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

In the Matter of: Personnel Security Hearing)

Filing Date: January 28, 2025)

Case No.: PSH-25-0068)

Issued: July 31, 2025

Administrative Judge Decision

Andrew Dam, 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 not be restored.

I. BACKGROUND

In February 2019, the Individual completed a Questionnaire for National Security Positions (QNSP) in support of his application for access authorization in connection with his employment with a DOE contractor. Exhibit (Ex.) 6 at 147. The Individual marked "No" in the February 2019 QNSP when answering whether "[i]n the last seven (7) years . . . [he had] illegally used any drugs or controlled substances[.]" *Id.* at 141 (emphasis in original). The Individual secured his clearance in June 2019 and began working as a student intern from May 2019 to August 2019. Ex. 2 at 11; Ex. 4 at 33.

In May 2020, the Individual again submitted a QNSP to return to work with the DOE contractor. Ex. 5 at 101. He again answered "No" when asked if "[i]n the last seven (7) years, . . . [he had] illegally used any drugs or controlled substances[.]" *Id.* at 96. He again received access authorization and resumed work with the DOE contractor from July 2020 to September 2021. Ex.

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."

4 at 33. In October 2021, the Individual started another job with a second DOE contractor. *Id.* at 32.

The Individual submitted a third QNSP in connection with his reinvestigation in August 2024. Ex. 3 at 19; Ex. 4 at 78. In the August 2024 QNSP, the Individual marked “Yes” when certifying whether “[i]n the last seven (7) years . . . [he had] illegally used any drugs or controlled substances[.]” Ex. 4 at 71 (emphasis in original). The Individual further disclosed that, between August 2018 and September 2021, he “[u]sed [marijuana] 3-4 times in total[,] [o]nce in between jobs where [he] believe[d] [his] Q clearance was transferred between sites.” *Id.* In November 2024, the LSO suspended the Individual’s access authorization after learning of his marijuana use and related failures to disclose such use. Ex. 3 at 19–20.

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 6–8. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines E and H of the Adjudicative Guidelines. *Id.* at 5.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2 at 10. 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 fifteen exhibits (Ex. A–O). I have accepted Exhibits A through N into the record; however, I am excluding Exhibit O from consideration as it was received after the Transcript was issued. Hearing Transcript, OHA Case No. PSH-25-0068 (Tr.) at 95 (instructing the Individual to submit any post-hearing exhibits prior to the issuance of the Transcript). The Individual testified on his own behalf and offered the testimony of another witness, his supervisor (Supervisor). *Id.* at 3. The LSO called no witnesses. *Id.*

II. THE SECURITY CONCERNS

Guideline E relates to questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations. Adjudicative Guidelines at ¶ 15. The refusal to be truthful and honest during the administrative review process is especially concerning. *Id.* In citing Guideline E, the LSO relied upon the Individual’s (1) failure to report prior illegal drug use when completing his 2019 and 2020 QNSPs and (2) his intentional controlled substance misuse while holding a security clearance and related failure to report it, as required by DOE Order (DOE O) 472.2A.² Ex. 1 at 5. There is sufficient derogatory information in the possession of DOE to raise security concerns under Guideline E. *See* Adjudicative Guidelines at ¶ 16(a)–(b) (indicating that deliberate omission of relevant facts from a personnel security questionnaire and concealing information from an employer or security official may present security concerns under Guideline E).

Guideline H relates to the illegal use of controlled substances, including prescription and non-prescription drugs. Adjudicative Guidelines at ¶ 24. “The illegal use of controlled substances . . .

² DOE O 472.2A requires that clearance holders report “[t]he use of any Federally illegal drug” no “later than three (3) working days after occurrence . . .” DOE O 472.2A, Attachment 5 § 6(e).

can raise questions about an individual's reliability and trustworthiness . . . 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." *Id.* In citing to Guideline H, the LSO relied upon the Individual's admission that he used marijuana three to four times between August 2018 and September 2021—which overlapped in part with him holding a security clearance. Ex. 1 at 5. There is sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines H. *See* Adjudicative Guidelines at ¶ 25(a), (f) (indicating that any substance misuse, as well as any illegal drug use while granted access authorization, may present security concerns under 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 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 his or her 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.* § 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

a. First Marijuana Use in August 2018, Falsification in February 2019 QNSP, and Internship with First DOE Contractor

To start, the Individual self-reported three to four uses of marijuana in his August 2024 QNSP. Ex. 4 at 71; Tr. at 43. However, the Individual testified that he only used marijuana on two occasions. Tr. at 43; *see also* Ex. 2 at 12 (Individual's written explanation that he has "2 use-cases of cannabis in [his] past . . ."). He explained that, when he originally completed the August 2024 QNSP, he "was unsure if 2 inhalations of smoked cannabis product counted as substance-use twice"—resulting in him overestimating his marijuana use. Ex. 2 at 12; *see also* Tr. at 43 (Individual's testimony that he was unsure "whether doing two separate marijuana products at the same time . . . was considered twice use").

The first incident of marijuana use occurred in August 2018. Ex. 2 at 12. The Individual was 19 at the time. Ex. K at 1 (Individual's June 2025 written statement). The Individual testified that he was traveling near a national park with five friends and that they had gone sky diving. Tr. at 42; Ex. 2 at 12. Two of his friends on the trip purchased a joint of marijuana and shared the joint with the Individual. Tr. at 42; Ex. 2 at 12. The Individual testified that, prior to this use, he had never used marijuana, and he "d[idn't] know what [his] main motivation was" for using marijuana. Tr. at 42. He "recall[ed] having inhaled this substance 2 times in sum." Ex. 2 at 12. The Individual further testified that he no longer associates with the two friends who purchased and used the marijuana with him on this trip. Tr. at 43.

Only six months after his drug use, the Individual applied for access authorization in conjunction with an internship with the first DOE contractor, submitting a QNSP in February 2019. *Id.* at 37, 55–56; Ex. 6 at 147. In the February 2019 QNSP, the Individual marked "No" when asked whether "[i]n the last seven (7) years . . . [he had] illegally used any drugs or controlled substances[.]" Ex. 6 at 141 (emphasis in original). When asked during the hearing why he failed to report his prior drug use, the Individual provided that he would "never be able to reflect [his] mindset accurately as to that decision, in the moment . . ." and "d[id] not actively remember checking that box" on the QNSP or "omitting that information" on his prior drug use. Tr. at 54.³

He could, however, provide "the context around" the failure to report the drug use. *Id.* In particular, the Individual testified that he remembered feeling "nervous" when filling out the February 2019 QNSP and "imagine[d] [his] motivation for omitting" the drug use "was . . . fearfulness" and "scared naivete." *Id.*; *see also* Ex. K at 1 (Individual's June 2025 written statement describing his 2019 self as "young, naive, and afraid"). He specifically recalled that the first DOE contractor employer was "one of the very few booth stands in a [college] career fair that a lot of people want to go to." Tr. at 55. The Individual testified that "[b]ack then" he would have been motivated "to appear as a spotless person[] or a spotless candidate" and "was scared [that] any kind of nick on [his] character would be seen as a downside." *Id.* at 55, 78 ("In 2019, I think that I was afraid of being anything but spotless[;] I can confirm that."). *But see* Ex. K at 1 (Individual's June 2025 written statement indicating he failed to disclose "not out of calculated intentional deceit for malicious purposes[] but because [he] didn't grasp the importance of candor in the questionnaire").

The Individual's testimony—that he had no specific memory of completing the 2019 QNSP—partially contradicts his written statement provided in January 2025, in which he gave rather specific details as to his state of mind when completing the QNSP:

³ The Individual also signed and certified in the February 2019 QNSP the following statement:

I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both . . . intentionally withholding, misrepresenting, falsifying, or including classified information may have a negative effect on my security clearance, employment prospects, or job status, up to and including denial or revocation of my security clearance, or my removal and debarment from Federal service.

Ex. 6 at 209. When asked during the hearing if he recalled reading this statement, the Individual stated that he did not recall. Tr. at 56–57.

When completing the [QNSP] during the early months of 2019, I was asked to comment on federally controlled substance use. During this time, I had answered “No” to using illegal federally controlled substances within the last seven years At this time, I was naturally uninformed of the national security information I was applying to. Furthermore, when asked by a federal agent/questionnaire, I was worried of retaliation at a criminal level when these answers were provided. I justified at the time that it was state-legally acquired and that two uncharacteristic “inhalations” of a smoked cannabis product didn’t provide physical effect to myself. Since then, I have learned that federal law trumps state law and it is the expectation of the clearance granted individual to understand that. I do not deny this allegation.

Ex. 2 at 12.

The Individual interned with the first DOE contractor employer from May 2019 to August 2019, contemporaneous with his clearance investigation and the granting of his access authorization. Tr. at 37; Ex. 5 at 84; Ex. 4 at 33. The Individual received his initial clearance in June or July 2019. Tr. at 38; Ex. 5 at 96. The LSO’s Case Evaluation Sheet indicates that the Individual’s clearance was placed on terminated status in August 2019 upon the conclusion of his internship. Ex. 3 at 20. The Individual testified that, during this period of employment and holding access authorization, he had no recollection as to whether he felt he should correct his initial omission: “I don’t know how I felt at any point after . . . I do not recall any specific feeling . . . [that] I should go back and report it.” Tr. at 56. He could only confirm that “at some point[,] [he] forgot that [he] . . . was dishonest . . .” *Id.*

b. Falsification in May 2020 QNSP and Return to Work with the First DOE Contractor

The Individual returned to college from August 2019 to May 2020. Tr. at 37–38. In May 2020, Individual submitted a second QNSP to reinstate his clearance prior to returning to work with the first DOE contractor employer. *Id.* at 39; Ex. 5 at 98. In the 2020 QNSP, the Individual again certified that he had not illegally used drugs within the last seven years. Ex. 5 at 96.⁴ He then returned to the first DOE contractor employer from July 2020 to September 2021. Ex. 4 at 33.

When asked at the hearing why he, for the second time, failed to report his 2018 drug use in his 2020 QNSP, the Individual stated he “did not even remember that [he] filled out [the 2020] QNSP . . . until this adjudicative proceeding.” Tr. at 57; *see also id.* at 59 (“I cannot tell you where I did it [the QNSP], when I did it, how I did it, what happened, what computer I used.”); Ex. K at 1 (“I truly, from the bottom of my heart, do not recall actively omitting.”). However, he could provide “a recollection” as to the “environment and stressors that existed at that point.” *Id.* at 57. In particular, the Individual testified that he had become responsible as a leader in a college club,

⁴ The Individual also signed and certified in the May 2020 QNSP that he “underst[oo]d that [his] use of . . . any illegal drug, could result in the loss of [his] DOE access authorization” and that “[d]eliberately misrepresent[ing], falsify[ing], or omit[ing] significant information from . . . a [QNSP]” might “raise a doubt as to [his] eligibility for DOE access authorization.” Ex. 5 at 100–01.

which required him “working on . . . [a] project” that “persisted into a lot of late[-]night hour days” *Id.* at 59. He described himself at that time as a “husk of a human being, trying [his] best to stay afloat.” *Id.* He speculated that, at the time of filling out the 2020 QNSP, he would have considered it “the smallest drop” in comparison to “his other personal responsibilities” which he “understand[s], now, are not nearly as important as the security investigation process.” *Id.* at 60; *see also id.* at 76 (“[I]t is my absolute knowledge that I don’t have any memory of filling [the 2020 QNSP] out actively, but I do have memory of dismissing [the 2020 QNSP’s completion] as a substantial important moment of my life.”); Ex. K at 1–2 (Individual’s June 2025 written statement identifying the compounding stressors of the COVID-19 pandemic, finishing his last year of university, and working in his college club).

In contradiction to his testimony that he had no specific memory of completing the 2020 QNSP, the Individual, again, provided a written statement in January 2025 that suggested that he in fact had some specific memory:

I had retained records from my other [2019 QNSP] while only updating sections that I, at the time, had significant updates towards such as foreign travel visits, sources of contact, places lived, etc. No incidents of substance-use had occurred between [the 2019 and 2020 QNSP][,] therefore I paid no mind to [my substance use] when updating information in the [2020 QNSP].

Ex. 2 at 12. At the hearing, when asked about this particular discrepancy, the Individual explained that his written response from January 2025 had “communicate[d] [his] beliefs as to what contributed to the” omission from the 2020 QNSP and that he “should not [have] made assumptions . . . in ways that are inaccurate.” Tr. at 76–77.

c. Second Marijauna Use while Holding Access Authorization in either October 2020 or September 2021, Related Failure to Report, and Employment with Second DOE Contractor

As stated above, the Individual returned to work with the first DOE contractor in July 2020. Ex. 4 at 33. The Individual testified that, in August 2021, he accepted a job offer with the second DOE contractor with an October 2021 start date. Tr. at 86–87. He left his job with the first DOE contractor in September 2021, aware that he would be entering into a position requiring him to maintain his clearance. Ex. 4 at 33; Tr. at 87. The Individual started working with the second DOE contractor employer in October 2021. Ex. 4 at 32–33.

Contemporaneous with this period, the Individual used marijuana a second time; however, the Individual could not recall if his second marijuana use occurred in October 2020 or September 2021. Ex. 2 at 12; Tr. at 44–45. He explained that he socialized with a particular group of friends in the same environment in both October 2020 and September 2021 and that, during one of these two social gatherings, he engaged in his second use of marijuana. Tr. at 44–45; *see also* Ex. 2 at 12 (“I’ve narrowed it down to either of these months as that was when relevant associates of mine had visited me at my residence.”). The Individual testified that he had been watching a movie with this group of friends. Tr. at 45.

The Individual explained that, if his marijuana use occurred in September 2021, it would have occurred during the brief period between his employment with the first DOE contractor employer and the second DOE contractor employer. *Id.* at 47–48. Regardless, he acknowledged that his second marijuana use occurred while holding access authorization. *Id.* at 47, 87 (Individual’s testimony acknowledging that he had a clearance in October 2020 and that he knew he had a clearance in September 2021 despite his brief lapse in employment). When asked why he used marijuana a second time while holding a clearance, the Individual testified that it was “hard for [him] to reflect accurately what [his] thinking was.” *Id.* at 47. The Individual also testified that he did not know of the requirement that he report his drug use within three days. *Id.* at 80 (“From October 2021 till August 2024, I do not believe that I was aware that I had to continuously report . . . within three days [] drug use.”). However, during the hearing, the Individual gave conflicting testimony as to his understanding of his obligations. *Compare id.* at 48–49 (the Individual’s testimony that he “believe[d] that [he] was ignorant to the responsibilities at th[e] time” of the second marijuana use) *with id.* at 80–81 (the Individual’s testimony that at the time of the second marijuana use he “kn[e]w the responsibilities of holding a security clearance”).

d. Disclosure of Prior Marijuana Use in the August 2024 QNSP and Suspension of Access Authorization

While employed with the second DOE contractor, the Individual underwent reinvestigation, submitting a QNSP in August 2024. *Id.* at 78; Ex. 3 at 19. In the August 2024 QNSP, the Individual marked “Yes” when certifying whether “[i]n the last seven (7) years . . . [he had] illegally used any drugs or controlled substances[.]” Ex. 4 at 71 (emphasis in original). He also marked “Yes” when asked if he had used illegal drugs or controlled substances “while possessing a security clearance.” *Id.* In November 2024, the LSO suspended the Individual’s access authorization after learning of his marijuana use and related failures to disclose. Ex. 1 at 6; Ex. 3 at 19–20. At the hearing, when asked why he had finally disclosed his marijuana use in the August 2024 QNSP, he indicated he “had no idea that [he] omitted” the marijuana use in his “previous QNSP[s]” and “assumed that [he] had been honest back then.” Tr. at 60. The Individual further testified that he answered the 2024 QNSP honestly when asked about the drug use. *Id.* at 63 (describing the impetus for the disclosure as the 2024 QNSP asking for the information).

e. Individual’s Testimony Regarding his Current Character and Therapy from December 2021 to December 2023

The Individual was asked to provide testimony demonstrating “that this type of dishonest behavior w[ould] not happen in the future[.]” *Id.* at 64. In response, the Individual provided that he “believe[d]” himself to be “a changed person” having “embark[ed] on a lot of work to become a more honest person[] to [him]self and other people . . .” *Id.* Regarding his changed behavior, the Individual noted he initiated “therapy of [his] own volition, independent” of this adjudicative proceeding. *Id.* at 50. The Individual submitted a letter from his behavioral health clinician, dated April 2025, evincing that he attended “behavioral health care” from December 2021 to December 2023. Ex. E. He testified he was motivated to attend, as he “felt careless, selfish, and . . . dishonest” and that he “didn’t want to be that person.” Tr. at 51. He further testified that his behavior had negatively affected a personal relationship and that he entered therapy with self-hatred and

insecurities. *Id.* at 82–83. The Individual also shared that “pre-2022” he did not “feel satisfied or enriched” since he was “living in [his] parents’ basement.” *Id.* at 83.

The behavioral health clinician indicated, via letter, that the Individual was diagnosed with “adjustment disorder with mixed anxiety and depressed mood”; that the Individual “was consistent in his behavioral health treatment”; and that the “focus of [his] treatment was cognitive behavioral therapy.” Ex. E. Reflecting on how his therapy helped with his behavior, the Individual explained that it was “scary . . . to be honest . . . about [his] own vulnerabilities and flaws” and that “confronting [himself] [wa]s . . . the gateway to being honest and communicating that honesty with others” Tr. at 51. To further that goal, the Individual recounted attending counseling twice a week to speak with his behavioral health clinician. *Id.* at 72. As part of the mechanisms for confronting himself, the Individual began practicing and continues to practice “journaling.” *Id.* at 51, 72, 82. The Individual explained that journaling daily helps with self-reflection and expressing his desires to grow and mature. *Id.* at 51. He explained that a combination of regularly speaking with his therapist and journaling facilitated him “implementing” positive behavior in his personal life—a specific example being an improved relationship with his sibling. *Id.* at 84–85 (Individual’s testimony that he and his sibling “hated” each other prior to the changes he implemented in his life); *see also* Ex. K at 2 (“Through candid communication to my provider and self-reflection to myself, I learned to identify and address my past tendencies toward selfishness and dishonesty. This commitment to change, practiced first within the therapeutic setting and then with others in my life through openness and vulnerability, fundamentally reshaped my character.”). The Individual stopped attending therapy in December 2023 and testified that, while he “would have been happy to keep going,” his therapist felt that he was on a good path and implied that the therapist felt that treatment was no longer needed. Tr. at 52. Although the Individual had reflected on prior incidents of dishonesty, the Individual testified he had not remembered having been dishonest in his 2019 and 2020 QNSPs and also testified that he and his therapist had never discussed prior drug use during their counseling sessions. *Id.* at 53, 81.

Since having his clearance suspended, the Individual has taken several courses to address his prior drug use and decision-making. Ex. F (certificate evincing completion of a drug education course); Ex. G (certificate evincing completion of a marijuana education course); Ex. H (screenshot evincing the completion of three decision-making courses); Ex. I (certificate of completion of a decision-making course from a university). The Individual shared that he learned, from the decision-making courses, about “critical thinking, how to make the right decision, how to think through issues a lot more [in depth][,] [] understanding other’s perspectives[,], and . . . communicat[ing] with others [] in certain difficult areas.” Tr. at 85.

The Individual also began attending therapy both outside of work and through the second DOE contractor’s Employee Assistance Program (EAP). Ex. L (March 2025 letter from Individual’s primary care provider evincing referral for behavioral health treatment); Ex. M (June 2025 letter from EAP psychologist evincing Individual’s attendance since February 2025); Tr. at 66 (“I actually engaged in two separate therapy programs”). The Individual explained that he has done this to address “the anxiety and stressors that” have “come out of [] this process alone.” Tr. at 66–67. The EAP psychologist’s letter explains that the Individual “utilized [EAP] services to help address stressors and [] displayed effective coping mechanisms.” Ex. M. The Individual described the treatment as “incredibly helpful” in addressing his nervousness. Tr. at 67.

The Individual testified that drug use has no significant role in his life. *Id.* at 74. He submitted the results of a drug test, reflecting a negative result for a urine sample provided on July 11, 2024. Ex. J at 1–2. The Individual also testified that he no longer associates with the individuals who provided him the marijuana during his first and second incidents of use. Tr. at 43–44, 46. The Individual does not associate with anyone who uses drugs. *Id.* at 49–50. The Individual specifically recalled one instance when an acquaintance used illegal drugs in his presence, and the Individual actively chose to stop associating with this acquaintance. *Id.* at 50. The Individual submitted, as an exhibit, “a signed statement of intent to abstain from all future controlled substance involvement” with the “full knowledge and acceptance that failure to uphold this agreement will result in the revocation of [his] clearance and potential loss of employment and opportunity.” Ex. D. The Individual testified that he has not “not used any federally illegal drugs since . . . except for the ones [he] reported . . .” Tr. at 49; *see also* Ex. 2 at 12 (“I can however say with certainty that since . . . 2021 I have not partaken in any substance use . . .”).

f. Other Testimony and Evidence Regarding the Individual’s Character

The Individual’s Supervisor testified at the hearing and wrote a letter of support for the Individual. Tr. at 3; Ex. B. The Individual’s Supervisor has known the Individual since he first started working with the second DOE contractor in October 2021. Tr. at 17; Ex. B at 1. She described the Individual as being “highly committed to being honest and having integrity.” Tr. at 17; *see also* Ex. B at 1 (“I can attest to [the Individual’s] integrity and commitment to safeguarding sensitive information.”). She indicated she was surprised that the Individual used marijuana while holding a clearance; however, she believed the Individual to still be reliable given her observations as to his current behavior, maturity, and honesty. *Id.* at 28; *see also* Ex. B at 1 (“I believe this incident was an isolated lapse in judgment that does not reflect his overall character or commitment to adhering to security protocols.”).

The Individual also submitted two additional letters of support: one from a friend (Friend) and another from a coworker (Coworker). Ex. A; Ex. C. The Individual’s Friend met the Individual in 2016 and lived with the Individual from 2018 to 2020. Ex. A at 1. The Individual’s Friend was not present for the two incidents where the Individual used marijuana; however, he observed that, based on his regular contact with the Individual, marijuana use was not a regular part of the Individual’s life. *Id.* He never observed the Individual using drugs and confirmed that no marijuana was kept in their apartment. *Id.* He also described the Individual as “responsible, honest, and trustworthy . . .” *Id.*

The Individual’s Coworker has known the Individual since late 2021, having worked with the Individual frequently and also spent time with the Individual outside of work “in casual, personal settings.” Ex. C at 1. The Individual’s Coworker provided that “[i]n [his] time of knowing [the Individual], never once has [the Individual] proclaimed, demonstrated, or even hinted at actively using drugs”; he also considered the security incidents as a “lapse of judgment rather than an indication of any ongoing issue or disregard for the rules.” *Id.* The Individual’s Coworker noted that the Individual had “demonstrated unwavering transparency” by “providing complete and honest disclosure about . . . the incidents in question . . .” *Id.* at 1–2.

V. ANALYSIS

Based on the record before me, I am not convinced that the Individual has fully mitigated the LSO's security concerns. I first address the Guideline H concerns and then the Guideline E concerns.

a. Guideline H

Conditions that could mitigate Guideline H security concerns include:

- (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.

Adjudicative Guidelines at ¶ 26.

To start, I credit the Individual's testimony that he has not engaged in illegal drug use outside of the two incidents: the first occurring in August 2018 and the second occurring in either October 2020 or September 2021. In crediting his testimony, I consider that his Friend and Coworker both observed that the Individual is not a regular marijuana user. I weigh more heavily that the Individual self-reported this incriminating information notwithstanding the low probability that these incidents of marijuana use would have been discovered by the LSO. In making the determination regarding the probability of his prior marijuana use being discovered, I rely on the fact that his July 2024 urine test returned as negative for drug use, the fact that his August 2018 drug use remained undiscovered despite the 2019 and 2020 investigative processes, and the fact that the persons with direct knowledge of the Individual's incidents of drug use were unlikely to have been interviewed as part of his reinvestigation, given their current lack of association with the Individual. While his behavior reflects poor judgment and an extended period of dishonesty,

his self-disclosure, coupled with the low probability that this derogatory information would have otherwise been discovered, reflects that he is now providing reliable information with respect to his past marijuana use.

Regarding mitigating condition (a), the drug use occurred in August 2018, and then in either October 2020 or September 2021. I cannot find that the drug use happened under “unusual circumstances” given the mundane details surrounding the drug use. The Individual used or consumed marijuana in social settings where friends had marijuana available. Some of the behavior may be attributed to youth and immaturity. 10 C.F.R. § 710.7(c) (requiring the consideration of “age and maturity of the individual at the time of the conduct”). However, the second incident of marijuana use occurred *after* finishing college, while holding an active clearance, and after having worked with the first DOE contractor for either three months or fourteen months. The Individual admitted that he knew of his responsibilities as a clearance holder.

On the other hand, that the drug use occurred twice over two or three years demonstrates that the substance abuse was infrequent. Furthermore, the most recent marijuana use occurred, at the latest, in September 2021 or three years and ten months ago. Accordingly, I find that the marijuana use occurred sufficiently long ago that it is unlikely to recur and does not cast doubt on the Individual’s current reliability, trustworthiness, or good judgment. There are also several indications that illegal drug use is unlikely to recur. First, the timespan over which he has not used marijuana significantly exceeds the span of time over which he used marijuana, which included only two isolated uses. Second, the Individual affirmed in a signed statement and at the hearing that he does not use marijuana and has no intent to use marijuana—a statement I credit, for the reasons described above. Third, his Friend observed that during the period they lived together from 2018 to 2020 the Individual did not regularly use marijuana. Fourth, the Individual’s Coworker, who spends time with the Individual outside of work, also confirmed that there is no indication the Individual uses marijuana. Last, the Individual provided a urine test from July 2024 evincing a lack of drug use. Given that the drug use was infrequent and occurred so long ago that it is unlikely to recur, I find mitigating condition (a) to apply.

Regarding mitigating condition (b), the Individual acknowledged his drug involvement by coming forward of his own volition. He has also provided evidence of overcoming the marijuana use problem and establishing a pattern of abstinence for many of the same reasons I stated above. I have credited his account that, if he last used marijuana in September 2021, then he has abstained from drugs for three years and ten months. The two times he used marijuana appear to be isolated incidents, based on his self-disclosure and the information provided by his Friend and Coworker. The Individual does not associate with the individuals who provided him with marijuana. The Individual has actively disengaged from social interactions that would expose him to others’ illegal drug use, having provided an anecdote where an acquaintance used illegal drugs in front of him and he thereafter stopped spending time with the Individual. Furthermore, the Individual provided a signed statement that he has no intention to use illegal drugs or illegally use controlled substances in the future. The Individual also submitted evidence of the completion of drug abuse and marijuana abuse courses. Accordingly, I find mitigating condition (b) satisfied.

Mitigating conditions (c) and (d) lack application, as the concerns raised do not include misuse of prescription drugs and because no testimony or documentary evidence was provided regarding substance abuse treatment.

I find that the Individual has satisfied mitigating conditions (a) and (b) and that the Individual has resolved the security concerns asserted by the LSO under Guideline H.

b. Guideline E

Guideline E concerns may be mitigated if:

- (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;
- (f) The information was unsubstantiated or from a source of questionable reliability; and
- (g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17.

I cannot find that the Individual has mitigated the concerns raised under Guideline E.

First, I cannot find mitigating condition (a) satisfied with respect to the Individual's concealment of his marijuana use. Although he disclosed his prior marijuana use in 2024 before being confronted with the facts, it cannot be said that he came forward promptly where his 2019 and 2020 omissions remained uncorrected until his 2024 QNSP. Furthermore, he failed to report his second marijuana use in 2020 or 2021 for approximately three or four years. Mitigating condition (a) does not apply.

Regarding mitigating condition (b), the Individual's behavior cannot be attributed to the advice of legal counsel or a person with relevant professional responsibilities. Mitigating condition (b) does not apply.

Regarding mitigating condition (c), I find the repeated and long-term concealment of his drug use and falsifications in the 2019 and 2020 QNSPs to be serious concerns. The Individual testified that he had no specific memory of providing false information in the 2019 and 2020 QNSPs. However, there is no dispute that at least the 2019 provision of false information occurred deliberately. There is also no dispute that the Individual deliberately used marijuana in October 2020 or September 2021, while holding a security clearance and while aware of his obligations as a clearance holder. He failed to report such drug use until he completed his 2024 QNSP. The purposefulness, the length of time, and the disregard towards the investigative process and reporting requirements simply cannot be considered minor.

I also cannot find the behavior so infrequent given that the concealment started in 2019 and continued until 2024. I further cannot say that his pattern of dishonesty occurred so long ago given that he only came forward with this information when completing the 2024 QNSP. Last, I cannot find the concealment and falsifications to have occurred under unique circumstances. I must consider that the original falsifications and concealment may have been attributed to the Individual's youth and immaturity. 10 C.F.R. § 710.7(c). I also consider the Individual testifying that he feared losing his clearance and employment opportunity. However, those falsifications continued for years despite the Individual developing maturity through therapy. Accordingly, mitigating condition (c) does not apply.

Regarding mitigating condition (d), the Individual eventually acknowledged the reporting failures. The Individual also provided evidence that he attended counseling from December 2021 to December 2023 to address behavioral issues, including his honesty. The record includes his testimony that therapy had helped him with self-reflection—including confronting himself about his own flaws, journaling, speaking with his therapist, and implementing those practices in his interpersonal relationships. In terms of other actions taken to overcome the problem with his dishonesty, he has started re-attending therapy through a private provider and through his employer's EAP and has also taken several classes to address his critical thinking and decision-making. I have letters of support regarding his positive character and the testimony of his Supervisor who believes the Individual to have matured and to be a person of integrity, demonstrating the efficacy of the positive steps he has taken.

While I credit that the Individual has made positive changes in his life, I cannot find that the totality of the evidence rebuts the strong presumption against the reinstatement of his clearance. *Dorfmont v. Brown*, 913 F.2d at 1403. In particular, I consider that, despite the two years of attendance in

therapy to address past dishonesty from December 2021 to December 2023, the Individual failed to correct his falsification in the 2019 QNSP, failed to correct his falsification in the 2020 QNSP, and failed to report his October 2020 or September 2021 drug use until August 2024. 10 C.F.R. § 710.7(c) (requiring consideration of the “frequency and recency of the conduct”). Throughout his time in therapy and even after therapy, the Individual failed to correct these failures until it came time to complete his August 2024 QNSP.

The Individual testified that he did not remember his initial dishonesty in the 2019 and 2020 QNSPs; however, I also find this testimony unreliable. In contradiction to his testimony, the Individual, in January 2025, provided a written statement with specific details as to his state of mind when completing the 2019 and 2020 QNSPs. More specifically, with respect to his 2019 QNSP, his written statement recounted that he “justified at the time that [the marijuana he used] was state-legally acquired” Ex. 2 at 12. Furthermore, with respect to his 2020 QNSP, the Individual’s written statement recounted “ha[ving] retained records from [his] other [2019 QNSP] while only updating sections that [he], at the time, had significant updates towards such as foreign travel visits, sources of contact, places lived, etc.” *Id.* When asked why his testimony conflicted with his prior, January 2025 written statement, the Individual testified that he had been making assumptions when providing those responses. Notwithstanding this explanation, this continued and recent inconsistency—up to the date of the hearing—raises a question as to whether the Individual had in fact forgotten his dishonesty in the 2019 and 2020 QNSPs. I cannot find that mitigating condition (d) sufficiently applies to mitigate the security concerns.

Regarding mitigating condition (e), the LSO did not raise any concerns regarding personal conduct that could result in vulnerability to exploitation, manipulation, or duress. Mitigating condition (e) lacks application.

Regarding mitigating condition (f), there exists no dispute as to the reliability of the information because the Individual came forward. Mitigating condition (f) lacks application.

Regarding mitigating condition (g), the concerns raised by the LSO did not involve the Individual’s association with those involved in criminal activities. Accordingly, mitigating condition (g) also lacks application.

For the aforementioned reasons, I find that none of the mitigating conditions are applicable to the facts of this case and that the Individual has not resolved the security concerns asserted by the LSO under Guideline E.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines E and H of the Adjudicative Guidelines. After considering all the relevant information, both 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 Notification Letter under Guideline H, but not the security concerns under Guideline E. Accordingly, I find the Individual has not demonstrated that restoring his security

clearance would not endanger the common defense and would be clearly consistent with the national interest. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Andrew Dam
Administrative Judge
Office of Hearings and Appeals