged in the SOR, and it was not illegal. There is no evidence of Applicant's subsequent involvement with illegal drugs, and he disavows any intended future use. He has also disassociated himself from those in his home environment with whom he used marijuana in late 2020. Notwithstanding my analysis under Guideline E, below, I nonetheless conclude that AG ¶¶ 26(a) and 26(b) apply, and Guideline H security concerns are mitigated.

#### **Guideline E: Personal Conduct**

AG ¶ 15 details the security concerns for personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful or candid answers during national security eligibility investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

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

I considered the following disqualifying condition under AG ¶ 16:

(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.

Applicant deliberately failed to disclose his illegal drug use on his July 2022 SCA. He acknowledged his lack of candor, and he admitted that he omitted his drug use out of concern for his job. AG ¶¶ 16(a) applies.

AG ¶ 17 sets forth the following potentially applicable mitigating conditions under Guideline E:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment.

Falsification of a security clearance application regarding a relevant and material fact, particularly about illegal drug use, is not a "minor" offense. Nor did it occur under such unique circumstances that are unlikely to recur and does not cast doubt on his individual's reliability, trustworthiness, or good judgment. It is also not mitigating that Applicant relied on a family member in choosing not to disclose his drug involvement on his SCA. AG ¶ 17(c) does not apply.

Applicant did not voluntarily disclose his marijuana use or positive drug test to the investigator before he was confronted with evidence of it. AG ¶ 17(a) does not apply.

## **Guideline F, Financial Considerations**

The security concern relating to the guideline for financial considerations is set out, in relevant part, in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. . . .

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant incurred various delinquent debts after he left the Army and found the transition to civilian employment difficult. The debts are established by the credit reports in the record, and, where applicable, by Applicant's admissions. AG ¶¶ 19(a) and 19(c) both apply.

The following mitigating conditions under AG ¶ 20 are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

While Applicant has resolved several of his SOR debts, others remain. AG ¶ 20(a) does not fully apply.

Applicant's debts originated after he left the Army and was unemployed for about 10 months while transitioning to civilian life. This was a circumstance beyond his control. The first prong of AG ¶ 20(b) applies.

Applicant is in the process of resolving several of his SOR debts. SOR ¶ 3.b has been paid. He has been paying the debt at SOR ¶ 3.d regularly since 2023 and has almost finished paying the agreed amount. He has turned his attention next to SOR ¶ 3.e. The remaining, larger debts, SOR ¶¶ 3.a, 3.b, and 3.f, remain unresolved. However, while they are not alleged, he is credited with paying the two smaller debts to Bank C2.

Applicant has been paying his debts, one at a time, since 2023, once his employment stabilized. He is not required to have all of his debts, or his SOR debts, paid off, nor is he required to pay them off in any particular way. He needs a responsible plan and to show that he has taken sufficient steps towards implementing that plan to evince a track record of steady payments, enough to show the likelihood that his payments will continue in the future, so that the debt, and the resulting security risk, is reduced. Applicant has shown this. AG ¶¶ 20(b) and 20(d) both apply.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines H, E, and F in my whole-person analysis.

The government has a compelling interest in protecting and safeguarding classified information. That 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. ISCR Case No. 01-03132 at 3 (App. Bd. Aug. 8, 2002)

Applicant mitigated security concerns over his illegal drug use, and he is executing a responsible plan to address his debts, which resulted from a period of unemployment after he left the Army. However, his deliberate falsifications on his SCA and his failure to acknowledge it until he was confronted during his background interview show that security concerns from that conduct are not mitigated. Applicant has not carried his burden. Overall, the record evidence leaves me with questions and doubts as to Applicant's continued eligibility for access to classified information.

### **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 E:	AGAINST APPLICANT
Subparagraphs 1.a-1.b:	Against Applicant
Paragraph 2, Guideline H:	FOR APPLICANT
Subparagraphs 2.a-2.c:	For Applicant
Paragraph 3: Guideline F:	FOR APPLICANT
Subparagraphs 3.a-3.f:	For Applicant

### **Conclusion**

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

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Braden M. Murphy  
Administrative Judge