



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 25-00087

Appearances

For Government:

Tara Karoian, Esquire, Department Counsel

For Applicant:

Alan Edmunds, Esquire, Applicant's Counsel

12/02/2025

Decision

CEFOLA, Richard A., Administrative Judge:

Statement of the Case

On May 10, 2024, Applicant submitted a security clearance application (SF-86). On March 25, 2025, in accordance with Department of Defense (DoD) Directive 5220.6, as amended (Directive), the DoD issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guidelines H, E and F. 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) effective within the Department of Defense on June 8, 2017.

Applicant answered the SOR in writing (Answer) soon thereafter, and requested a hearing before an administrative judge. The case was assigned to me on September 9, 2025. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on September 9, 2025. I convened the hearing as scheduled on September 23, 2025. The Government offered Government Exhibits 1 through 6, which were admitted without objection. Applicant testified on his own behalf and offered Applicant Exhibits (AppXs) A~J. DOHA received the transcript of the hearing (TR) on October 3, 2025. The record was left open for the receipt of additional evidence. On September 24th, 25th and 29th, 2025, Applicant offered AppXs K, L, M and N, and received without objection. The record closed at that time. This Decision was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a Federal government shutdown due to a lapse in Federal Funding.

Findings of Fact

Applicant admitted the allegations in SOR with explanations. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 30-year-old employee of a defense contractor. He is currently unemployed, but had been employed with the defense contractor since April of 2024. Applicant has held a security clearance in the past, while he served in the U.S. Army from September 2014 to July 2020. He is not married, and has no children. (TR at page 6 line 15 to page 7 line 8, at page 14 line 15 to page 16 line 6, and GX 1 at pages 5, 10, 15~16 and 18.)

Guideline H - Drug Involvement and Substance Misuse

1.a.~1.c. Applicant admits that on or about May 11, 2020, he tested positive for marijuana/THC, as the result of a random urinalysis. In May of 2020, he was “taking gummies . . . trying to get some sleep and relief from the stress that . . . [was] going on at the time.” Applicant avers that he “just lost two of my soldiers who were . . . very close to” Applicant. He held a security clearance while on active duty with the Army. (TR at page 16 line 19 to page 19 line 19, at page 26 line 13 to page 32 line 16, GX 1 at pages 27~28, GX 2 at pages 11~13, and GX 3 pages 1~2.)

Guideline E - Personal Conduct (The allegations are discussed chronologically.)

2.b. Applicant admits that he falsified material facts on his May 10, 2024, SF-86, in response to “Section 23 – Illegal Use of Drugs or Drug Activity in the last seven (7) years, have you illegally used drugs or controlled substances? . . . [and] Have you EVER illegally used a drug or controlled substance while possessing a security clearance . . . ?” Applicant answered “No.” In his Answer to the SOR, Applicant claims a “lapse in memory,” and at his hearing, “it was just something I had forgotten about.” This explanation is not credible. He knowingly used THC gummies, noted above. I find this to be a willful falsification. (TR at page 22 lines 6~20, at page 32 line 11 to page 33 line 18, and GX 1 at page 26.)

2.a. Applicant admits that, four months later, he falsified material facts during a personal subject interview (PSI) on September 5, 2024, with an investigator with the Defense Counterintelligence and Security Agency (DCSA), when asked whether he had ever failed any drug test provided by the military. Applicant answered “No.” In his Answer to the SOR, Applicant again claims a “lapse in memory,” and at his hearing, “it was just something that had slipped my memory.” This explanation is not credible. He knowingly used THC gummies, noted above under Drug Involvement, and tested positive for drug use. I find this to be a willful falsification. (TR at page 20 line 21 to page 22 line 3, and GX 2 at page 7.)

Guideline F - Financial Considerations

3.a. Applicant admits that he was indebted to Creditor A, for a past-due, motorcycle debt, in the amount of about \$15,360. He has submitted post-hearing documentation showing that “there is no balance due.” This allegation is found for Applicant. (TR at page 22 line 21 to page 24 line 5, at page 35 line 23 to page 37 line 5, and AppXs B, M and N.)

3.b. Applicant admits that he was indebted to Creditor B, for a past-due, motor vehicle debt, in the amount of about \$2,081. He has submitted documentation showing that “this loan has been paid off in full.” This allegation is found for Applicant. (TR at page 38 lines 15~21, and AppX A.)

Policies

When evaluating an applicant’s suitability for national security eligibility, 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 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. 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, an “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 applying for national security eligibility seeks to enter 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, “[a]ny 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 the guideline Drug Involvement and Substance Misuse is set forth at 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.

The guideline at AG ¶ 25 contains seven conditions that could raise a security concern and may be disqualifying. Three conditions are established:

- (a) any substance misuse (see above definition);
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and
- (f) any illegal drug use while granted access to classified information or holding a sensitive position.

Appellant consumed THC gummies in May of 2020. He had a security clearance for his job at that time. Therefore, AG ¶ 25 (a), (c), and (f) are established.

The guideline at AG ¶ 26 contains four conditions that could mitigate security concerns. One condition is 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.

Applicant used marijuana/THC more than five years ago, and under unusual circumstances. He used the THC gummies as a sleep aid, mourning the loss of two fellow soldiers. Drug Involvement and Substance Misuse is found for Applicant.

Guideline E - Personal Conduct

The security concern relating to the guideline for Personal Conduct is set out 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 or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security 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; and
- (b) refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. Two are potentially applicable 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; and
- (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.

Applicant falsified his May 2024, SF-86, and continued this ruse during his September 2024 subject interview. The evidence is sufficient to raise these disqualifying conditions.

AG ¶ 17 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 17 including:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and
- (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.

Neither of these apply. Applicant appeared to be “in denial” as to his past illegal usage of THC gummies, both in his answers on his SF-86, and during his subject interview, four months later. I find these to be willful falsifications. Personal Conduct is found against Applicant.

Guideline F - Financial Considerations

The security concern relating to the guideline for Financial Considerations is set out 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. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

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

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant had two past-due debts totaling about \$17,711. The evidence is sufficient to raise these disqualifying conditions.

AG ¶ 20 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 20 including:

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

Applicant has satisfied his admitted past-due debts. Mitigation under AG ¶ 20(d) has been established. Financial Considerations is found for Applicant.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's 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.

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

I considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. I have incorporated my comments under Guidelines H, E and F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment. Applicant was respected in the U.S. Army, and is respected in the workplace. (AppXs D~G, K and L.)

However, overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the Personal Conduct security concerns.

Formal Findings

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

Paragraph 1, Guideline H:	FOR APPLICANT
Subparagraphs 1.a~1.c:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a. and 2.b:	Against Applicant
Paragraph 3, Guideline F:	FOR APPLICANT
Subparagraphs 3.a. and 3.b:	For 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 Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Richard A. Cefola
Administrative Judge