

CONSIDERATIONS FOR DISCLOSING DRUG HISTORY AND CRIMINAL CONDUCT WHEN APPLYING FOR A NATIONAL SECURITY CLEARANCE

In applying for a national security clearance, illegal drug use and criminal conduct are significant factors in the government's determination of whether to grant an application. Criminal activity and illegal drug use may cast doubt on a person's judgment, reliability, trustworthiness, and willingness to follow the rules and regulations that protect classified information. Further, illegal drug involvement may make a person susceptible to blackmail. Alcohol abuse also can raise similar security concerns.

1. Should I apply for a security clearance even if I have a prior criminal conviction or a history that involves past drug use?

Yes, adjudicators will consider both mitigating and aggravating factors in connection with prior conduct. In addition to the circumstances surrounding the incident(s), the level of seriousness of the offense(s), how recently it occurred, and frequency of the conduct, other mitigating factors, collectively, can lessen the seriousness of prior actions. For example, applicants can consider certain mitigation options, such as completing a drug education course, obtaining an evaluation from a qualified professional, engaging in documented drug testing to bolster the applicant's claim of sobriety, informing others likely to be interviewed in the investigation process of the applicant's intention to no longer engage in the problematic behavior, and signing a statement of intent to no longer engage in an illegal activity. The applicant should articulate a rationale for the change in behavior beyond a desire to obtain a security clearance. For more information about how drug involvement may be considered during the security clearance process, review the [National Security Adjudicative Guidelines](#).

2. Does current drug involvement that is legal in my state disqualify my candidacy?

If the drug is illegal under federal law, improper or illegal involvement may be disqualifying. For example, while some states have legalized various aspects of marijuana use, under federal law, marijuana remains classified as a Schedule I drug and is criminally prosecuted. Notably, according to news reports, some federal agencies have informally interpreted drug involvement to include an investment in the cannabis industry. Therefore, applicants should also review their investments.

3. The serious incident or behavior occurred a long time ago, is it still relevant?

In general, if the offense or illegal drug use or activity occurred within the past 7 years, a candidate should truthfully disclose all information about the incident or behavior. When adjudicators review a candidate's criminal conduct or illegal drug use, they determine relevancy by analyzing whether the behavior happened so long ago or was so infrequent to not call into question the candidate's reliability, trustworthiness, or good judgment. Adjudicators similarly review whether the candidate has taken responsibility and provided evidence of actions taken to overcome the problem, or whether the candidate has completed a prescribed drug treatment program.

4. The drug use in question was a one-time incident, should I report it?

Yes, in general, all illegal drug use and activity from the last 7 years must be reported to avoid an ethical violation or worse, criminal prosecution. Past drug use is evaluated in part based on frequency because frequency of abuse is a significant indicator of the likelihood of user dependency. Adjudicators consider six or fewer uses, or more intensive use within only one month to be "experimental use;" use once a month or less describes "occasional use;" use more than once a month but not more than once a week describes "frequent use;" and use more than once a week would qualify as "regular use." The more regular the use, the more likely the drug involvement could derail a security clearance. Regardless of frequency, the applicant must disclose any usage accurately. For more information, see the [Adjudicative Desk Reference](#).

5. If a conviction is sealed or has been expunged, do I still need to report it?

[The Questionnaire for National Security Positions](#) permits candidates to withhold information about convictions arising under the Federal Controlled Substances Act ("CSA") where a candidate's conviction has been subsequently expunged under federal law. However, a candidate who may be eligible to withhold a federal conviction and expungement must still disclose any illegal drug use and activity if it occurred within the past 7 years. As a general rule, over disclosure is the best practice for decreasing the risk of being cited for both the conduct and the act of dishonesty on the application.