



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



## **Appearances**

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

09/09/2025

## Decision

Lokey Anderson, Darlene D., Administrative Judge:

## **Statement of the Case**

On June 30, 2016; December 14, 2022; and September 10, 2024, Applicant submitted security clearance applications (e-QIPs). On March 27, 2025, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline H, Drug Involvement and Substance Misuse; and Guideline E, Personal Conduct. 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 DoD after June 8, 2017.

Applicant answered the SOR on May 21, 2025, and requested a hearing before an administrative judge. The case was assigned to me on June 30, 2025. The Defense Office of Hearings and Appeals issued a notice of hearing on July 1, 2025, and the hearing was convened as scheduled on August 13, 2025. At the hearing, the Government offered five exhibits, referred to as Government Exhibits 1 through 5, which were admitted without objection. The Applicant offered no exhibits. He testified on his own behalf. The record remained open until September 3, 2025, to allow Applicant to submit additional supporting documentation. Applicant had no submission. DOHA received the transcript of the hearing (Tr.) on August 25, 2025.

### **Findings of Fact**

Applicant is 31 years old. He is not married and has no children. He holds a Bachelor's degree. He is employed by a defense contractor as an Electrical Engineer. He is seeking to retain a security clearance in connection with his employment.

The SOR alleges that from approximately 2012 to August 2024, Applicant used marijuana on numerous occasions, and at times while employed in a sensitive position, one which required a security clearance. He admitted allegation 1.a., and denied allegations 1.b., 1.c., and 1.d., set forth in the SOR. Applicant has been working for his current employer since August 2024.

Applicant has worked in the defense industry and has held a security clearance since the age of 21. He has a history of marijuana use that began in 2012 that has continued off and on until 2024. At times, he has used marijuana while employed in a sensitive position. He first used marijuana in 2012, while in college in New York when marijuana use was illegal in that state at the time. He was in a fraternity and attended parties where marijuana was passed around at times. While in college, from 2012 to 2016, he stated that he used marijuana about two or three times. (Tr. pp. 19-20.)

Before completing his undergraduate studies, Applicant applied to enter the military's Officer's Candidate Training School (OCS). During the application process the recruiter asked him if he had ever used cannabis. Applicant told him that he had used it a couple of times at a party. The recruiter then said, okay so you've never used it. Applicant stated that is why he responded, "NO," to the question on the security clearance application. After being accepted into the Officer's Training program, but before he signed the contract, he was told by a mentor that his grades were too high to go into the military. So, he chose not to join the military, and started looking for a civilian position as an engineer working for a defense contractor. (Tr. pp. 22-23.)

Applicant began working during his senior year as an intern for a defense contractor that became a full-time position after graduation. Applicant completed a security clearance application dated June 30, 2016. In response to Section 23, of the application, which asks him if in the last seven years he has used any controlled

substances?, he answered, "NO." (Government Exhibit 3.) This was a false answer. Applicant had used marijuana while in college between 2012 and 2016 on several occasions at parties. Applicant acknowledged that there was a zero-tolerance drug policy at the company, and he stated that he did not use any marijuana while employed there. (Tr. p. 24.)

In about September 2017, Applicant moved from New York to California. Applicant started working for another defense contractor and his security clearance transferred over to that job. He stated that he may have used marijuana once or twice until the Covid pandemic. Then in late 2019 or early 2020, he was accepted into a Doctorate program at a university in California and he used marijuana regularly, a couple of times a week, to keep up his stamina. This regular use continued from about August 2020 to May 2022. He found that the marijuana use helped him with his studies. Applicant was also struggling with horrible migraines and instead of using ibuprofen, he used marijuana. (Tr. p. 28.) During this period, he purchased it from a dispensary and it was legal in California. There were also times he used it socially with friends, including with his girlfriend, and during outings with friends. He enjoyed marijuana.

On December 14, 2022, as part of his security clearance update, Applicant completed another security clearance application. Section 23, again asked, in the last seven years have you illegally used any drugs or controlled substances? Again, Applicant answered, "NO." (Government Exhibit 2.) He knew it was legal in California under state law, but that it was still illegal under Federal law. He stated that he was confused about whether it was legal for him to use, but he did not contact any one at his company for guidance. (Tr. p. 33.)

In June 2023, Applicant moved with his girlfriend to Washington State from California. There he purchased marijuana at dispensaries and used it a few times a week. In early 2024, he left the Doctorate program and stopped using marijuana at about the same time. Applicant stated that the last time he used marijuana while employed in a sensitive position while holding a security clearance was in May 2024. (Tr. p. 48.)

In June 2024, Applicant moved to Colorado. While attending a concert, he was offered a marijuana joint, and smoked it a couple of times. He believes the joint had a THC content of 20 percent to 30 percent. The marijuana made him feel good and helped him enjoy the music. (Government Exhibit 4.)

Applicant stated that he last used marijuana in August 2024, just before he started working for his current employer. (Tr. p. 48.) He stated that he has not used it because it was used to supplement an extreme amount of workload and since he is no longer in the doctorate program, he does not need to use it. (Tr. p. 38.)

On September 10, 2024, Applicant completed a third security clearance application. Section 23, again asked, in the last seven years have you illegally used

any drugs or controlled substances? Again, for the third time, Applicant was not truthful in answering the question and answered, "NO." (Government Exhibit 1.) Applicant explained that about three or four times a month he is around people who are using marijuana, but he does not use it. He stated that going forward he will not use it unless the Federal law changes and allows Federal workers to use it. (Tr. p. 40.)

In a sworn statement dated October 23, 2024, during his subject interview, Applicant was confronted about having a security clearance and using marijuana. He stated that he did not report this to his company or to anyone at work. Applicant stated that he did not believe that he needed to report any of his marijuana use since it was legal in the states where he used it. He also believed that his work environment was a "Don't ask, don't tell situation," and he did not see a problem with it since others also used marijuana. He stated that he was not informed that he was not allowed to use marijuana while holding a security clearance and did not know that it was against Federal law. (Government Exhibit 4.) However, Applicant acknowledged receiving annual security briefings since he started working in the defense industry. (Tr. pp. 65-67.)

Applicant stated that his performance reviews all show that he consistently exceeds expectations, and he has never received a security violation. He is physically and mentally healthy, and he loves his family. He also has family and friends in the military. (Tr. p. 41.) He further stated that he has hobbies, such as rock climbing, white water kayaking, he plays the guitar, plays chess, and has two dogs to take care of. He is busy with other things and no longer uses marijuana. (Tr. p. 50.)

## Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 AG ¶ 2 describing 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Directive ¶ E3.1.14, requires the Government to present evidence that establishes 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 applies for access to classified information 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 access to classified information. 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 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 relating to the guideline for 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 three conditions that could raise a security concern and may be disqualifying:

- (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.

The guideline at AG ¶ 26 contains conditions that could mitigate security concerns. None of the conditions are 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 used marijuana intermittently and sporadically throughout the years from 2012 through June 2024, at times while holding a security clearance and while employed in a sensitive position. He knew or should have known that marijuana use and any illegal drugs use is prohibited under Federal law and against Department of Defense regulations. Given the fact that he is not new to the defense industry and has held a security clearance for over ten years, and has received annual security briefings, he is expected to know and abide by DoD rules and regulations. Furthermore, his illegal drug use while possessing a security clearance and while employed in a sensitive position shows immaturity, irresponsibility, and unreliability. Even though he stated that he has now quit using marijuana under the circumstances, there is no strong evidence

to show that his word is truthful. His conduct shows immaturity and raises questions about his ability or willingness to comply with laws, rules, and regulations. He has not shown the requisite good judgment, reliability, and trustworthiness necessary to be eligible for access to classified information.

## **Guideline E- Personal Conduct**

The security concern 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 guideline notes several conditions that could raise security concerns under AG ¶ 16. Three 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

(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:

(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, 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.

There are conditions mitigating security concerns under AG ¶ 17. However, none of them are applicable here:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (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;
- (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;
- (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; and
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

Applicant was not honest and truthful with the Government when he answered questions on his security clearance applications dated June 30, 2016; December 14, 2022; and September 10, 2024, each time in response to questions about his illegal drug use. During this period, he was using marijuana intermittently and sporadically. He deliberately lied repeatedly in response to the questions. Therefore, his credibility remains in question. This conduct shows poor judgment, unreliability, and untrustworthiness. None of the mitigating conditions are applicable here.

### **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 facts and circumstances surrounding this case. I have incorporated my comments under Guidelines H, and E in my whole-person analysis. Based upon the facts and analysis set forth above, Applicant has failed to provide sufficient evidence to demonstrate that he meets the qualifications for a security clearance.

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 Drug Involvement and Substance Misuse, and 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 J: AGAINST APPLICANT**

**Paragraph 2, Guideline E: AGAINST APPLICANT**

**Subparagraphs 2.a through 2.d                                  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 Applicant national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson  
Administrative Judge