

***Adjudicative Guideline H: Drug
Involvement and Substance
Misuse Short
Student Guide***

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Introduction

Welcome to the Adjudicative Guideline H: Drug Involvement and Substance Misuse Short. In this course you will review two applicants' completed background investigation files and make an eligibility determination.

- Objective: Review completed national security investigative files and make a national security eligibility determination based on Guideline H: Drug Involvement and Substance Misuse.

Meet Joseph and Jada

Meet Joseph DeAngelo. He is a 53 year old communication specialist employed by a private company. Joseph was recently hired by a government agency to work on a new project. The position requires Secret eligibility and access. Joseph submitted the required paperwork to initiate his national security investigation through his security office.

Now let's meet Jada Davis. She is a 24 year old human resources specialist employed by a U.S. Government contractor. Jada recently graduated from college one year ago and is applying for her first job in the government. The position requires Secret eligibility and access. Jada submitted paperwork to initiate her national security investigation through her security office.

These cases have been assigned to you. Before reviewing Joseph and Jada's completed investigation files and making a national security eligibility determination, let's review some background information on the adjudicator's role in examining cases and National Security Adjudicative Guideline H: Drug Involvement and Substance Misuse.

Adjudicator's Role in Examining Cases

The most important part of an adjudicator's job is to examine a sufficient period of a person's life to determine whether the person is an acceptable security risk. This task should never be taken lightly, as cleared personnel may eventually have access to classified information. Adjudicators take into consideration all relevant information, both favorable and unfavorable from a person's past and present to form the "whole-person" concept, when making an eligibility determination.

Factors to Consider When Adjudicating

In evaluating the relevance of an individual's conduct, the adjudicator should consider the:

- Nature, extent, and seriousness of the conduct;
- Circumstances surrounding the conduct, to include knowledgeable participation;
- Frequency and recency of the conduct;
- Individual's age and maturity at the time of the conduct;
- Extent to which participation is voluntary;
- Presence or absence of rehabilitation and other permanent behavior changes;
- Motivation for the conduct;
- Potential for pressure, coercion, exploitation, or duress; and
- Likelihood of continuation or recurrence.

Guidance Documentation

There are three primary sources of guidance related to Guideline H:

- Security Executive Agent Directive 4 - National Security Adjudicative Guidelines
- Director of National Intelligence, or DNI, Memorandum - 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
- Office of the Under Secretary of Defense, or OUSD Memorandum - Guidance Concerning Marijuana for Agencies Conducting Adjudications.

You can access SEAD 4 in the Resources, as needed.

SEAD 4 Guideline H

Let's take a closer look at one of the primary sources of guidance, SEAD 4 Guideline H. Guideline H highlights the conditions that could raise a security concern as it relates to the illegal use of controlled substances.

Guideline H: Drug Involvement and Substance Misuse, states 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.

Clarifying Guidance – Marijuana/CBD

Let's review some of the clarifying guidance from the DNI Memorandum and the OUSD Memorandum. Marijuana remains a controlled substance despite state laws that legalize or decriminalize it. Prior recreational use remains relevant to the whole-person concept but does not, on its own, necessitate an unfavorable adjudication decision. This includes the use of CBD products and hemp derivatives that, knowingly or unknowingly, contain greater than 0.3% tetrahydrocannabinol (THC).

Relevant mitigations include, but are not limited to, frequency of use and whether the individual can demonstrate that future use is unlikely to recur.

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.

Clarifying Guidance – CBD

The use of CBD products may be relevant to adjudications under SEAD 4. The Agricultural Improvement Act of 2018 excludes hemp from the definition of marijuana within the Controlled Substances Act.

However, products that contain greater than 0.3 percent of delta-9 THC—a psychoactive ingredient in marijuana—do not meet the definition of hemp. Therefore, even if a product is labeled “hemp-derived,” it is still considered marijuana under federal law and policy if it contains greater than 0.3 percent THC. This means that any product containing a higher concentration than 0.3 percent THC remains illegal under Federal law, regardless of whether the label calls it hemp. It is also important to note that the Food and Drug Administration (FDA) does not certify the levels of THC in CBD products. Since the percentage of THC cannot be guaranteed, CBD products continue to pose a concern under Federal law.

Investigative File Review – Joseph

Now that you have reviewed the guideline and guidance, your task is to review Joseph’s and Jada’s completed background investigation files and make an eligibility determination. Please note that other adjudicative guidelines may apply. In this case you will focus only on Guideline H: Drug Involvement and Substance Misuse.

Let’s start with Joseph. While reviewing Joseph’s investigative file and Standard Form (SF 86), you read that he has purchased and used psychedelic mushrooms approximately 1 to 2 times a year during the past 28 years.

Take a moment to review SEAD 4 Guideline H, if needed. Then, review the details in Joseph’s file below.

Joseph DeAngelo: Investigative File

- During the subject interview, Joseph stated that he first purchased and used psychedelic mushrooms 28 years ago while in graduate school.
- Joseph stated, as listed on his SF 86, he has used mushrooms approximately 1 to 2 times a year for the past 28 years. He volunteered that his last use occurred at a gathering with friends 2 weeks before submitting his security paperwork.
- Joseph stated that he will scale his use down to once per year and it will not interfere with his job. He feels mushrooms should be legalized at the Federal level, and indicated what he does during his off time is not any of the government's business.

Knowledge Check – Security Concerns

Does the information in Joseph’s file raise a valid security concern under Guideline H: Drug Involvement and Substance Misuse?

Review Joseph DeAngelo: Investigative File and select the disqualifier(s) that apply to Joseph’s case. Check your answer in the Answer Key at the end of this Student Guide.

- Any substance misuse
- Testing positive for an illegal drug
- Illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia
- Diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist or licensed clinical social worker) of substance use disorder

- Failure to successfully complete a drug treatment program prescribed by a duly qualified medical or mental health professional
- Any illegal drug use while granted access to classified information or holding a sensitive position
- Expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse
- None of the above

Knowledge Check – Mitigators

Joseph's use of psychedelic mushrooms is a security concern, but each Adjudicative Guideline has specific mitigating conditions that sometimes allow an applicant to be cleared in spite of the concern. Do any mitigating conditions apply to Joseph's case?

Review Joseph DeAngelo: Investigative File and select the mitigator(s) that apply to Joseph's case. Check your answer in the Answer Key at the end of this Student Guide.

- 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.
- 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;
 - (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.
- Abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended.
- 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.
- None of the above.

Summary – Joseph

The information from Joseph's background investigation raised a concern under Guideline H. This concern cannot be mitigated. Although Joseph disclosed he intended to slow down his use of illegal drugs, his long history of illegal drug use, and his intent to continue drug use raise questions about his reliability and trustworthiness as well as his ability or willingness to comply with laws, rules, and regulations.

Additionally, please note that the drug involvement and substance misuse guideline applies to Federal laws such as the Controlled Substance Act of 1970 and not state or local government laws, which may differ.

When making a national security determination, remember that an investigative file may have multiple adjudicative concerns. This training Short focuses on National Security Adjudicative Guideline H.

Investigative File Review – Jada

Now let's look at Jada. Your task is to review Jada's completed investigation files and make a national security determination. Please note that other adjudicative guidelines may apply. In this case you will focus only on Guideline H: Drug Involvement and Substance Misuse.

While reviewing Jada's investigative file and SF 86, you read that she occasionally used marijuana in college. Take a moment to review SEAD 4 Guideline H, if needed. Then, review the details in Jada's file below.

Jada Davis: Investigative File

- During the subject interview Jada indicated that she started smoking marijuana occasionally on the weekends during her freshman year in college.
- Jada has never purchased marijuana; it was always freely provided to her at parties.
- Jada also stated that she stopped smoking marijuana during her senior year and has not smoked marijuana since graduation. She knew she wanted to pursue a career in the government and marijuana use is prohibited.
- Since she has graduated, Jada no longer attends college parties and has no contact with the individuals that provided her marijuana in college.

Knowledge Check – Security Concerns

Does the information in Jada's file raise a valid security concern under Guideline H: Drug Involvement and Substance Misuse?

Review Jada Davis: Investigative File and select the disqualifier(s) that apply to Jada's case. Check your answer in the Answer Key at the end of this Student Guide.

- Any substance misuse
- Testing positive for an illegal drug
- Illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia
- Diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist or licensed clinical social worker) of substance use disorder
- Failure to successfully complete a drug treatment program prescribed by a duly qualified medical or mental health professional
- Any illegal drug use while granted access to classified information or holding a sensitive position

- Expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.
- None of the above

Knowledge Check – Mitigators

Jada's use of marijuana is a security concern, but each Adjudicative Guideline has specific mitigating conditions that sometimes allow an applicant to be cleared in spite of the concern. Do any mitigating conditions apply to Jada's case?

Review Jada Davis: Investigative File and select the mitigator(s) that apply to Jada's case. Check your answer in the Answer Key at the end of this Student Guide.

- 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.
- 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;
 - (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.
- Abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended.
- 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.
- None of the above.

Summary – Jada

The information from Jada's background investigation raised a concern under Guideline H. This concern can be mitigated. Jada's use of marijuana occurred in the past, and she has not used marijuana since her senior year of college. In addition, her use occurred when she was younger and less mature, and she has no intent to use drugs in the future.

Additionally, please note that the drug involvement and substance misuse guideline applies to Federal laws such as the Controlled Substance Act of 1970 and not state or local government laws, which may differ.

When making a national security determination, remember that an investigative file may have multiple adjudicative concerns. This training Short focuses on National Security Adjudicative Guideline H.

Conclusion

Congratulations! You have completed the Adjudicative Guideline H: Drug Involvement and Substance Misuse Short. You should now be able to review completed background investigative files and make an eligibility determination based on Guideline H. To review Guideline H: Drug Involvement and Substance Misuse, access the Job Aid in the [Course Resources](#).

For more information on the other Adjudicative Guidelines, please see the other Shorts developed by CDSE.

Appendix A: Answer Key

Security Concerns – Joseph

Does the information in Joseph’s file raise a valid security concern under Guideline H: Drug Involvement and Substance Misuse?

- Any substance misuse (correct response)
- Testing positive for an illegal drug
- Illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia (correct response)
- Diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist or licensed clinical social worker) of substance use disorder
- Failure to successfully complete a drug treatment program prescribed by a duly qualified medical or mental health professional
- Any illegal drug use while granted access to classified information or holding a sensitive position
- Expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse (correct response)
- None of the above

Feedback: *The conditions that raise a security concern and may be disqualifying in Joseph’s case include substance misuse, illegal possessing/purchasing of a controlled substance, and expressed intent to continue.*

Mitigators – Joseph

Joseph’s use of psychedelic mushrooms is a security concern, but each Adjudicative Guideline has specific mitigating conditions that sometimes allow an applicant to be cleared in spite of the concern. Do any mitigating conditions apply to Joseph’s case?

- 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.
- 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;
 - (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.
- Abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended.

- 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.
- None of the above. (correct response)

Feedback: *The disqualifying conditions cannot be mitigated in this case.*

Security Concerns – Jada

Does the information in Jada’s file raise a valid security concern under Guideline H: Drug Involvement and Substance Misuse?

- Any substance misuse (correct response)
- Testing positive for an illegal drug
- Illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia
- Diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist or licensed clinical social worker) of substance use disorder
- Failure to successfully complete a drug treatment program prescribed by a duly qualified medical or mental health professional
- Any illegal drug use while granted access to classified information or holding a sensitive position
- Expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.
- None of the above

Feedback: *The condition that raised a security concern and may be disqualifying in Jada’s case includes substance misuse.*

Mitigators – Jada

Jada’s use of marijuana is a security concern, but each Adjudicative Guideline has specific mitigating conditions that sometimes allow an applicant to be cleared in spite of the concern. Do any mitigating conditions apply to Jada’s case?

- 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. (correct response)
- 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: (correct response)
 - (1) disassociation from drug-using associates and contacts;
 - (2) changing or avoiding the environment where drugs were used;

- (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.
- Abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended.
 - 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.
 - None of the above.

Feedback: *The disqualifying conditions can be mitigated in this case because the behavior occurred so long ago and seems unlikely to recur. In addition, Jada acknowledged her drug use and provided evidence of actions to overcome this problem including disassociation from drug-using contacts and changing her environment.*