

**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing)	
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Filing Date: October 3, 2024)	Case No.: PSH-25-0007
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_____)	

Issued: May 8, 2025

Administrative Judge Decision

Erin C. Weinstock, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."¹ As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should be granted.

I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires him to hold an access authorization. Exhibit (Ex.) 1 at 7.² In July 2023 the Individual completed a Questionnaire for National Security Positions (QNSP) in which he disclosed several alcohol-related incidents, including one incident that led to hospitalization and another that resulted in his being arrested for a car accident that occurred while he was under the influence of alcohol. Ex. 10 at 98, 100. As a result of the Individual's disclosures, the Local Security Office (LSO) issued the Individual a Letter of Interrogatory (LOI), which the Individual completed on March 18, 2024. Ex. 7. The LSO asked him to complete a second LOI (second LOI) on March 19, 2024, in which the Individual disclosed that he regularly consumed two to eight standard drinks per day on Fridays and Saturdays. Ex. 6. After receipt of his responses, the LSO requested that the Individual undergo a psychiatric evaluation in July 2024, by a DOE-consultant Psychiatrist (DOE Psychiatrist), which resulted in a finding that the Individual met sufficient *Diagnostic and Statistical Manual of Mental*

¹ The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

² References to the Local Security Office's (LSO) exhibits are to the exhibit number and the Bates number located in the top right corner of each exhibit page.

Disorders – Fifth Edition (DSM-5) criteria for a diagnosis of Alcohol Use Disorder (AUD), moderate, in sustained remission. Ex. 8 at 63. The DOE Psychiatrist also determined that the Individual “habitually consume[s] alcohol to the point of impaired judgment,” and there is not adequate evidence of rehabilitation or reformation from this concern. *Id.*

The LSO subsequently issued the Individual a Notification Letter advising him that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 1 at 5. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline G of the Adjudicative Guidelines. *Id.*

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I conducted an administrative hearing. The LSO submitted eleven exhibits (Ex. 1–11). The Individual submitted nine exhibits (Ex. A–I). The Individual testified on his own behalf and offered the testimony of five additional witnesses. Hearing Transcript, OHA Case No. PSH-25-0007 (Tr.). The LSO called the DOE Psychiatrist to testify. *Id.*

II. THE SECURITY CONCERNS

Guideline G, under which the LSO raised the security concerns, relates to security risks arising from excessive alcohol consumption. “Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. Conditions that could raise a security concern include: “alcohol-related incidents away from work,” “habitual or binge consumption of alcohol to the point of impaired judgment,” and “diagnosis . . . of alcohol use disorder.” *Id.* at ¶ 22(a), (c)–(d). In citing Guideline G, the LSO relied upon the DOE Psychiatrist’s June 2024 diagnosis that the Individual suffered from AUD, moderate, in sustained remission,³ as well as the incidences of habitually or binge consuming alcohol to the point of impaired judgment that the Individual admitted to in his psychiatric evaluation and LOIs. Ex. 1 at 5. The LSO also cited the Individual’s underage drinking citations, his 2014 arrest for driving while intoxicated by alcohol, and his 2015 alcohol-related involuntary hospitalization. *Id.* at 5–6. The aforementioned allegations justify the LSO’s invocation of Guideline G.

III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person’s access authorization will not endanger the common defense and

³ The LSO stated that “[t]here was not adequate evidence of rehabilitation or reformation” after its assertion that the Individual had been diagnosed with AUD, moderate, in sustained remission. Ex. 1 at 5. In fact, the DOE Psychologist concluded that the Individual had not demonstrated rehabilitation or reformation from his habitual consumption of alcohol to the point of impaired judgment. Ex. 8 at 63. As such, I will consider this to be the security concern alleged by the LSO, and not that the Individual had not demonstrated rehabilitation or reformation from her AUD diagnosis.

security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Dep't of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

An individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). An individual is afforded a full opportunity to present evidence supporting their eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* at § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. FINDINGS OF FACT

Between 2007 and 2008, the Individual received three citations for underaged drinking. Ex. 6 at 32.

In 2014, the Individual went to a bar with a friend where he consumed eighteen alcoholic beverages over the course of approximately five hours. Ex. 11 at 169. After consuming the drinks, the Individual decided to drive home because he did not feel safe walking. *Id.* While driving home, the Individual hit another car and was eventually arrested and charged with driving under the influence. *Id.* The charges went to trial where the Individual was found guilty and sentenced to a one-year program that included alcohol education classes, personal counseling, probation for a year, and a year-long suspension of his driver’s license. *Id.* The Individual completed all of the requirements of this program. *Id.* After this incident, the Individual did not consume alcohol for about one year, other than a single shot of liquor for a roommate’s birthday. Ex. 6 at 30.

In 2015, the Individual attended a concert where he consumed 500 mL of liquor, two mixed drinks, and at least two beers. Ex. 7 at 39. As a result of this consumption, he, in his own words, “became drunk and disorderly.” *Id.* at 38. Law enforcement was called, and the Individual told them that he was having suicidal thoughts because he “was scared of being arrested,” and he was subsequently transported to a local hospital. *Id.* He remained at the hospital overnight for observation and was released the next day. *Id.* at 39.

In his second LOI in March 2024, the Individual disclosed that his typical pattern of alcohol consumption was to drink on Friday and Saturday nights at home, drinking between two and eight standard drinks over a six-hour period each of those nights. Ex. 6 at 29. He stated that this had been his pattern since approximately December 2022, and, prior to that date, he would also typically also consume alcohol on one or two weekday nights each week. *Id.* The Individual also said that he did not feel alcohol had any impacts on his professional life, but he felt that alcohol made him “stay home more often than other people do.” *Id.* at 31.

As a result of his disclosures in his QNSP and LOIs, the Individual underwent a psychiatric evaluation on May 4, 2024. Ex. 8. As part of his evaluation, the Individual also underwent a Phosphatidylethanol (PEth) test⁴ in May 2024. *Id.* at 59. The PEth test came back positive for alcohol use, at a level of 408 ng/mL. *Id.*

After the Individual completed the evaluation, the DOE Psychiatrist issued a report in which he concluded that the Individual met the criteria for AUD, moderate, in sustained remission. *Id.* at 63. In a follow up letter, the DOE Psychiatrist explained that according to the *DSM-5*, a person can be in remission from an AUD and still consume alcohol so long as their drinking is not “leading to clinically significant impairment.” *Id.* at 50. Although the DOE Psychiatrist found that the Individual’s AUD was in sustained remission, he also found that the Individual habitually consumed alcohol to the point of impaired judgment and that there was not adequate evidence of rehabilitation or reformation from that concern. *Id.* at 63. In order for the Individual to show rehabilitation and reformation, the DOE Psychiatrist stated that the Individual should: (1) show some desire to enter into treatment; (2) engage in outpatient treatment of moderate intensity such as weekly meetings of Alcoholics Anonymous (AA) or individual counseling with a counselor experienced in treating substance use disorders; and (3) maintain sobriety for at least the duration of treatment, which should be six months. *Id.* at 63–64.

The Individual testified at the hearing that he had not consumed any alcohol since August 10, 2024. Tr. at 75. In support of his claimed abstinence from alcohol, the Individual provided five negative PEth tests dated October 16, 2024, November 5, 2024, December 6, 2024, January 3, 2025, and April 11, 2025.⁵ Ex. F; Ex. I. The Individual also underwent a PEth test that returned a “test not performed” result dated September 20, 2024.⁶ Ex. F. He also submitted five negative ethyl glucuronide (EtG) tests that he completed on August 20, 2024, August 23, 2024, August 26, 2024, August 30, 2024, and September 5, 2024. Ex. E. At the hearing, the Individual explained he only took EtG tests in August 2024 because he knew that those tests would show that he had not been consuming alcohol in the three to four days prior to the test, while a PEth test would have included the time period in July and the beginning of August when he had still been consuming alcohol. Tr. at 98–99. He further testified that he intends to continue to abstain from consuming alcohol in the future. *Id.* at 76.

The Individual stated that after he learned that he was going through the administrative review process, he reached out to his employer’s employee assistance program (EAP) in order to get a referral to see a therapist or counselor. *Id.* Through the EAP, he was referred to his therapist, who he began to see on a weekly basis in late August 2024. *Id.* at 77–78. At these sessions, the

⁴ “PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption.” Ex. 8 at 65.

⁵ The Individual’s hearing was originally scheduled for January 9, 2025. Due to the National Day of Mourning and closure of the federal government on January 9, 2025, the Individual’s hearing was rescheduled for April 2025. When the hearing was rescheduled, the Individual intended to get further PEth testing, but forgot due to a busy schedule at work. Tr. at 109.

⁶ The DOE Psychiatrist explained that, in his experience, a PEth test that returns a “test not performed” or “TNP” result means that some sort of error occurred when the sample was being transported to the lab that was supposed to perform the test rather than the person being tested having been at fault for the discrepancy. Tr. at 129.

Individual and his therapist have worked on dealing with the Individual's anxiety, his relationship with alcohol, and how the Individual's relationship with alcohol is affected by his anxiety. *Id.* at 78. Prior to beginning his sessions with his therapist, the Individual used drinking as "a coping mechanism to deal with [his] anxiety." *Id.* The therapist has helped the Individual to develop techniques to manage anxiety, including the regular use of meditation and other mindfulness techniques. *Id.* at 79. Although he had gone to counseling in the past as a result of his 2014 alcohol-related incident, the previous counseling did not connect the Individual's drinking habits and his anxiety like his sessions with his current therapist do. *Id.* at 108. In addition to his sessions with his therapist, the Individual also took an alcohol awareness class offered through his employer's EAP. *Id.* at 94; *see also* Ex. D (showing the Individual's class attendance records); Ex. G (showing a certificate of completion for the class).

Beginning in October 2024, the Individual began practicing "walking meditation" while on his daily hikes, which he said helps him practice mindful awareness while also establishing a habit of regular exercise. *Tr.* at 79. He also uses a meditation app every morning to do a series of three guided meditations to help him to set his mindset for the day. *Id.* at 79–81. The Individual also uses these skills to deal with triggers in his daily life, allowing him to deal with feelings and events that previously would have derailed his daily life. *Id.* at 81–82. The Individual testified that using these skills has allowed him to cope with his stress and anxiety without consuming alcohol. *Id.* at 83. In addition to his therapy techniques, the Individual has also started playing the drums again and going to the gym with a friend to lift weights. *Id.* at 85–86. He participates in regular social activities like trivia and game nights with his friends. *Id.* at 86. At some of these social events, other people present have consumed alcohol, but the Individual has not had trouble not consuming alcohol in those settings. *Id.* at 92. He likes to drink tea or flavored sparkling water at these events instead of consuming alcohol. *Id.* at 111. All of his friends at these social events are supportive of his sobriety. *Id.* at 93. The Individual also testified that his family, coworkers, and therapist are all a part of his support network. *Id.* The Individual feels that he has many people that he would feel comfortable talking about alcohol with if he needed to do so. *Id.* at 110.

The Individual also said that going through the administrative review process motivated him to make improvements to his life and lifestyle much more quickly than he had been doing previously. *Id.* at 95. He explained that he is very happy with his life now, he feels better than he used to, and he feels that maintaining his sobriety is "very important" to helping him achieve his career goals. *Id.* at 93, 102. He said he did not understand how much of a problem alcohol was in his life until he "committed to being sober." *Id.* at 96.

The Individual's therapist testified that he is a licensed therapist who has been practicing for approximately forty-five years. *Id.* at 13. For about the last fifteen years, he has worked with people who have problems with alcohol or other drugs, including running an intensive outpatient treatment program for people with substance use or addiction problems. *Id.* at 14. The therapist has been conducting weekly sessions with the Individual since August 2024. *Id.* at 15. When the Individual first started therapy, the therapist said that the Individual "felt forced" to give up alcohol when he did not want to, but over time he realized that he had a problem with alcohol. *Id.* at 25–26. The therapist testified that the Individual has been very cooperative and that they have focused on anxiety-related skills as the Individual's anxiety was "really underlying the alcohol use." *Id.* at 15. The therapist worked with the Individual on calming his anxiety, improving his communication

skills, and learning how his relationship with alcohol became a coping mechanism for his anxiety. *Id.* at 16. The Individual and the therapist spent a significant amount of time working on lifestyle skills like mindfulness and how the Individual can use mindfulness to manage his physical health and mental health while navigating his life. *Id.* at 17–18. The Individual has also told the therapist about new things he does in his life in place of consuming alcohol like hiking, working out, meditating, and drumming. *Id.* at 18. The Individual has indicated that these changes to his life and his therapy have caused him to have more energy and motivation in life, have improved his sleep, and have caused him to feel healthier. *Id.* at 20.

The therapist stated that to the best of his knowledge, the Individual has been abstinent from alcohol since he began seeing the therapist. *Id.* at 20–21. The therapist explained that he would likely be able to tell if the Individual had resumed consuming alcohol because he builds openness about relapse into his treatment plans and tells his patients that relapse is a part of treatment rather than a failure. *Id.* at 29. He also believes he would be able to tell by observing a patient’s “[b]ehavior, attitude, thoughts, feelings, [and] their whole personality.” *Id.* He also said that the Individual has indicated that he does not want to “include alcohol in his life again.” *Id.* at 20. The therapist indicated that he feels that over time the Individual has recognized that his alcohol consumption had a bigger impact on his life than he had realized. *Id.* at 22. The therapist characterized the Individual’s prognosis as excellent. *Id.* at 24.

The Individual’s mother is in contact with him on a weekly basis, talking with him over text message, phone calls, and FaceTime. *Id.* at 42. She explained that the Individual told her that he had stopped consuming alcohol sometime in the middle of August 2024. *Id.* at 43. She has seen him in-person on at least five occasions since he stopped consuming alcohol. *Id.* Since he stopped consuming alcohol, the Individual’s mother says that the Individual has become more outgoing and positive, has been spending more time hiking and doing other outdoor activities, and has lost weight. *Id.* at 44. She testified that the Individual has been to several family gatherings in the eight months prior to the hearing where other people consumed alcohol or offered him alcohol. *Id.* at 45. The Individual did not consume alcohol on any of these occasions and told his family members that he was no longer consuming alcohol and that he was not planning on consuming alcohol in the future. *Id.* The mother also said that the Individual had shared that he liked his therapist and that he really enjoyed the mediations that he has been doing. *Id.* at 47. She stated that she and his father were supportive of the Individual’s sobriety, and also that he had said that his friends who live near him had been supportive as well. *Id.* at 44, 47–48.

The Individual’s friend met him about two years ago when they both began working at the DOE site. *Id.* at 60–61. Once or twice a week, they participate in social activities together like game nights or trivia nights. *Id.* at 61–62. The friend testified that the Individual stopped consuming alcohol around August 2024, but prior to that he would see the Individual consume alcohol at social events. *Id.* at 62–63. Since August 2024, he has seen the Individual in situations where other people were consuming alcohol, and the Individual did not consume any alcohol. *Id.* at 63. The friend said that since the Individual stopped consuming alcohol, the Individual has seemed to have increased enthusiasm and has seemed healthier. *Id.* at 64. The friend is supportive of the Individual’s continued sobriety and said the Individual has told him that he does not plan to consume alcohol in the future. *Id.* at 64–65.

The Individual's supervisor testified that he met the Individual about two and a half years prior to the hearing and that he interacts with the Individual almost every day at work. *Id.* at 33. The supervisor said that the Individual is a dependable, capable, and trustworthy employee. *Id.* at 34–35. He also stated that the Individual had told him that he had stopped consuming alcohol and, consequently, had lost weight. *Id.* at 37. The Individual's work mentor also testified on his behalf. *Id.* at 53. The work mentor stated that he had known the Individual for a little over two years and that they talk on an almost daily basis. *Id.* The work mentor described the Individual as extremely reliable, as trustworthy, and as a person with good judgment. *Id.* at 55. He also explained that the Individual had told him that he was no longer consuming any alcohol. *Id.* at 56.

At the hearing, the DOE Psychiatrist explained that at the time of the evaluation, the Individual did not have an active alcohol use disorder⁷ because he had no clinically significant impairment, but the Individual did have a problem with habitual or binge consumption of alcohol. *Id.* at 120. As to the Individual's recovery, the DOE Psychiatrist explained that he found the Individual's use of meditation and related practices to be a very good coping mechanism. *Id.* at 124–25. He stated that he found the Individual's eight-month period of abstinence to be "pretty impressive" and that he thought the Individual was "a poster child for the benefits of abstinence" because of the improvements to his physical health, his anxiety disorder, and his mood. *Id.* at 126. The DOE Psychiatrist testified that the Individual had followed all of his treatment recommendations, and, in his opinion, the Individual had shown rehabilitation and reformation from his habitual or binge consumption of alcohol to the point of impaired judgment. *Id.* He also said that the Individual had a "good" prognosis for continued sobriety on a good, fair, poor scale. *Id.* at 127. The DOE Psychiatrist also noted that while he thought lifetime abstinence would be a good clinical recommendation for the Individual, he had only recommended that the Individual show six months of abstinence in order to show rehabilitation, and, in his view, the Individual had shown eight months of abstinence. *Id.* Finally, he noted that he found the Individual to be generally credible because his self-reported alcohol consumption was consistent with his PEth test results. *Id.* at 130.

V. ANALYSIS

An individual may be able to mitigate security concerns under Guideline G through the following conditions:

- a) So much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
- b) The individual acknowledges his maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified alcohol consumption or abstinence in accordance with treatment recommendations;

⁷ In his testimony, the DOE Psychiatrist explained that consumption of alcohol alone is not a diagnostic factor under the *DSM-5* and that his concern was that the Individual was habitually or binge drinking to the point of impaired judgment. Tr. at 120.

- c) The individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and
- d) The individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23.

Here, the Individual has undertaken significant steps to resolve his problems with alcohol. He admitted that his alcohol consumption had been problematic in the past, and he has told his support network that he has stopped drinking and why. Since receiving the SSC, he has begun going to weekly therapy, started hiking regularly, started a meditation practice, and increased his social activities. By his own account, all of these activities have helped him to cope with his anxieties in a way that is healthier than consuming alcohol. Further, the EtG tests and PEth tests corroborated his testimony that, from August 2024 to January 2025 and in March 2025, the Individual did not consume alcohol in accordance with the recommendation of the DOE Psychiatrist and that of his own therapist. The credible testimony of his mother, his friend, and his therapist further support the Individual's contention that he has not consumed any alcohol since August 2024. The Individual's openness and honesty about his past alcohol consumption make his claims about his recovery even more convincing. Therefore, the Individual has mitigated the security concerns pursuant to mitigating condition (b).

Accordingly, I find that the Individual has resolved the security concerns asserted by the LSO under Guideline G.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guideline G of the Adjudicative Guidelines. After considering all the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has brought forth sufficient evidence to resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual's access authorization should be granted. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Erin C. Weinstock
Administrative Judge
Office of Hearings and Appeals