



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



In the matter of:

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ISCR Case No. 24-01023

Applicant for Security Clearance

**Appearances**

For Government: Carroll J. Connelley, Esq., Department Counsel

For Applicant: Grant Couch, Esq.

07/31/2025

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**Decision**

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HARVEY, Mark, Administrative Judge:

Security concerns arising under Guideline H (drug involvement and substance misuse) are mitigated; however, Guideline E (personal conduct) security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On May 15, 2019, and July 18, 2023, Applicant completed and signed Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance applications (SCA). (Government Exhibit (GE) 1; GE 4) On November 26, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security

clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guidelines H and E. (HE 2) On December 10, 2024, Applicant provided a response to the SOR and requested a hearing. (HE 3) On January 16, 2025, Department Counsel was ready to proceed.

On February 21, 2025, the case was assigned to me. On February 26, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing for May 29, 2025. (HE 1) The hearing was held as scheduled.

Department Counsel offered five exhibits into evidence; Applicant offered four exhibits into evidence; there were no objections; and I admitted all proffered exhibits into evidence. (Transcript (Tr.) 6, 9-10; GE 1-GE 5; Applicant Exhibits (AE) A-AE D) On June 11, 2025, DOHA received a transcript of the hearing. No exhibits were received after the hearing.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

### **Findings of Fact**

In Applicant's SOR response, he admitted the allegations in SOR ¶¶ 1.a and 2.a. (HE 3) His admissions are accepted as findings of fact. Additional findings follow.

Applicant is a 31-year-old engineer who has been employed by a government contractor for 18 months. (Tr. 12-13) His previous employment was working as an engineer for the Navy for four years. (Tr. 13-14) He initiated a patent, and he received two promotions while working for the Navy. (Tr. 14) In 2019, he received a bachelor's degree with a major in applied physics and a bachelor's degree with a major in mechanical engineering. (Tr. 13, 21) His work performance has been exemplary. (Tr. 13-14) He received a promotion at his current employment in 2025. (AE D)

Applicant has held a security clearance for five and one half years. (Tr. 14, 21-22) He has never received disciplinary action from his employer or been investigated for a security violation. (Tr. 14)

### **Drug Involvement and Substance Misuse**

SOR ¶ 1.a alleges, and Applicant admitted he used marijuana with varying frequency from about 2020 through about 2021 while in a sensitive position, one in which he held a security clearance. (SOR response)

Applicant used marijuana every month or so in college. (Tr. 30) He does not associate with marijuana users from college. (Tr. 30)

Applicant said he used marijuana in 2020 and 2021 because "I had a lapse in judgment. It was time during COVID and isolation. I was bored and made a [bad] decision

at the time." (Tr. 15) He knew that marijuana use was federally illegal at the time he used marijuana. (Tr. 22; GE 3)

On May 15, 2025, Applicant provided a urine sample for drug testing. (AE B) The sample he provided was negative for all illegal substances, including marijuana. (Tr. 16; AE B)

On May 19, 2025, he completed "The Truth About Marijuana" course. (AE C) On May 19, 2025, Applicant signed a notarized statement of his intent to abstain from all drug involvement and substance misuse and acknowledged that any future involvement or misuse is grounds for revocation of national security eligibility. (Tr. 16; AE A)

Recreational marijuana use has not been legalized in Applicant's state of residence. (Tr. 26) Applicant is not friends with the people who provided marijuana to him. (Tr. 16) He does not have marijuana in his residence, and he is not tempted to use marijuana. (Tr. 17, 27) He does not associate with anyone who he knows uses illegal drugs, and he does not go to locations where illegal drugs are used. (Tr. 17)

## Personal Conduct

Applicant completed a May 15, 2019 SCA. In Section 23, "**Illegal Use of Drugs or Drug Activity:**" "In the last seven (7) years, have you illegally used any drugs or controlled substances?" Applicant answered "No." (GE 4) He also answered "No" to the question about illegal purchase, receipt, and handling of any drug or controlled substance in the previous seven years. (GE 4) At his hearing, he initially said he did not use illegal drugs in the previous seven years. (Tr. 28)

Applicant graduated from college in 2019, and he admitted at his hearing that he illegally purchased, possessed, and used marijuana every month or so in college. (Tr. 30) His failure to disclose his marijuana involvement in college in his 2019 SCA is not alleged in the SOR, and it will not be considered for disqualification purposes.

SOR ¶ 2.a alleges and Applicant admitted that he falsified an answer on his July 18, 2023 SCA. (GE 1) In response to the following question in "**Section 23, Illegal Use of Drugs or Drug Activity:**" "Have you ever illegally used or otherwise been illegally involved with a drug or controlled substance while possessing a security clearance . . . ?" Applicant answered "No." (GE 1)

As indicated previously, Applicant possessed and used marijuana in 2020 and 2021. His September 12, 2023 Office of Personnel Management (OPM) summary of interview states:

DEVELOPED ILLEGAL ACTIVITY/DRUG USE: Subject provided Subject did not list this on the security questionnaire due to fear more so than anything and realized the magnitude and the necessity to be forthcoming prior to meeting with the Investigator and wanted to ensure to be transparent. Subject provided no additional information. (GE 2 at 6)

Applicant explained his omission of marijuana possession and use on his 2023 SCA as follows:

At the time it was another lapse in judgment, and [I] did not quite understand the severity of immediately reporting that at the time of completing the e-QIP, but I had an understanding of the severity of the infringement at the time I met with my security investigator in person, at which point I disclosed the information. (Tr. 18)

Applicant said that in a phone call a “week or so” before the OPM investigator interviewed him, he told the investigator that he had some marijuana use to disclose. (Tr. 25) He was unsure of the timeline. (Tr. 25) He said he voluntarily disclosed the truth to the investigator before being confronted with it. (Tr. 18) He promised to answer questions on his SCA truthfully in the future. (Tr. 18) He did not consider going to his facility security officer or anyone else and disclosing his falsification of his SCA before his OPM interview. (Tr. 24)

Applicant’s September 12, 2023 OPM summary of interview states:

Subject volunteered that Subject had not listed two instances of purchasing and using marijuana and edibles when filling out the security questionnaire. Subject provided that both instances were while Subject was holding a security clearance. Subject provided the first time was in summer 2020, Subject purchased about half a gram of marijuana and smoked it two to three times over about a month. Subject reported the second time was in summer 2021, Subject purchased a small amount of edibles, less than five mgs. Subject reported both times Subject was by self when purchasing and when using. Subject did not know the individual Subject purchased from. Subject provided Subject used the marijuana out of boredom; Subject was home during the pandemic alone. Subject provided marijuana and edibles make him feel calmer and then gives the Subject anxiety. Subject has not received treatment for substance use. Subject reports there is zero chance this will occur again, Subject has too many goals and understands the gravity of the situation and this does not fit Subject’s lifestyle. (GE 2 at 4-5)

## Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy” to have access to such information. *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. Thus, this decision should not be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## Analysis

### Drug Involvement and Substance Misuse

AG ¶ 24 provides the security concern arising from drug involvement and substance misuse stating:

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 provides conditions that could raise a security concern and may be disqualifying in this case: "(a) any substance misuse (see above definition)"; "(c) illegal possession of a controlled substance . . . ."; and "(f) any illegal drug use while granted access to classified information or holding a sensitive position." The record establishes AG ¶¶ 25(a), 25(c), and 25(f). Additional discussion of the disqualifying conditions is in the mitigation section, *infra*.

AG ¶ 26 lists conditions that could mitigate drug involvement and substance misuse security concerns:

- (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;
- (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;
- (c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and
- (d) satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2, [App. A] ¶ 2(b).

Applicant admitted that he possessed and used marijuana. Marijuana is listed on Schedule I of the Controlled Substances Act. See 21 U.S.C. § 812(c); Drug Enforcement Administration listing at <https://www.dea.gov/drug-information/drug-scheduling> (information link on web page). His possession of marijuana is a federal crime. His drug offenses occurred while he attended college (before or during 2019, when he graduated from college), in 2020, and in 2021.

The Security Executive Agent (SecEA) promulgated clarifying guidance concerning marijuana-related issues in security clearance adjudications as follows:

[Federal] agencies are instructed that prior recreational marijuana use by an individual may be relevant to adjudications but not determinative. The SecEA has provided direction in [the adjudicative guidelines] to agencies that require them to use a "whole-person concept." This requires adjudicators to carefully weigh a few variables in an individual's life to determine whether that individual's behavior raises a security concern, if at all, and whether that concern has been mitigated such that the individual may now receive a favorable adjudicative determination. Relevant mitigations include, but are not limited to, frequency of use and whether the individual can demonstrate that future use is unlikely to recur, including by signing an attestation or other such appropriate mitigation. Additionally, in light of the long-standing federal law and policy prohibiting illegal drug use while occupying a sensitive position or holding a security clearance, agencies are encouraged to advise prospective national security workforce employees that they should refrain from any future marijuana use upon initiation of the national security vetting process, which commences once the individual signs the certification contained in the Standard Form 86 (SF-86), Questionnaire for National Security Positions.

*Security Executive Agent Clarifying Guidance Concerning Marijuana for Agencies Conducting Adjudications of Persons Proposed for Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (Dec. 21, 2021) at 2 (quoted in ISCR Case No. 20-02974 at 3-4 (App. Bd. Feb. 1, 2022)).

Applicant had a security clearance from 2019 to present, and he used THC in various forms in 2020 and 2021. His marijuana possession and use were not permitted

under state law. He possessed and used marijuana while employed by the Navy, and he knew this drug involvement was prohibited by the Navy and federal law. He is credited with not using marijuana from the summer of 2021 to May 29, 2025, which was the date of his hearing. His most-recent marijuana use was almost four years before his hearing.

Applicant disclosed his involvement with illegal drugs during the security clearance process. His possession and use of illegal drugs were not discovered through a polygraph test, a urinalysis test, or a law enforcement investigation. He promised not to use illegal drugs in the future. He provided 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 while holding a security clearance and after completion of an SCA. In ISCR Case No. 22-02623 at 4 (App. Bd. Jan. 24, 2024), the DOHA Appeal Board discussed the term of “holding a sensitive position” as follows:

For purposes of national security eligibility determinations, the Directive defines “sensitive position” as:

Any position within or in support of an agency in which the occupant could bring about, by virtue of the nature of the position, a material adverse effect on the national security regardless of whether the occupant has access to classified information, and regardless of whether the occupant is an employee, military service member, or contractor.

SEAD 4, ¶ D.8. We have previously held that this broad language is “designed to be inclusive and encompass a wide range of positions, including those that require eligibility for access to classified information (i.e., a security clearance).” ISCR Case No. 22-01661 at 4 (App. Bd. Sep. 21, 2023). The term “sensitive position” is not so broad, however, to encompass any and all employment with a defense contractor.

Applicant held a sensitive position, which required a security clearance, as discussed, *supra*, when he used marijuana in 2020 and 2021.

At his hearing, Applicant admitted that he used marijuana every month or so in college. He also failed to disclose this marijuana use on his 2019 SCA. These circumstances were not alleged in the SOR. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

- (a) to assess an applicant’s credibility; (b) to evaluate an applicant’s evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation;

(d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3.

*Id.* (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See also ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n.1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). These non-SOR allegations will only be considered for the five purposes previously listed.

The DOHA Appeal Board cited the importance of consideration of “the changing landscape of marijuana law and . . . of the Director of National Intelligence’s *Clarifying Guidance Concerning Marijuana*.” ISCR Case No. 23-02402 at 4 (App. Bd. Feb. 19, 2025). See also ISCR Case No. 24-00914 at 3 (App. Bd. Apr. 9, 2025) (noting the “evolving landscape of marijuana law and policy,” “the resulting increasing prevalence of marijuana use,” and in some instances “recreational marijuana use deserves less, or even no negative inference on judgment.”).

Several factors are important in a non-exclusive list concerning the assessment of mitigation of marijuana possession and use: the duration of abstinence; state law; the employee’s company’s policy; use after completion of an SCA; use while holding a sensitive position; use while having access to classified information; and broken promises not to use in the future. See ISCR 24-01001 (App. Bd. Apr. 22, 2025) (affirming denial of security clearance; factors: one year of abstinence from marijuana use; used marijuana after completion of an SCA; used marijuana after promising not to use marijuana on SCA and during an OPM interview); ISCR Case No. 24-1005 (App. Bd. Apr. 11, 2025) (denial of security clearance reversed; factors: two years of abstinence from marijuana use; no marijuana use while holding a security clearance or occupying sensitive position; marijuana possession and use was not illegal under state law; no marijuana use after notice that marijuana use was federally illegal); ISCR Case No. 22-02601 at 3 (App. Bd. Feb. 22, 2024) (reversing denial of security clearance; factors: marijuana abstinence 3.5 years before hearing; marijuana use while holding a security clearance; marijuana use legal under state law).

For his marijuana use in 2020 and 2021, state law did not permit Applicant’s possession and use of marijuana. Applicant was aware that he was not permitted to possess and use marijuana by the Navy and federal law. There is no evidence of broken promises not to use marijuana in the future. He occupied a sensitive position when he used marijuana.

AG ¶¶ 26(a) and 26(b) apply. Applicant established a pattern of abstinence of marijuana possession and use. The time between Applicant’s involvement with marijuana and his hearing was almost four years and this period is sufficient under all of the circumstances. His marijuana use does not cast doubt on his current reliability, trustworthiness, and judgment. Guideline H security concerns are mitigated.

## Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern stating:

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 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 provides one personal conduct condition that could raise a security concern and may be disqualifying in relation to Applicant's provision of inaccurate information on his SCA:

(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.

AG ¶ 16(a) applies. Applicant admitted that he failed to disclose information about his history of marijuana possession and use in 2020 and 2021 on his July 18, 2023 SCA. Section 23, **Illegal Use of Drugs or Drug Activity**, has clear, easy to understand questions about marijuana possession and use, and he falsely denied marijuana possession and use while holding a security clearance and during the previous seven years. He knew his answers were incorrect at the time he provided them. His decision in 2023 not to disclose negative information on his SCA about his involvement with marijuana was made because he was worried about the result if he disclosed his marijuana involvement, and he considered it to be a lapse in judgment. AG ¶ 17 provides conditions that could mitigate security concerns in this case:

(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;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress; and

(f) the information was unsubstantiated or from a source of questionable reliability.

Applicant asserted that AG ¶ 17(a) mitigates the falsification of his 2023 SCA because he disclosed his marijuana possession and use about six weeks after he completed his 2023 SCA to an OPM investigator.

In ISCR Case No. 22-02601 at 6 (App. Bd. Feb. 22, 2024), the Appeal Board considered a case where an Applicant failed to disclose her marijuana use on her SCA, and then disclosed her marijuana use during her follow-up OPM interview. The Appeal Board reversed the denial of her security clearance and reasoned:

Additionally, while Applicant could have reported the omission sooner to her FSO, she was not obligated to and, again, appears to have been unaware of having such a resource. Simply put, there is no evidence that Applicant knew of an opportunity to correct her omission prior to her interview. Considering the foregoing, the record does not support the Judge's conclusion that Applicant should have corrected her omission prior to her interview. Applicant's decision to wait what was ultimately seven weeks to report the omission during her interview was not in conflict with any known duty to self-report, was reasonable considering the circumstances, and amounts to a prompt, good-faith correction that should have been afforded mitigation under AG ¶ 17(a).

The decision in ISCR Case No. 21-00010 at 2-3 (App. Bd. June 2, 2022) is more on point under the circumstances. The Administrative Judge in ISCR Case No. 21-00010, denied that Applicant's security clearance because "In November 2011, Applicant falsified his SCA by failing to disclose his marijuana and cocaine use. In May 2020, Applicant falsified his SCA by failing to disclose his cocaine use." *Id.* at 2. The Appeal Board reviewed the applicability of AG ¶ 17(a) and noted:

[Applicant] contends that he disclosed his marijuana use on the SCA and then volunteered his cocaine use at his clearance interview two months later, in July 2020. However, the security concerns raised by an applicant's falsifications are not necessarily mitigated by the fact that the applicant voluntarily disclosed his falsifications to an investigator upon interview. . . . The Judge's determination that this repeated falsification in 2020 was willful

and was not mitigated by the subsequent disclosure is amply supported by the evidence of record.

In the case at issue, Applicant falsified SCAs in 2019 and 2023 regarding his marijuana use. His disclosure six weeks after his later SCA to an OPM investigator is praiseworthy, and it warrants substantial mitigation. However, none of the mitigating conditions fully mitigate personal conduct security concerns.

### **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 the 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), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall commonsense judgment based upon careful consideration” of the guidelines and the whole-person concept. My comments under Guidelines H and E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 31-year-old engineer who has been employed by a government contractor for 18 months. His previous employment was working as an engineer for the Navy for four years. He initiated a patent, and he received two promotions while working for the Navy. In 2019, he received a bachelor's degree with a major in applied physics and a bachelor's degree with a major in mechanical engineering. His work performance has been exemplary. In 2025, he received a promotion at his current employment. Applicant has held a security clearance for five and one half years. He has never received disciplinary action from his employer or been investigated for a security violation. He has outstanding potential for future service and contributions to his employer. His workplace accomplishments support a whole-person conclusion that he is an intelligent, reliable, trustworthy, diligent, and responsible employee.

The disqualifying and mitigating information is discussed in the drug involvement, substance misuse, and personal conduct sections, *supra*. Intentional falsifications cut to the heart of the security clearance process. It is serious because a person should not receive access to classified information based on false information. A person who lies during the security-clearance process is not trustworthy. They cannot be relied upon to

report a security infraction or violation. His falsification of two SCAs is more persuasive than the mitigating information in this case.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. “[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant’s eligibility for access to classified information.” ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No. 12-00270 at 3 (App. Bd. Jan. 17, 2014)).

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board’s jurisprudence, to the facts and circumstances in the context of the whole person. Applicant mitigated drug involvement and substance misuse security concerns; however, personal conduct security concerns are not mitigated.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more of an established history of honest disclosure of security-related information, he may well demonstrate persuasive evidence of his security clearance worthiness.

### **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: Subparagraph 1.a:	FOR APPLICANT For Applicant
Paragraph 2, Guideline E: Subparagraph 2.a:	AGAINST APPLICANT Against Applicant

### **Conclusion**

Considering all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Mark Harvey  
Administrative Judge