



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



Appearances

For Government: Aubrey M. De Angelis, Esq., Department Counsel
For Applicant: *Pro se*

07/31/2025

Decision

BORGSTROM, Eric H., Administrative Judge:

Applicant did not mitigate the security concerns arising from her illegal drug use, criminal conduct, and falsifications. Eligibility for access to classified information is denied.

Statement of the Case

On August 6, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline H (drug involvement and substance misuse), Guideline J (criminal conduct), and Guideline E (personal conduct). The DCSA acted under Executive Order (EO) 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 the adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

In Applicant's undated response to the SOR (Answer), she admitted all of the allegations. She provided no further explanation or information, and she did not attach any documentary evidence. She requested a decision by an administrative judge of the Defense Office of Hearings and Appeals based upon the written record in lieu of a hearing. (Answer)

On April 7, 2025, Department Counsel submitted a file of relevant material (FORM) and provided a complete copy to Applicant. Department Counsel's FORM included Government Exhibits (GE) 1 through 7. In the FORM, Department Counsel provided Applicant notice that failure to respond to the FORM may be considered a waiver of any objections to the admissibility of the evidentiary exhibits.

On April 18, 2025, Applicant received the FORM and its attachments. A cover letter included with the FORM advised Applicant that she had 30 days from the date of receipt to file any objections or to provide any additional information in support of her clearance eligibility. She did not submit a response to the FORM nor object to any of the Government's evidentiary exhibits. The case was assigned to me on July 11, 2025. Government's Exhibits 1 through 7 are admitted into evidence without objection.

Findings of Fact

Applicant is 46 years old. She graduated from high school in 1997. She has never married, and she has three children, ages 21, 19, and 17. Since December 2022, she has been employed full time as a supervisor with a DOD contractor. (GE 4-5)

On August 28, 2023, Applicant completed and submitted an Electronic Questionnaire for Investigations Processing (e-QIP). Under Section 22 – Police Record, she denied any drug-related offenses. Under Section 23 – Illegal Use of Drugs or Drug Activity, she reported that she had illegally used narcotics for about a month between October and November 2022. She denied purchasing illegal drugs in the previous seven years, and she denied using any other illegal drugs in the previous seven years. She reported that she had attended and completed a drug treatment program in November 2022. (GE 4)

On October 4, 2023, Applicant was interviewed by an authorized investigator on behalf of the Office of Personnel Management (OPM). During the security interview, she explained that she had been terminated from employment in October 2022 for bringing her former boyfriend onto company property. She admitted deliberately providing a false name for her boyfriend when she was questioned by company security. She admitted that she had been charged with two drug-related offenses in February 2002. She had been pulled over and a scale with cocaine residue and multiple empty Ziploc bags were found. She denied that the items were hers. The charges were later dismissed upon completion of one year of probation and payment of a \$700 fine. (GE 5-6)

During Applicant's security interview, she confirmed that she had used heroin nearly daily between October 2022 and November 2022. She purchased heroin from a local drug dealer. She was stressed at having to move out of her residence and having recently been terminated. She further admitted that she had also used marijuana and cocaine "only a couple times" during this period and had purchased marijuana and cocaine once each. She then went to a substance abuse treatment center in November 2022. (GE 5)

In Applicant's July 8, 2024 response to DOHA interrogatories, she adopted the summary of her security interview. She admitted that she had used heroin daily between August 2022 and October 31, 2022. She had used marijuana and cocaine on a few occasions at the end of October 2022. She expressed her intent to abstain from illegal drugs in the future. (GE 5)

Applicant's disclosures about her drug use and involvement on her e-QIP, during her security interview, and in her response to the interrogatories, substantially differ from the substance abuse history she relayed during her November 1, 2022 intake at the treatment facility. Upon intake, she provided her substance use as follows:

- (1) marijuana monthly between about 1997 and October 27, 2022;
- (2) crack cocaine monthly between about 2003 and October 30, 2022;
- (3) heroin daily from about April 2022 to October 31, 2022; and
- (4) Suboxone, without a prescription, daily from about November 2021 to April 2022.

During her intake, Applicant reported that in one instance in 2021 she had nearly overdosed from narcotics. She claimed to have abstained from illegal drugs between 2015 and 2020. As of November 2022, Applicant's former boyfriend and her mother used illegal drugs. She acknowledged that she remained "in love" with her former boyfriend and that she would likely use illegal drugs again if they reunited. Upon discharge from treatment, Applicant was diagnosed with (1) opioid use disorder, severe; (2) cannabis use disorder, severe; and (3) cocaine use disorder, severe. She was recommended to complete an intensive outpatient program "to maintain daily engagement and foster a peer and social support network." She was administratively discharged from the treatment program prior to completion and did not adhere to aftercare recommendations. According to the discharge records, her risk of relapse was high. (GE 7)

Policies

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(a), 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 sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive 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 is set out 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 25. The following are potentially applicable:

- (a) any substance misuse;

(c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia;

(d) diagnosis by a duly qualified medical or mental health profession (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of substance use disorder; and

(e) failure to successfully complete a drug treatment program prescribed by a duly qualified medical or mental health professional.

Applicant admitted her illegal use and purchase of heroin, cocaine, marijuana, and Suboxone. She entered a substance abuse treatment program, where she was diagnosed with (1) opioid use disorder, severe; (2) cocaine use disorder, severe, and (3) cannabis use disorder, severe. She did not complete the treatment program, and her risk of relapse was considered high. She was also charged with two drug-related offenses. AG ¶¶ 25(a), 25(c), 25(d), and 25(e) apply.

Conditions that could mitigate the drug involvement security concerns are provided under AG ¶ 26. 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.

Applicant admitted all of the allegations in the SOR, including her failure to complete the treatment program. She did not respond to the FORM. She has not provided evidence of disassociation from drug-using associates, changing environments, a pattern of abstinence, or a signed statement of intent to abstain from all drug involvement. She did not mitigate the drug involvement security concerns.

Guideline J: Criminal Conduct

The security concern for criminal conduct is set out in AG ¶ 30:

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations.

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying. The following is potentially applicable:

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

Applicant was charged with two drug-related criminal offenses in 2002, after she was found with drug paraphernalia. She was later sentenced to probation. She illegally used and purchased marijuana, cocaine, heroin, and Suboxone on many occasions over several years. AG ¶ 31(b) applies.

Conditions that could mitigate criminal conduct security concerns are provided under AG ¶ 32. The following are potentially applicable:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Applicant illegally used and purchased marijuana, cocaine, heroin, and Suboxone for several years. Her former boyfriend and her mother were also involved with illegal drugs. Although she entered drug treatment in 2022, she did not complete treatment, and she has not provided evidence of successful rehabilitation. Her risk of relapse was considered high, and she noted that she would likely use illegal drugs if she reunited with her former boyfriend. She did not mitigate the criminal conduct security concerns.

Guideline E: Personal Conduct

The concern under this guideline 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. . . .

The guideline notes several conditions that could raise security concerns under AG ¶ 16. The following disqualifying condition is 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.

In her Answer, Applicant admitted that she deliberately falsified her responses on her August 2023 e-QIP, in response to Sections 22 and 23. Specifically, she minimized the span of her heroin, marijuana, cocaine, and Suboxone use, she falsified that she had completed treatment, and she omitted her drug offenses. AG ¶ 16(a) applies.

The following personal conduct mitigating conditions under AG ¶ 17 are potentially relevant:

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

Applicant did not provide any further explanation for her e-QIP omissions and the unalleged falsifications during her OPM interview or in her Answer. Rather, in her response to DOHA interrogatories, she continued to minimize her drug involvement. Her treatment records reveal that her drug use has spanned multiple decades and not simply the one-month period she referenced in her e-QIP and confirmed during her security interview. She did not mitigate the personal conduct security concerns.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for access to classified information 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 Guideline H, Guideline J, Guideline E, and the factors in AG ¶ 2(d) in this whole-person analysis.

In late 2022, Applicant experienced hardship, including her termination and a period of homelessness. Notwithstanding this adversity, she has used illegal drugs for decades, and she deliberately provided false information about her drug involvement during the clearance investigation. She has not provided any explanations or information showing mitigation of the drug involvement, criminal conduct, and personal conduct security concerns. Eligibility for access to classified information is denied.

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.f.:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraph 2.a.:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraphs 3.a.-3.d.:	Against Applicant

Conclusion

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

Eric H. Borgstrom
Administrative Judge