



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



In the matter of:)
)
) ISCR Case No. 24-00968
)
)
Applicant for Security Clearance)

Appearances

For Government: George A. Hawkins, Esq., Department Counsel
For Applicant: Eric Leckie, Esq.

08/12/2025

Decision

LAFAYE, Gatha, Administrative Judge:

Applicant provided insufficient evidence to mitigate security concerns raised under Guidelines H (drug involvement and substance misuse) and E (personal conduct). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on November 16, 2023. On August 22, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) alleging security concerns under Guidelines H and E. Applicant answered the SOR on October 28, 2024 (Answer) and requested a hearing before an administrative judge. The case was assigned to me on May 29, 2025.

On June 5, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing for July 23, 2025. On July 18, 2025, the Government amended the SOR. On July 23, 2025, the Government amended the SOR again. Applicant answered the SOR amendment and requested to proceed with the hearing as scheduled. The hearing was held as scheduled.

At the hearing, the Government offered five exhibits, Government Exhibit (GE) 1 through GE 5, which were admitted in evidence without objection. Applicant testified and offered four exhibits, Applicant's Exhibit (AE) A through AE D, which were also admitted without objection. DOHA received the hearing transcript (Tr.) on August 1, 2025.

Findings of Fact

In his Answer to the SOR, Applicant admitted all allegations (SOR ¶¶ 1.a – 1.i, and 2.a – 2.d). At the hearing, he admitted the allegation in the SOR amendment (SOR 1.j.). His admissions are incorporated in my findings of fact. After thorough review of the evidence, I make the following additional finding of facts.

Applicant is 25 years old. He earned his high school diploma in May 2018, and enlisted in the United States Navy in August 2018. He completed college courses while serving and earned an associate degree in November 2021. He was honorably discharged from the Navy in August 2023 and enrolled in college to complete his bachelor's degree in cybersecurity, which is anticipated in late 2025. He has never married and has no children. He currently supports his mother, two nephews, and a niece who recently moved in with him after he purchased his first home. (GE 1 – 3; AE B; Tr. at 20-29; 51-53)

Applicant has worked as a network designer for a defense contractor since November 2023. His position requires a high-level security clearance, and he completed his most recent SCA in November 2023. His employer has a written substance use and abuse policy for its employees. In Section 23 of the SCA, Applicant admitted to using and purchasing marijuana, hallucinogenic mushrooms, and to misusing Adderall and Vyvanse, not prescribed to him during various periods between April 2016 and November 2023. Part of his drug involvement and substance misuse occurred while in a sensitive position. (GE 1, GE 3; Tr. at 47-50)

Applicant failed to disclose his involvement with federally illegal drugs and his misuse of prescription drugs in his first SCA, which he completed in March 2018 when he applied to join the Navy. He was 17 years old at the time. He said he did not disclose his drug use for fear his application to join the Navy would be rejected. (GE 2; Tr. at 27-28)

Applicant was raised in a large, blended family. He has 10 siblings, six of whom are half-siblings. He is the seventh child. Though all of his basic needs as a child were met, Applicant's childhood home was filled with a lot of people in close living quarters, which made living conditions challenging at times. Two of Applicant's half-sisters and a nephew, also living in the home, were diagnosed with attention-deficit/hyperactivity disorder (ADHD) and prescribed medication. Applicant said he excelled as a high school student and was invited to participate in a special college-preparation program that allowed high school students to earn community college credits for courses taken during their junior and senior years. (GE 1 – 3; Tr. at 20-30)

Applicant is aware the drugs he used, misused, and purchased are illegal under federal law. He said he first used marijuana in 2016 as a 10th grade student, and he last used marijuana with his younger brother in January 2024. Before joining the Navy, Applicant said he smoked marijuana three to four times a week and purchased the marijuana from high school friends. He said he and his friends smoked marijuana "joints" in cars, during walks, and in the homes of friends. He estimated that he has used marijuana between 200 and 250 times. (GE 3; Tr. at 20-62)

Applicant said he smoked marijuana four to five times while serving in the Navy. He used marijuana while on leave for 14 days or more, mostly to avoid detection. His brother had a condition that required a medical marijuana card, and he would provide Applicant with the marijuana he used. Applicant also disclosed he used the stimulant medication Adderall, not prescribed to him, between 2016 and about 2021, to help him focus on exams and write papers. He used the stimulant medication Vyvanse from about 2017 to about 2021, primarily during leave periods from the Navy while visiting home. Vyvanse was prescribed to his nephew who was diagnosed with ADHD. (GE 1, GE 3; Tr. at 35-70)

Applicant disclosed he used and purchased hallucinogenic psilocybin mushrooms from 2019 until his discharge from the Navy in August 2023. He claimed he purchased and used mushrooms to help with symptoms of anxiety and depression following long periods of deployment aboard a Navy ship. He said he hallucinated once, but otherwise mushrooms made him feel insightful and removed symptoms of depression for over six months, at which time he would use hallucinogenic mushrooms again to feel the same sensation. He said he stopped his involvement with hallucinogenic mushrooms after his brother "went into psychosis" while abusing mushrooms. He said his brother got better but "he'll (never) be who he was before it happened." (GE 3, GE 4; Tr. at 41-43, 95-96)

Applicant said he used methylenedioxymethamphetamine (MDMA or Ecstasy) in about 2021 at home with a guy he met online. He claimed he used it just once, and it made him sweat and dance more. He was aware his illegal drug use in the Navy was prohibited under the Uniform Code of Military Justice (UCMJ). He took calculated risks and did not fail a drug test while serving in the Navy. Applicant was granted a security clearance in 2018 because his duties as a Navy operations specialist (OS) required a security clearance. (GE 4; Tr. at 41-44; 60-70)

After leaving the Navy, Applicant told a DOD investigator he purchased marijuana at dispensaries in State 1 (S1), which allowed the recreational use of marijuana. (GE 3 at 7) However, at the hearing Applicant said his roommate provided him with marijuana and that he did not buy marijuana at dispensaries in S1. (Tr. at 97) He smoked marijuana with his roommate, and said he felt relaxed, calm, sleepy, and hungry after using it. He disclosed feeling "guilty" for using marijuana while serving on active duty in the Navy. (Tr. at 97-98)

After his discharge from the Navy, Applicant said his father and brother convinced him to see the doctor they used to get a medical marijuana card in his home state (S2),

and he did. He could not recall when he received his medical marijuana card but estimated receiving it around September 2023. (Tr. at 66) He did not offer his medical marijuana card in evidence, nor is there any evidence that S2 permits the recreational use of marijuana. Applicant said he continued to use medical marijuana until he found a desirable job working for a defense contractor and moved to his current state of legal residence (S3) in November 2023. (GE 1; Tr. at 66-98)

Applicant said he struggled with anxiety, depression, and an eating disorder while serving in the Navy. (Tr. at 32-38) He said he sought help for his mental health concerns, and his unit health care provider referred him to Fleet and Family Support (FFS) where he was told medical providers were only able to help Sailors experiencing suicidal ideation. (*Id.*) He sought out private provider help and received counseling and support through an online mental health service. After suffering a panic attack in 2021, he enrolled in two online therapy sessions per week to treat symptoms of depression, anxiety, and an eating disorder. (Tr. at 40-50, 83-90)

Applicant said he was diagnosed with ADHD in late 2023 and with post-traumatic stress disorder (PTSD) in 2024. He was initially prescribed Wellbutrin to manage his ADHD symptoms. Later on, he was prescribed Adderall 20mg for ADHD in 2024 and has been taking it since that time. Applicant admitted he tested positive for amphetamine twice in 2024 and once in 2025. (AE A, AE D; Tr. at 80-98)

Applicant took drug urinalysis tests in August 2024, November 2024, March 2025, and May 2025 and submitted the test results as part of his case in mitigation. All test results were negative for illegal drugs, except amphetamine, which was positive in all test results except for the drug test taken in March 2025. Applicant did not understand why the results for his March 2025 drug test was negative for amphetamine because he consistently ingested Adderall as prescribed by his psychiatrist. (AE A, AE D; Tr. at 83-86)

The SOR alleges under Guideline H that Applicant used, misused and purchased the illegal drugs described above, while working in a sensitive position (i.e. one requiring a security clearance), during the periods indicated in each of the allegations (SOR ¶¶ 1.a through 1.i), and that he tested positive for amphetamine twice in 2024, and once in 2025. (SOR ¶ 1.j)

Under Guideline E, the SOR cross-alleges personal conduct security concerns (SOR ¶ 2.a) based on Applicant's drug involvement described in SOR ¶¶ 1.a through 1.i. It also alleges separate personal conduct concerns for Applicant's failure to disclose, as required by Section 23 of his March 2018 SCA, his illegal use of marijuana, Adderall, and Vyvanse (SOR ¶ 2.b), his illegal purchase of marijuana and Adderall (SOR ¶ 2.c), and his misuse of the prescription drugs Adderall and Vyvanse (SOR ¶ 2.d).

Applicant said he did not disclose his drug involvement in his March 2018 SCA, but disclosed his illegal drug involvement and substance misuse in his November 2023 SCA because he wanted to start his new career working for a defense contractor with a

clean slate. He was young and immature in 2018, but understood that the Navy would provide a life-changing opportunity for him and that disclosing his substance misuse would have made him ineligible to serve in the Navy. He lied to increase his chances of successfully enlisting in the Navy. He said his circumstances were different in 2023, he was older, wanted a fresh start, and he prepared himself to live with the consequences. He disassociated from the environment where he had used drugs, and from friends and associates with whom he used drugs. Though his father, brother, and half-sisters still use medical marijuana for their diagnosed medical conditions, they live in a different state and do not reside with Applicant. (Tr. at 57-77)

Applicant submitted a statement of intent, swearing to abstain from any future use or misuse of any federally illegal drugs. He also submitted a personal statement, and two letters of support from colleagues who have worked with him for about two years. One colleague attested to his honesty, reliability, and discretion; and the other attested to his trustworthiness, diligence, and sound judgment. Both commented favorably on his work ethic, dedication to his professional duties, and favorably endorsed Applicant's suitability for a top secret security clearance. Applicant also provided information about his roles and responsibilities in the organization, future plans, and accomplishments. He is performing well, taking on new assignments to increase his level of responsibility, and continues to grow. He is grateful for the opportunity to continue serving the nation in a unique position. (Statement of Intent dated October 28, 2024; AE B, AE C; Tr. at 99-103)

Policies

This case is adjudicated 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), which became effective on June 8, 2017.

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 to be 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, administrative judges apply the guidelines 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(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 national security eligibility will be resolved in favor of the national security.”

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 the 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 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.

Section 7 of EO 10865 provides that adverse 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 and Substance Misuse

The security concern for drug involvement and substance misuse is described 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.

AG ¶ 25 describes conditions that could raise a security concern and may be disqualifying. Those that are potentially applicable are:

- (a) any substance misuse (see above definition);

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

Applicant admitted he used, misused, and purchased various controlled substances, as alleged in the SOR, and his admissions are supported by other evidence in the record. Some of his substance misuse occurred while he was in the Navy and in a sensitive position. AG ¶¶ 25(a), 25(c), and 25 (f) apply.

Applicant refuted AG ¶¶ 25(a), 25(b), and 25(c) security concerns for the allegation in SOR ¶ 1.j. He was diagnosed with ADHD in late 2023, prescribed the stimulant drug Adderall in 2024, and he has taken Adderall in accordance with his prescription since that time. Applicant's authorized use of Adderall resulted in positive urinalysis tests for amphetamine in 2024 and 2025.

AG ¶ 26 provides conditions that could mitigate security concerns. The following 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 or misuse is grounds for revocation of national security eligibility.

AG ¶¶ 26(a) and 26(b) are not fully established to mitigate security concerns for allegations in SOR ¶¶ 1.a through 1.i. Applicant began using and purchasing marijuana and Adderall, not prescribed to him, during high school. He expanded his involvement with illegal drugs after enlisting in the Navy in 2018, even though he had been granted a security clearance and worked in a sensitive position. He started using hallucinogenic psilocybin mushrooms, Ecstasy, and Vyvanse, a stimulant drug prescribed to his nephew.

To avoid detection by the Navy's drug testing program, Applicant timed his marijuana and Adderall use to occur during his Navy leave periods of 14 days or more. He was fully aware that illegal drug involvement was prohibited and a punishable offense

under the UCMJ. He said that he was willing to take calculated risks to continue his drug involvement until he was honorably discharged from the Navy in August 2023. He used marijuana purchased from a state dispensary until January 2024.

In a recent decision, the Appeal Board noted “the evolving landscape of marijuana law and policy in the United States,” particularly as it relates to the recreational use of marijuana when permitted under state laws, and listed common-sense factors to consider when evaluating security concerns related to an applicant’s involved with marijuana in permissible use jurisdictions. Some of the factors highlighted for consideration include the duration of an applicant’s abstinence; the laws of the state involved, the company’s drug policy, whether applicant’s use occurred after completing a SCA, while holding a sensitive position, or while having access to classified information; and whether applicant broke a promise to refrain from using marijuana in the future. See ISCR Case No. 24-00914 at 3 (App. Bd. April 9, 2025).

Applicant’s purchase and use of illegal drugs over a period of five years while in a sensitive position reflect poor judgment and raise questions about his reliability and trustworthiness. He specifically planned his use of marijuana and other drugs to defeat the Navy’s drug testing system, and he did. He continued his involvement with illegal drugs immediately after leaving the Navy, getting a medical marijuana card in S2 and using marijuana for the last time in 2024, after completing his November 2023 SCA, and starting his career working for a defense contractor.

Applicant is credited with acknowledging his illegal drug use, making the decision to stop his involvement with illegal drugs in 2024, avoiding the environment where he used illegal drugs and the people he used them with, and signing a statement of intent to refrain from using illegal drugs in the future. He is also commended for seeking out and receiving medical assistance for his mental health concerns. He is on the right path, but not enough time has passed to fully mitigate the drug involvement and substance misuse security concerns. Doubts remain about his judgment, reliability, and his overall willingness to comply with laws, rules, and regulations.

Guideline E, Personal Conduct

The security concern under this guideline is described 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 provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(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;

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of: (2) any disruptive, violent, or other inappropriate behavior; and (3) a pattern of dishonesty or rule violations; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes: (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing.

Applicant's admitted involvement with illegal drugs as described in SOR ¶¶ 1.a through 1.i created a vulnerability to exploitation, manipulation, or duress as it could affect his professional standing. His deliberate failure to disclose his illegal use of marijuana, Adderall, and Vyvanse; his deliberate failure to disclose his illegal purchase of marijuana and Adderall; and his deliberate misuse of Adderall and Vyvanse, are supported by other evidence in the record. AG ¶¶ 16(a) and 16(e) apply. However, AG ¶ 16(d) does not apply to SOR ¶ 2.a because the conduct alleged is explicitly covered and alleged under Guideline H.

AG ¶ 17 provides conditions that could mitigate security concerns. The following are potentially applicable:

(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; and

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy,

unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

AG ¶¶ 17(a), 17(c) and 17(d) are not fully established for the conduct alleged in SOR ¶ 2.a. Comments made in Guideline H above also apply here. Applicant is unable to mitigate the personal conduct security concerns through his evidence. He misused marijuana and Adderall for several years before he served on active duty in the Navy. While serving in the Navy, he continued his habit and behavior of using and purchasing marijuana and Adderall as he did in high school. He added hallucinogenic drugs to his repertoire of illegal drugs, with the full knowledge and understanding that illegal drug involvement violated federal statutes and was punishable under the UCMJ. He also deliberately timed his illegal drug involvement in a manner to avoid detection by a drug urinalysis test. Applicant's job responsibilities as a Navy operations specialist required him to do consequential work aboard a Navy ship while in a highly sensitive position.

Applicant's evidence is insufficient to mitigate personal conduct security concerns in SOR ¶ 2.a. He exercised poor judgment by continuing and escalating his involvement with illegal drugs while in a sensitive position until August 2023. His conduct created a vulnerability to exploitation, manipulation, and duress, which casts doubt on his current reliability, trustworthiness and judgment, and demonstrates an unwillingness to comply with federal rules and regulations.

Applicant is credited with acknowledging his illegal drug involvement, seeking and receiving help for his mental health concerns, and taking other positive steps to alleviate factors that contributed to his inappropriate involvement with illegal drugs alleged in SOR ¶ 2.a, but his evidence is insufficient to establish any of the above mitigating conditions. More time is needed for full mitigation.

AG ¶ 17(c) is established for the conduct alleged in SOR ¶¶ 2.b through 2.d, for Applicant's falsifications in his March 2018 SCA. He was young, immature, and desperate to join the Navy to change the trajectory of his life. He fully disclosed his past substance misuse in his November 2023 SCA, and expressed his desire to "right the wrong" he had done by correcting the falsifications going forward. His demeanor was sincere and credible. The behavior happened more than seven years ago under unique circumstances that are unlikely to recur. AG ¶ 17(c) applies.

Whole-Person Concept

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. In applying the whole-person concept, an 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. An 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.

I have incorporated my comments under Guidelines H and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under Guidelines H and E, and evaluating all evidence in the whole-person context, I conclude Applicant failed to mitigate the security concerns raised in this case.

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
Subparagraphs 1.a – 1.i:	Against Applicant
Subparagraphs 1.j:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraph 2.b – 2.d:	For Applicant

Conclusion

It is not clearly consistent with the national interest to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Gatha LaFaye
Administrative Judge