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

In the Matter of: Personnel Security Hearing)	
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Filing Date: December 16, 2024)	Case No.: PSH-25-0052
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_____)	

Issued: July 9, 2025

Administrative Judge Decision

Erin C. Weinstock, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXX (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 August 2024, the Individual completed a Questionnaire for National Security Positions (QNSP) in which he disclosed that he had previously misused and illegally purchased several controlled substances. Ex. 6 at 68–73. 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 August 27, 2024. Ex. 5.

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 5–6. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline H of the Adjudicative Guidelines. *Id.*

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.

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 seven exhibits (Ex. 1–7). The Individual submitted three exhibits (Ex. A–C). The Individual testified on his own behalf and offered the testimony of five additional witnesses. Hearing Transcript, OHA Case No. PSH-25-0052 (Tr.).

II. THE SECURITY CONCERNS

Guideline H, under which the LSO raised the security concerns, relates to security risks arising from the illegal use of controlled substances.

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, or regulations.

Adjudicative Guidelines at ¶ 24. Conditions that could raise a security concern include: “any substance misuse” and “illegal possession of a controlled substance, including . . . purchase.” *Id.* at ¶ 25(a), (c). In citing Guideline H, the LSO relied upon the Individual’s admission in his LOI that he misused several controlled substances between 2012 and 2022 and his admission that he purchased marijuana and “Mushrooms.”³⁴ Ex. 1 at 5–6. The aforementioned allegations justify the LSO’s invocation of Guideline H.

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 SSC also asserts that the fact that Individual purchased or used several of the controlled substances after being hired by the DOE contractor, but before being in a position requiring access authorization, poses a discrete basis for the Guideline H security concerns. Ex. 1 at 5–6. I do not agree. While that usage of controlled substances may have been against his employer’s policy, Guideline H only indicates that the circumstances of past illegal drug use constitute a discrete security concern if that drug use occurred while a person was “granted access to classified information or holding a sensitive position.” Adjudicative Guidelines at ¶ 25(f). The LSO has not alleged that the Individual was granted access to classified information or holding a sensitive position when he used illegal drugs. Tr. at 36. Drug use in violation of an employer’s policy may present a security concern under a different guideline, but that was not alleged here. As such, I will not consider it as a basis for the Guideline H concerns asserted in this case.

⁴ In the LOI and SSC, the LSO asserted that the Individual bought and purchased “Mushrooms,” using no further descriptors. Ex. 1 at 5; Ex. 5 at 21. In his enhanced subject interview (ESI) conducted as part of his background investigation, the Individual admitted to the use of “hallucinogenic mushrooms.” Ex. 7 at 153. For the purposes of this Decision, I assume that all references to “Mushrooms” mean hallucinogenic mushrooms.

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

The following describes the Individual’s illegal drug use from 2012 through January 2019, when he became employed with the DOE contractor. From 2012 to 2013, the Individual used Vyvanse that was not prescribed to him three to four times. Ex. 5 at 24.

From 2013 to 2016, the Individual used Xanax that was not prescribed to him “up to” ten times. *Id.*

The Individual used LSD two times in 2014 and a similar substance on two additional occasions between 2016 and 2017. *Id.* at 21.

The Individual used Ritalin that was not prescribed to him once in 2012 and three or four times between 2017 and 2018. *Id.* at 22.

The Individual used Adderall that was not prescribed to him “several dozen times” from 2012 to 2018. *Id.* at 23.

The Individual used cocaine between six and ten times between 2013 and 2016.⁵ *Id.* at 22.

From 2017 to 2018, the Individual used marijuana between four and seven days a week. *Id.* at 20.

At the hearing, the Individual testified that he used illegal drugs between 2012 and 2018 because his friends in high school and college were using them and the practice became “normalized.” Tr. at 79. He viewed this illegal drug use as “experimentation.” *Id.* at 80. While he still associates with some of these friends, none of them use illegal drugs anymore. *Id.* at 81.

⁵ The SSC states that the Individual used cocaine “approximately 11 times from 2013 to 2016 and once in March 2022.” Ex. 1 at 5. It is unclear where these totals came from, as the numbers are not consistent with the information the Individual provided in the LOI, ESI, and QNSP. Ex. 5 at 22; Ex. 7 at 134, 154.

The Individual testified that he first became an employee of the DOE contractor in January 2019, in a position that did not require a security clearance. *Id.* at 51, 76. From January 2019 to August 2020, he was an employee at the DOE contractor's physical site. *Id.* at 51. From about August 2020 to May 2023, he was still a "badge holder" with the DOE contractor, but was completing his PhD in a different physical location. *Id.* at 53. The Individual returned to work full-time at the DOE contractor's physical site in May 2023, while still working on his dissertation. *Id.* at 8.

While the Individual was employed by the DOE contractor in a non-cleared position he illegally used marijuana, Adderall, Mushrooms, and cocaine. *Id.* at 55. He used marijuana two to four times a week from August 2020 to May 2021 and August 2021 to December 2021. *Id.* at 55; Ex. 5 at 20. The Individual explained that his marijuana use in 2020 began when he was very isolated after moving to a new city for graduate school during the COVID-19 pandemic. Tr. at 56. He did not use marijuana during the summer of 2021 because he was supposed to go to the DOE contractor's physical site to work and knew that he should not have been using marijuana. *Id.* at 57. He claimed that he stopped using marijuana regularly while he was at school around the end of 2021, but he used marijuana on one additional occasion in March 2022 at a bachelor party. *Id.* at 55, 57; Ex. 5 at 20. The Individual used Adderall given to him by a friend as a study aid several times between August 2020 and May 2021. Tr. at 59; Ex. 5 at 23. He also used Adderall at the bachelor party where he used marijuana in March 2022. Tr. at 59; Ex. 5 at 23. The Individual used cocaine once at the bachelor party as well. Tr. at 57; Ex. 5 at 22. The Individual explained that he does not associate with the person who provided him the illegal drugs at the bachelor party and the only other time he has seen this person was at the wedding of the person whose bachelor party they both attended. Tr. at 82. The Individual purchased Mushrooms from a roommate during summer 2021, and he used them approximately twice in September 2021. *Id.* at 60; Ex. 5 at 21. He found the Mushrooms while cleaning his apartment in April 2022 and used them again at that time. Tr. at 60; Ex. 5 at 21. The Individual testified that his April 2022 use of Mushrooms was the last time he used any illegal drug. Tr. at 60; Ex. 5 at 21. The Individual also explained that while he was aware that his drug use was against the DOE contractor's policy, it was not clear to him what his reporting responsibilities were as a non-cleared individual. *Id.* at 74–76. The Individual also acknowledged that he knew he was not supposed to be using illegal drugs and said that doing so was "obviously inexcusable." *Id.* at 75.

The Individual submitted two negative drug tests, dated August 21, 2023, and April 25, 2025. Ex. A. The first test was a urine test completed shortly after the Individual completed his QNSP. *Id.* The Individual was unable to get his employer to drug test him for a second time, so he arranged a same-day urine test with a private testing company for his second test. *Id.*; Tr. at 87–88. He also provided a signed letter stating that he intends "to abstain from all drug use and involvement including the use, possession, or distribution of any illegal substances or the misuse of legal substances." Ex. C. The Individual confirmed this commitment in his testimony and said that he understood that failure to do so could result in the revocation of his national security eligibility. Tr. at 84, 99.

The Individual also stated that his employer's employee assistance program (EAP) recommended he take an alcohol and substance abuse education class (EAP Class). *Id.* at 90; Ex. B (showing that the Individual completed the class in May 2025). The Individual explained that the course was "eye-opening" and that he appreciated being able to talk about these issues with other people. Tr.

at 90. He also participated in several one-on-one sessions with an EAP Counselor, where they talked about the stress related to the administrative review process and expanded on topics discussed in the alcohol and substance abuse class. *Id.* at 90–91. After talking with the EAP Counselor, the Individual thinks that in the past he used drugs to deal with stress and traumatic experiences related to a natural disaster in his community some years ago. *Id.* at 94. The Individual also mentioned that the EAP Counselor’s questions prompted him to think about how he coped with stressful situations and led him to try exercising more often and to try some new hobbies. *Id.* at 92.

The Individual testified that he has built a community where he lives now so that he will not feel the isolation that previously caused him to turn to drug use. *Id.* at 95. He plays music and goes rock climbing with friends. *Id.* at 97. The Individual has developed some solo hobbies as well, like crocheting and riding his bike. *Id.* He also feels he has matured a great deal since he last consumed drugs. *Id.* at 95–96.

The Individual’s EAP Counselor testified that she first met with the Individual in January 2025. *Id.* at 39. When she and the Individual met for their initial session, they discussed the Individual’s anxiety about having disclosed his drug use as part of his security clearance application process. *Id.* Beginning with that initial meeting, the EAP Counselor has not had any concerns about ongoing drug use by the Individual, and she felt that he was very honest about his past use. *Id.* at 40.

According to the EAP Counselor, during their sessions the Individual disclosed that he had used various drugs, starting in high school, and that he had not used any drugs since April 2022. *Id.* The EAP Counselor encouraged the Individual to enroll in the previously mentioned EAP Class about alcohol and substance use, and the Individual did so. *Id.* The course met for an hour and fifteen minutes every week for six weeks and consisted of four presentations and two facilitator-led discussions. *Id.* at 42–43. The EAP Counselor testified that she thought that the class allowed the Individual to “open up” and “talk openly” about his drug use while also learning from other people’s stories. *Id.* at 42.

The EAP Counselor also completed six one-on-one therapy sessions with the Individual. *Id.* at 43. These sessions were approximately monthly between January 2025 and the date of the hearing in May 2025. *Id.* at 44. At the sessions, the Individual and the EAP Counselor talked about the stress of the security clearance application process, what the Individual was learning from the alcohol and substance abuse EAP course, and how drug use became normalized in the Individual’s life. *Id.* The EAP Counselor also helped the Individual understand that truthfully reporting past substance abuse in his QNSP was the correct choice under DOE’s policies. *Id.* at 45. At these sessions, the Individual made it clear to the EAP Counselor that he was fulfilling his goal of abstaining from drug use and had no plans to use drugs in the future. *Id.* at 47–48.

The Individual’s childhood friend (Friend 1) testified that they had been friends since elementary school and lived in the same area until around 2017. *Tr.* at 12, 14. They typically see each other in person around Thanksgiving or Christmas and occasionally travel to visit one another. *Id.* at 17. Friend 1 stated that the last time he saw the Individual use a federally illegal drug was before the COVID-19 pandemic. *Id.* Friend 1 said that, in his experience, the Individual is generally

compliant with rules and regulations, and he finds him to be very trustworthy and reliable. *Id.* at 20–21.

Another friend (Friend 2) testified that he and the Individual met in high school, and they were roommates for two separate year-long periods while they were in college and the Individual was in graduate school. *Id.* at 26–27. They no longer live in the same area, but they see each other in person several times a year. *Id.* at 27. Friend 2 said that it was his understanding that during college the Individual used drugs recreationally and experimentally. *Id.* at 28. Friend 2 did not find the Individual’s drug use when they were in college to be “out of the ordinary” when compared to their peers and was never concerned with “the amount of drug use” that the Individual participated in. *Id.* at 29. Friend 2 also noted that he could not speak to the Individual’s drug use after Friend 2 finished college in 2017. *Id.* at 28. Friend 2 noted that the Individual has always been very reliable and trustworthy. *Id.* at 33–34.

The Coworker testified that he met the Individual in August 2021, and they see each other several times a week at work and at social events, including a regular band practice and rock climbing. *Id.* at 63–64, 66. The Coworker has never seen the Individual use illegal drugs. *Id.* at 65. He finds the Individual to be trustworthy and reliable. *Id.* at 65, 67.

The Individual’s Supervisor testified that he has known the Individual since January 2019 and has been his supervisor since December 2019. *Id.* at 70–71. For the last year or two, they have interacted at least every other week while at work. *Id.* The Supervisor finds the Individual to be reliable and trustworthy. *Id.* at 71–72.

V. ANALYSIS

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

- (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) dissociation 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 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.

Adjudicative Guidelines at ¶ 26.

Here, the Individual has not used any illegal drugs for over three years and testified that he has no intent to use any illegal drugs in the future. The Individual has been extremely forthcoming about his use of illegal drugs and his admissions of his illegal drug use in the QNSP, ESI, and LOI formed the basis for the concerns alleged in the SSC, with his admissions being the only basis for the LSO knowing about several of his more recent incidences of drug use. Because of the Individual's forthcomingness, I find him a credible source of information regarding his drug use and therefore accept his testimony that he has abstained from illegal drug use since 2022. His testimony is supported by that of the EAP Counselor, who said that she was not at all concerned that the Individual was currently using drugs based on her sessions with him and said that she found he was very open about his past drug use. Further, the majority of the Individual's use of drugs other than marijuana occurred when he was in high school or college. The Individual was relatively young at the time of that conduct, and he no longer lives in that environment. *See* 10. C.F.R. § 710.7 (“[T]he decision-making process shall consider . . . the age and maturity of the individual at the time of the conduct . . . the likelihood of continuation or recurrence”). I also find that it is unlikely that the Individual will again experience the level of isolation that he went through moving alone to a new place during a global pandemic, which accounts for the circumstances of his remaining drug use. As such, all of the Individual's past drug use happened so long ago or happened under circumstances that are unlikely to recur, such that it does not cast doubt on his current reliability, trustworthiness, or good judgment, and the security concerns are mitigated pursuant to mitigating condition (a).

Additionally, the Individual has acknowledged his past illegal drug use. He took a course to better understand the effects of substance misuse and has been engaging with the EAP Counselor about his past drug use, what caused that drug use, and finding other methods to deal with stress. The Individual testified that he has not used any illegal drugs since April 2022. The EAP Counselor testified that she believes he has not consumed any illegal drugs in the time she has interacted with him and that she has found him to be forthcoming and credible about when he used illegal drugs in the past. The Individual also provided two laboratory tests that provide some support – albeit limited – for his assertion that he has not consumed any illegal drugs during the last three years. The Individual is also less isolated now than he was in August 2020 when he started using illegal drugs for the first time in several years. He has regular social commitments playing music with friends and is trying to exercise more. Finally, the Individual reiterated on several occasions, at the hearing and in writing, that he intends to abstain from all illegal drug use in the future. Therefore, the Individual has also 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 H.

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 H 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