



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



## **Appearances**

For Government:  
John Renahan, Esquire, Department Counsel

For Applicant:  
*Pro se*

08/25/2025

## Decision

ROSS, Wilford H., Administrative Judge:

## **Statement of the Case**

On March 6, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline H (Drug Involvement and Substance Misuse). The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

Applicant responded to the SOR (Answer) on March 21, 2025, and requested a hearing before an administrative judge. Department Counsel was prepared to proceed on May 9, 2025. The case was assigned to another administrative judge on May 19, 2025. It was reassigned to me on June 2, 2025. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on June 9, 2025. I convened the hearing as scheduled on July 16, 2025. The Government offered Government Exhibits 1 through 3, which were admitted without objection. Applicant testified on his own behalf and submitted Applicant Exhibits A-1 through A-7, which were admitted without objection. DOHA received the transcript of the hearing (Tr.) on July 28, 2025.

### **Findings of Fact**

Applicant is 39 years old, twice married, and has three children. He has a high school diploma. He has worked for a defense contractor since November 2023 as an electrical technician. This is his first application for national security eligibility. (Government Exhibit 1 at Sections 12, 13A, 17, 18, and 25; Applicant Exhibit A-2; Tr. 46-47.)

### **Guideline H: Drug Involvement and Substance Misuse**

The Defense Counterintelligence and Security Agency (DCSA) alleged that Applicant is not eligible for access because he has used illegal drugs. He admitted the single allegation under Paragraph 1 with explanations.

Applicant began using marijuana in 2000. He continued to use it at various frequencies until approximately December 2024. He stated that he used marijuana to help with insomnia, back pain, and stress. (Government Exhibit 1 at Section 23; Government Exhibit 2 at 5; Tr. 16-20, 23-24.)

Applicant filled out an Electronic Questionnaire for Investigations Processing (e-QIP) (Government Exhibit 1) in February 2024. He fully described his marijuana use on the form under Section 23. He also indicated that he intended to use marijuana in the future stating, "I use it [marijuana] to sleep and also when back pains occur. I prefer to use natural remedies for pain." When questioned by Department Counsel Applicant stated that he answered the question this way in order to be completely honest. As further described below, he was intending to reduce his use over the following months and eventually quit. (Tr. 27-28.)

Applicant was interviewed by an authorized investigator for the DoD in March 2024. (Government Exhibit 2.) He fully described his marijuana use in the interview. During testimony he acknowledged knowing in early 2024 that marijuana use was

incompatible with his desire to obtain a security clearance in connection with his current job because of its Federal illegality. He further stated that he made the decision to “taper off” on his marijuana use at this point. He slowly reduced his use of marijuana from weekly, to weekends, to monthly, and stopped all marijuana use in December 2024. He has not used any marijuana since that time and evinced a credible intent not to use marijuana in the future. (Tr. 16-18, 27-37.)

### **Mitigation**

Applicant expressed intent, during his testimony at the hearing, not to use marijuana in the future. (Tr. 16-18, 27-37, 48.)

Applicant submitted a letter from the senior business manager at his employer. While not his supervisor, she does have knowledge of the allegations in this case. She stated, “We consider [Applicant] to be trustworthy and responsible, and we have full confidence in his ability to manage sensitive or confidential information, should the duties of their role require it.” (Applicant Exhibit A-2; Tr. 38-39.)

Applicant voluntarily took a drug-screening test in April 2025. The test was negative for marijuana and other drugs. He indicated a willingness to take additional drug tests if required. (Applicant Exhibit A-1; Tr. 35, 39-40.)

### **Policies**

When evaluating an applicant’s national security eligibility for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant’s national security eligibility.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context of a number of variables known as the whole-person concept. The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

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

Directive ¶ E3.1.14, requires the Government to present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, “The applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of Executive Order 10865, “Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See also Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

## Analysis

### **Guideline H: Drug Involvement and Substance Misuse**

The security concern relating to Drug Involvement and Substance Misuse is set forth in AG ¶ 24:

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.

I have examined the disqualifying conditions under AG ¶ 25 and especially considered the following:

- (a) any substance misuse (see above definition);
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and
- (g) expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.

All three of the stated disqualifying conditions have application to this case.

The following mitigating conditions under AG ¶ 26 have also been considered:

- (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 or misuse is grounds for revocation of national security eligibility.

Applicant used marijuana for over 20 years. He spent the year 2024 slowly tapering off his use, only stopping in December of that year. Accordingly, his period of abstinence

is only seven months as of the date the record closed. While he appears to be sincere in his statements that he does not intend to use marijuana in the future, his period of continued use in 2024 after knowing of its Federal illegality is very concerning. With continued abstinence he may be eligible for national security eligibility in the future. He is not eligible now. Paragraph 1 is found against Applicant.

### **Whole-Person Concept**

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

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

Under AG ¶ 2(c), the ultimate determination of whether to grant national security eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Viewing the evidence as a whole, Applicant has not presently mitigated the security concerns of his illegal drug use.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline H:                   **AGAINST APPLICANT**

Subparagraph 1.a:                           **Against Applicant**

## **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 grant or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

WILFORD H. ROSS  
Administrative Judge