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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: March 18, 2025 )  
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Case No.: PSH-25-0095

Issued: September 4, 2025

## Administrative Judge Decision

James P. Thompson III, 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.”<sup>1</sup> 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 restored.

## I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires a security clearance. In August 2024, the Individual self-reported to the DOE Local Security Office (LSO) that he had been arrested and charged with Driving While Intoxicated (DWI). Afterward, The LSO requested that the Individual be evaluated by a DOE-consultant Psychologist (DOE Psychologist). Subsequently, the LSO informed the Individual by letter (Notification Letter) that it possessed reliable information that created substantial doubt regarding his eligibility to possess a security clearance. In an attachment to the Notification Letter, entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information raised security concerns under Guidelines G and J of the Adjudicative Guidelines.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review

<sup>1</sup> 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.

hearing. At the hearing, the Individual presented the testimony of two witnesses and testified on his own behalf. The LSO presented the testimony of the DOE Psychologist. The Individual submitted three exhibits, marked Exhibits A through C.<sup>2</sup> The LSO submitted fifteen exhibits, marked Exhibits 1 through 15.<sup>3</sup>

## II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the LSO cited Guideline G (Alcohol Consumption) and Guideline J (Criminal Conduct) of the Adjudicative Guidelines as the bases for concern regarding the Individual's eligibility to possess a security clearance. Exhibit (Ex.) 1 at 5.

Guideline G provides that “[e]xcessive 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 “[a]lcohol-related incidents away from work, such as driving while under the influence . . .” and “diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, [or] psychiatrist . . .) of alcohol use disorder . . .” *Id.* at ¶ 22(a), (d). The SSC cited the DOE Psychologist’s conclusion that the Individual meets sufficient *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*, criteria for a diagnosis of Alcohol Use Disorder (AUD), mild, in early remission, without evidence of rehabilitation or reformation, and that the Individual had been charged with Driving Under the Influence (DUI) in 2022 and DWI in 2024. Ex. 1 at 6. The cited information justifies the LSO’s invocation of Guideline G.

Guideline J provides that “[c]riminal activity creates doubt about a person’s judgment, reliability, and trustworthiness.” Adjudicative Guidelines at ¶ 30. “By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” *Id.* Conditions that could raise a security concern include “[e]vidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted . . .” *Id.* at ¶ 31(b). The SSC cited the above-reference DUI and DWI, which justifies the LSO’s invocation of Guideline J. Ex. 1 at 5.

## 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 of 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

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<sup>2</sup> The Individual’s exhibits are labeled as follows. Exhibit A is a laudatory letter from the Individual’s treatment provider. Exhibit B is a certificate of completion of an Intensive Outpatient Program for alcohol-related treatment. Exhibit C contains several clinical alcohol test results.

<sup>3</sup> References to the LSO exhibits are to the exhibit number and the page number of the combined .pdf of the exhibit book.

standard implies that there is a presumption against granting or restoring a security clearance. *See Department 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).

The 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). The 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.

The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

#### IV. FINDINGS OF FACT

In July 2022, the Individual was charged with DUI after he had consumed alcohol and operated a motor vehicle in an “unsafe manner.” Ex. 8 at 46; Ex. 11 at 59; Transcript of Hearing, OHA Case No. PSH-25-0095 (Tr.) at 39 (Individual testifying that he was “over the limit” for alcohol consumption). He reported this DUI to the LSO, his clearance was consequently suspended, and he met with his employer’s Fitness for Duty program (FFD). Ex. 8 at 40–41; Ex. 9 at 46; Tr. at 42. FFD required the Individual to undergo alcohol breath testing and weekly random urine tests while participating in his employer’s six-week “driving impaired class,” which he attended once a week. Ex. 11 at 60; Tr. at 42–43, 45. The Individual resolved the DUI charge by paying a fine.<sup>4</sup> Tr. at 40. After he completed the FFD requirements, the Individual’s clearance was reinstated. *Id.* at 42. While the Individual initially abstained from alcohol, he began consuming alcohol again by 2023, and, in August 2024, while driving after a night of consuming approximately seven or eight alcoholic beverages, he was stopped by law enforcement and charged with DWI after he produced a breath sample of .23 Breath Alcohol Concentration (BAC). Ex. 7 at 26, 28; Ex. 13 at 83; Tr. at 46, 49, 52.

After the DWI arrest, the Individual spent a day in jail, his clearance was suspended again, and he met with FFD again. Tr. at 54, 60. This time, FFD referred him to a twelve-week Intensive Outpatient Program (IOP) that included breath and weekly urine alcohol tests. Ex. 13 at 83; Tr. at 11, 60–61. He enrolled in the IOP in October 2024. Tr. at 63 (explaining that he had to wait until October because the IOP had a waitlist).

The DOE Psychologist evaluated the Individual in December 2024 and produced a report (Report). Ex. 13 at 80. At that time, the DOE Psychologist concluded that the Individual presented the following “warning signs” regarding alcohol use. *Id.* at 85. The Individual claimed in a written

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<sup>4</sup> The Individual explained that a “tribal land officer” issued him a “citation ticket” for the DUI since the incident took place on “tribal land.” Tr. at 40.

submission to the LSO to have only ever been intoxicated twice, the same two times he had been charged with DUI and DWI, which the DOE Psychologist opined “seem[ed] unlikely.” *Id.* at 83, (also noting that the Individual changed his response during the evaluation to “hardly ever”), 85. Despite completing a six-week alcohol awareness education class after his 2022 DUI, the Individual had continued to consume alcohol excessively and received a second alcohol-related arrest. *Id.* at 83, 85. The Individual’s BAC at the time of his DWI was “nearly three times the legal limit of intoxication.” *Id.* And the Individual described experiencing a “brownout” the night of his DWI. *Id.* at 85–86 (the DOE Psychologist defining brownout as “a partial loss of memory caused by excessive alcohol consumption”). The Individual stated during the evaluation that he had been abstinent since the DWI. Ex. 13 at 85.

As part of the evaluation, the Individual underwent a Phosphatidylethanol (PEth) test, which can determine whether an individual has consumed significant amounts of alcohol in the preceding three to four weeks. *Id.* The Individual’s test results were negative, which the DOE Psychologist interpreted as corroborating the Individual’s statement that he had been abstinent since August 2024—the date of his DWI. *Id.* The DOE Psychologist also concluded that the Individual met three of the eleven diagnostic criteria for AUD after determining that the Individual’s recurrent alcohol use had resulted in a failure to fulfill major role obligations at work, that his alcohol use had led to a reduction in important occupational activities, and that he demonstrated recurrent alcohol use in situations which are physically hazardous. *Id.* at 86–87; Tr. at 95. The DOE Psychologist concluded that the AUD was therefore “mild” since the Individual met at least two but less than four diagnostic criteria. Tr. at 95. The DOE Psychologist also concluded that the AUD was in early remission since the Individual had gone more than three months but less than one year without meeting the diagnostic criteria for AUD. *Id.*; *see also* Ex. 13 at 87 (providing the eleven diagnostic criteria for AUD). The DOE Psychologist opined that the Individual could demonstrate rehabilitation of the AUD by completing the IOP, attending aftercare for six months, abstaining from alcohol throughout treatment, and providing negative monthly PEth test results as evidence of his abstinence. Ex. 13 at 86.

The Individual successfully completed the IOP in January 2025, which included up to three group sessions and one individual treatment session each week. Ex. B (Certificate of Completion); Tr. at 11 (IOP counselor explaining that there are two “basic” group sessions per week, one Alcoholics Anonymous session, and one individual session). He thereafter attended aftercare for six months, which he successfully completed in July 2025. Tr. at 14–16, 18 (testimony of IOP counselor), 68 (testimony of Individual). The Individual described the IOP as “an everyday therapy thing” where he discussed his goals and mindset around alcohol consumption and worked on responding to different scenarios. *Id.* at 65; *see also id.* at 13–14 (IOP counselor testifying that the Individual attended all classes and “was very engaged . . .”), 21 (IOP counselor describing that they discussed tools the Individual could employ to avoid alcohol during concerts or while spending time with friends). He also described watching videos and discussing them in a group setting, which allowed him to hear input from different participants going through the same challenges with alcohol. *Id.* As for aftercare, the Individual described it as a way to “keep you on track after [finishing the IOP] so you’re not falling back into your bad habit . . . with alcohol.” *Id.* at 70; *see also id.* at 16 (IOP counselor’s testimony corroborating the Individual’s description). He described having two monthly aftercare meetings: one that was individual counseling and one in a group setting where he discussed topics with other participants. *Id.* at 70. The IOP counselor confirmed that the

Individual had expressed the intention to remain abstinent from alcohol. *Id.* at 19–21. The IOP counselor also stated, in a written letter, that the Individual had been an “outstanding participant” and “his dedication to personal growth [had] been evident” throughout his treatment. Ex. A.

During treatment, the Individual underwent breath alcohol testing before each session. Tr. at 14. Furthermore, he was at all times subject to urinalysis. *Id.* He never produced a positive test result. *Id.* He also reviewed the DOE Psychologist’s Report with the IOP counselor as part of his treatment *Id.* at 80. He testified that he agreed with the DOE Psychologist’s opinion that he met the criteria of AUD. *Id.* He explained that, after his first DUI, he “fell back into the bad habit of being irresponsible with drinking” because he did not experience significant criminal consequences and therefore did not yet realize “how serious [his behavior with alcohol] was.” *Id.* at 46–47, 75 (reflecting that he should have learned his lesson after the DUI). As a result of the DWI, he spent over a day in jail and had to spend money for a lawyer, and he testified that the experience highlighted the seriousness of his behavior. *Id.* at 76. He testified that he had learned that he had to take responsibility for his behavior and stop consuming alcohol “for the sake of [his] career.” *Id.* at 68–69. He also realized that he had been “lying” to himself prior to the DWI, and it made him realize that he may have a problem with alcohol. *Id.* at 77.

The Individual resolved the 2024 DWI by pleading guilty. *Id.* at 56. The court sentenced him to probation, which was later reduced to unsupervised probation because the Individual completed the majority of the conditions of his probation, including twenty-four hours of community service. *Id.* at 57–58. His probation is set to end in March 2026. *Id.* at 58. He testified that he had remained abstinent since the day of his arrest. *Id.* at 79.

The record includes PEth test results for April, May, June, and July 2025. Ex. C. All results are negative. *Id.* The Individual began PEth testing in April because he realized at that time that he would need the results as evidence for the present administrative review hearing. Tr. at 81–82.

Since his 2024 DWI, he obtained a state-issued license for his vocation after passing a required test; and, as a result of that accomplishment and his positive job performance, his employer increased his work responsibilities. *Id.* at 36 (testimony of work colleague), 94 (testimony of Individual). The Individual’s work colleague also testified that while he and the Individual used to socialize and “drink on occasion[,]” he had not observed the Individual consume alcohol in over a year. *Id.* at 31.

At the hearing, the DOE Psychologist favorably opined that the Individual’s “diligent” progress over the nine months since the evaluation, including approximately a year of abstinence and the evidence of successful alcohol treatment, demonstrated that the Individual had rehabilitated from his AUD. *Id.* at 98, 100–02, 105. The DOE Psychologist updated her diagnosis at the hearing and concluded that the Individual’s AUD, mild, was in sustained remission. *Id.* at 102. The DOE Psychologist also opined that the Individual had a good prognosis. *Id.* at 105.

## V. ANALYSIS

### **A. Guideline G Considerations**

Conditions that can mitigate security concerns based on alcohol consumption include the following:

- (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 or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;
- (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.

I conclude that ¶ 23(b) applies to resolve the Guideline G concerns for the following reasons. There is ample evidence that the Individual acknowledged his pattern of maladaptive alcohol use by acknowledging that he had irresponsibly used alcohol in the past, that he had a problem with alcohol, and that he met sufficient criteria for a diagnosis of AUD. The record also demonstrates that the Individual has taken positive actions to address his problematic alcohol use. Over approximately nine months, he attended and completed the IOP and aftercare recommended by the FFD and endorsed by the DOE Psychologist. The testimony and clinical evidence in the record, including negative PEth test results and other alcohol testing conducted by the IOP, weigh in favor of finding that the Individual has remained abstinent for a year since his August 2024 DWI—which demonstrates a clear pattern of abstinence.

I also find that the circumstances are significantly different now than at the time of his 2024 DWI. After the DUI, he only attended an alcohol education course and therefore did not have the benefit of alcohol treatment. Not only did he attend the IOP after the DWI, which included developing real-world strategies for relapse prevention that he can use to successfully remain abstinent into the future, but, notably, the Individual specifically credited aftercare with helping him stay on track with his abstinence. Additionally, he experienced significant criminal consequences as a result of the DWI beyond merely paying a fine. He spent a day in jail, shouldered the expense of hiring a lawyer, and ultimately pled guilty and was sentenced to probation. I find credible the Individual's testimony that these substantial consequences had a significant impact on his mindset regarding his past alcohol use. I further find his testimony credible that he has a deeper understanding of the

seriousness of his past behavior and recognizes he failed to act responsibly after his first DUI. He and the IOP counselor provided significant testimony regarding the Individual's efforts and progress during treatment. The fact that he intends to remain abstinent indefinitely also lends weight to my finding that he has changed his mindset around alcohol consumption. Finally, I am persuaded by the DOE Psychologist's conclusion that the Individual has rehabilitated from his AUD, that the Individual's AUD is in sustained remission, and that the Individual has a good prognosis. Those conclusions are based on significant evidence regarding the Individual's progress in treatment and continued sobriety since the DWI. Based on my findings, I conclude that the Individual's circumstances are significantly different now than they were when his clearance was reinstated previously, and the Individual is not likely to relapse. I further conclude that the Individual has demonstrated a clear and established pattern of abstinence in accordance with treatment recommendations and therefore resolved the Guideline G concerns.

## **B. Guideline J Considerations**

Conditions that can mitigate security concerns based on criminal conduct include the following:

- (a) So much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (b) The individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) No reliable evidence to support that the individual committed the offense; and
- (d) There is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Adjudicative Guidelines at ¶ 32.

I conclude that ¶ 32(d) applies to resolve the Guideline J concerns. The record demonstrates that the Individual's criminal conduct is inextricably linked to his history of problematic alcohol consumption because the two criminal charges cited in the SSC resulted from his decision to operate a motor vehicle while under the influence of alcohol. According to my above findings under Guideline G in the preceding section, the Individual has rehabilitated from his AUD, demonstrating that it is unlikely that he will resume problematic alcohol consumption. Since the Individual is unlikely to engage in problematic alcohol consumption, the Individual is similarly unlikely to engage in future criminal conduct. In addition to resolving the underlying cause of his criminal conduct, he is complying with the terms of his probation because he is currently under unsupervised probation as a result of his positive progress, which included completing court-ordered community service. Lastly, the Individual provided evidence of job training and a good employment record; after his 2024 DWI, he obtained a state-issued trade license, and his employer has since entrusted him with increased responsibilities. For the preceding reasons, I conclude that

the Individual is successfully rehabilitated. The Individual has therefore resolved the Guideline J security concerns.

## **VI. CONCLUSION**

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guideline G and Guideline J of the Adjudicative Guidelines. After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I conclude that the Individual brought forth sufficient evidence to resolve the Guideline G and J security concerns. Accordingly, I have determined that the Individual's access authorization should be restored.

This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

James P. Thompson III  
Administrative Judge  
Office of Hearings and Appeals