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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: September 16, 2025)
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Case No.: PSH-25-0210

Issued: November 5, 2025

Administrative Judge Decision

Phillip Harmonick, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXXXXXX (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

The Individual has possessed access authorization since at least 2012 in connection with her employment by DOE. *See* Exhibit (Ex.) 4 at 38–39 (Individual providing her clearance investigation history in a Questionnaire for National Security Positions (QNSP)).² In 2016, the Individual was disciplined for having “tapped” another employee with a cart in the workplace. *Id.* at 24; Ex. 5 at 50–51. In September 2023, the Individual was issued a memorandum indicating that she had violated security policies concerning cellphone use in a restricted area. Ex. 6 at 53. The Individual was directed to abide by cellphone use and storage policies and to refrain from distracting guards at security stations. *Id.*

In 2024, the Individual was the subject of an insider threat report regarding allegedly threatening and violent behavior. Ex. 7 at 63. On July 27, 2024, following an investigation, a report (DOE

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 DOE submitted its exhibits as a single PDF exhibit notebook. This Decision will cite to the pages in the exhibit notebook in the order in which they appear regardless of their internal pagination.

Memo) was issued concluding that the Individual did not present an insider threat but that the Individual had demonstrated “concerning behaviors” related to workplace violence, had engaged in “repeated insubordination,” and presented “an outstanding concern with time and attendance.” *Id.* at 61. Among other things, witnesses reported that the Individual had threatened violence against DOE personnel, displayed extreme emotion over minor workplace difficulties, was “curt” and “aggressive” in her workplace interactions, and had negative interactions with contractor personnel such that many of them refused to work with her. *Id.* at 65–67. On October 18, 2024, the Individual was issued a letter of reprimand for falsely claiming twenty hours of overtime she did not work on her time and attendance records. Ex. 8 at 76.

On November 7, 2024, the local security office (LSO) received a personnel security information report (PSIR) disclosing that the Individual had committed a security infraction several months prior to the submission of the PSIR. Ex. 9 at 80–82. The PSIR stated that the Individual left three uncleared contractors she was escorting unattended in an area containing restricted data and/or classified documents while she was socializing with guards at a security station. *Id.* The PSIR further stated that the Individual had intentionally committed the security violation and attempted to deceive officials investigating the violation. *Id.* The LSO issued the Individual a letter of interrogatory (LOI) concerning the circumstances of the security infraction. Ex. 10. In her response to the LOI, the Individual attributed her leaving the contractors unattended to “multitask[ing].” Ex. 11 at 90.

The LSO issued the Individual a Notification Letter advising her that it possessed reliable information that created substantial doubt regarding her eligibility for access authorization. Ex. 1 at 2–4. 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 K of the Adjudicative Guidelines. Ex. 2 at 6–9.

The Individual exercised her right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 3. 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 thirteen exhibits (Ex. 1–13). The Individual submitted ten exhibits (Ex. A–J). The Individual testified on her own behalf and offered the testimony of her supervisor (Current Supervisor). Transcript of Hearing, OHA Case No. PSH-25-0210 at 3, 13, 34–35 (Tr.). The LSO offered the testimony of the security official (Security Official) who authored the DOE Memo. *Id.* at 3, 67.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline E (Personal Conduct) of the Adjudicative Guidelines as one basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 2 at 6–8. “Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” Adjudicative Guidelines at ¶ 15. The SSC cited the Individual’s false certification of her time and attendance which led to her discipline for claiming unworked overtime hours, her

alleged false statements to investigatory officials and in response to the LOI related to the 2024 security violation, the conclusions of the DOE Memo that the Individual had a pattern of rule violations, the Individual's failure to comply with directions to refrain from distracting the guard force, the Individual's 2016 workplace discipline, and the accounts from witnesses of the Individual's alleged aggressive, threatening, or disruptive behavior. Ex. 2 at 6–8. The LSO's allegations that the Individual deliberately omitted, concealed, or falsified information from the LOI, deliberately provided false or misleading information to DOE personnel involved in making a recommendation relevant to a national security eligibility determination, engaged in disruptive, violent, or other inappropriate behavior, engaged in a pattern of dishonesty or rule violations, and significantly misused Government time justify its invocation of Guideline E. Adjudicative Guidelines at ¶ 16(a)–(b), (d)(2)–(4).

The LSO cited Guideline K (Handling Protected Information) of the Adjudicative Guidelines as the other basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 2 at 8–9. "Deliberate or negligent failure to comply with rules and regulations for handling protected information-which includes classified and other sensitive government information, and proprietary information-raises doubt about an individual's trustworthiness, judgment, reliability, or willingness and ability to safeguard such information, and is a serious security concern." Adjudicative Guidelines at ¶ 33. The SSC cited the Individual having violated security escort procedures when she left three uncleared contractors unattended in an area containing restricted and/or classified documents and the Individual's repeated use of a personal cell phone in a restricted area. Ex. 2 at 8–9. The LSO's allegations that the Individual failed to comply with rules for the protection of classified or sensitive information and engaged in negligent or lax security practices despite counseling by management justify its invocation of Guideline K. Adjudicative Guidelines at ¶ 34(g)–(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 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 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 so as 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. Workplace Incident Involving a Cart

In 2016, the Individual was issued a warning for bumping a coworker with a cart in the workplace. Ex. 4 at 24; Ex. 5 at 50–51. In a 2018 interview with an Office of Personnel Management investigator as part of a routine reinvestigation of the Individual’s eligibility for access authorization, the Individual characterized the incident as an accident which occurred when she was pushing the cart through a narrow area. Ex. 5 at 50–51.

B. Cellphone Use in a Restricted Area

On September 13, 2023, the Individual the Individual was observed on security video using her personal cellphone and socializing with security guards for approximately thirty minutes in an area where personal cellphone use was prohibited. Ex. 6 at 53; *see also* Tr. at 46 (Individual claiming at the hearing that she had her “cell phone in there and [brought] it right back out”). As part of an investigation of the incident, a senior manager in the Individual’s chain of command stated during an interview that the Individual had “multiple issues” with bringing her personal cellphone into an area where personal cellphone use is prohibited. Ex. 6 at 55; *see also* Tr. at 86 (Security Official testifying that there were “several times where [the Individual] has brought a cell phone into the restricted area”).

Following review of the Individual’s personal cellphone use, the Individual was issued a memorandum stating that she had violated DOE policies regarding cellphone use. Ex. 6 at 53. The Individual was directed to take several corrective actions, including not to bring a personal cellphone into DOE facilities “unless it is properly stashed away in an approved location” and not to “distract or hangout at the security guard stations.” *Id.*; *see also* Tr. at 87 (Security Official testifying that the memorandum followed “over a year’s worth of counseling and correction” by the Individual’s management related to distracting the guards through “long, drawn-out conversations,” some of which resulted in the guards “miss[ing] security checks that they should have gotten had they been paying attention”).

C. Insider Threat Report, Investigation, and Time and Attendance Falsification

At some point in 2024, a coworker of the Individual (Employee A) accused the Individual of having sprayed his face with a cleaning product. Tr. at 39–40. The Individual said that she only used the cleaning product on a surface in her work area and denied Employee A’s accusation. *Id.* Employee A’s allegation was investigated and, according to the Security Official, “turned out to be not true” *Id.* at 91; *see also id.* (Security Official stating that he attributed the allegation to “people [being] hypersensitive to events”).

Later in 2024, Employee A reported that the Individual displayed threatening behavior in the workplace that presented insider threat concerns. Ex. 7 at 63; Tr. at 88–89. Four witnesses were

interviewed in connection with the review of this matter. Ex. 7 at 63, 66–67, 70. Employee A claimed that he had observed the Individual engage in loud and disruptive behavior due to her volatile temper. *Id.* at 66. Employee A also alleged that he had observed the Individual engage in multiple disputes with a senior leader (Senior Leader), one in June 2024 when Employee A said that he observed the Senior Leader direct the Individual to stop distracting guards when they were on duty and another in which the Individual was told that she could no longer work overtime on Saturdays. *Id.* Employee A asserted that the Individual told the Senior Leader that she “hope[d] your family prays for you” after the former incident and had said that she would “kill that mother [f]***er” and that senior leaders “better watch their f***ing asses[because] they could be disappeared” after the second incident. *Id.*; *but see* Tr. at 50 (Individual denying that she ever engaged in this conduct). Employee A further opined that, as a result of the Individual’s rudeness and temper, contractor employees refused to work with the Individual and would contact Employee A to avoid her and that the Individual would “trash her cubicle” in a rage. Ex. 7 at 66; *but see id.* (Employee A admitting that he had never observed the Individual “destroy any government property”); Tr. at 49–50 (Individual testifying at the hearing that she “pound[ed] [her] desk” but denying that she ever threw anything or destroyed property).

The Individual’s first line supervisor (Former Supervisor) corroborated to investigators that contractors refused to work with the Individual due to her due to her aggressive behavior. Ex. 7 at 67. The Former Supervisor stated that the Individual was quick to anger, highly emotional, demonstrated “extreme paranoia that everyone is out to get her or do her wrong,” and “hate[d] a lot of people” with whom she worked. *Id.* However, the Former Supervisor opined that the Individual was a hard worker, could be “very kind,” and would not “do anything to harm anyone.” *Id.*

The Individual’s second line supervisor (Manager) corroborated that the Individual was highly emotional and prone to perceiving “every interaction with co-workers [as] personal attacks on her.” *Id.* at 70. However, he denied feeling threatened by the Individual or perceiving the Individual as likely to harm anyone. *Id.* The Senior Leader stated that she had personally observed the Individual displaying highly variable emotions and once observed the Individual engage in disruptive behavior at an offsite event such that the Senior Leader directed her to leave. *Id.*

On July 27, 2024, the DOE Memo was issued concluding that the Individual did not present a significant security threat. *Id.* at 61–62. However, the DOE Memo noted that the Individual engaged in “concerning behaviors” that “could increase the risk of an active threat if these factors are not promptly mitigated.” *Id.* at 61. Among other things, the DOE Memo concluded that the Individual had demonstrated “workplace violence” and “insubordination and an unwillingness to comply with . . . direction.” *Id.* The DOE Memo also noted concerns regarding potential time and attendance issues that had been uncovered during the investigation. *Id.*

A subsequent investigation concluded that the Individual had falsely reported twenty hours of overtime on her time and attendance records for the month of May 2024 which she had not actually worked. Ex. 8 at 76. During the investigation of the Individual’s misrepresentation of her work time, she denied having engaged in the conduct. *Id.* at 76–77. On October 18, 2024, the Individual was issued a letter of reprimand for falsifying her time and attendance records. *Id.*

In her hearing testimony, the Individual denied that she had falsified her time and attendance records and claimed to have been physically present at work on the dates she was determined to have falsely reported her time and attendance. Tr. at 52. However, the Security Official testified that he had reviewed badge swipe data, alarm records in the Individual's work area, and video surveillance footage, none of which showed any indication of the Individual having been present on several dates on which she claimed to have worked overtime. *Id.* at 82–85. Considering the results of the investigation and the information reviewed by the Security Official, I do not credit the Individual's claim and find that her testimony that she did not falsely report her time and attendance calls her credibility into question.

D. Escort Security Violation and Inquiry From the LSO

On August 8, 2024, a DOE employee reported to the Security Official that he had observed contractors working in a room containing “classified/controlled documents” without an escort. Ex. 9 at 82. The Security Official went to the room in question where he observed the Individual. *Id.* at 83. The Security Official advised the Individual of the report he had received, to which the Individual responded “you can see[] I’m here” and denied knowledge of why the Security Official would have received that information. *Id.*; Tr. at 71.

A subsequent review of security footage showed the Individual saying that she was “putting [the contractors] in the closet” as she signed them into the facility, escorting them to the room in question, and leaving them unescorted in the room while she returned to the facility entrance to “engage[] the guards in idle conversation” Ex. 9 at 83; *see also* Tr. at 56–58 (Individual testifying that she had said she would put the contractors in the closet in jest and claiming that she had exchanged only a few words with the guards). The security footage showed that the Individual had left the contractors unescorted in the room containing restricted data and/or classified documents for approximately thirty-five minutes. Ex. 9 at 83; Tr. at 74–78 (Security Official testifying that he personally reviewed the security footage and concluded that the Individual had left the contractors unescorted for approximately thirty-five minutes). A causal analysis by a senior official assigned “accountability to [the Individual’s] supervision and management” for the security violation due to a lack of supervision of the Individual. Ex. 9 at 83; Tr. at 99–100. However, the Security Official considered the Individual responsible for the security violation, which he deemed a “significant security event,” based on the “premeditation” evinced by the Individual’s remarks to the security guards and her efforts to deceive him when he questioned her about the report he had received. Tr. at 98–99.

On November 7, 2024, the LSO received the PSIR disclosing the Individual’s August 2024 security violation. Ex. 9 at 80–81. On December 31, 2024, the LSO issued the Individual an LOI (First LOI) requesting information about the security violation. Ex. 10. In her response, the Individual claimed that she left the contractors unattended because she was “multitask[ing]” and conducting other escort duties. *Id.* at 90. The LSO issued the Individual another LOI (Second LOI) on February 26, 2025, wherein the LSO sought information concerning the Individual’s falsification of her time and attendance records and the information developed through the insider threat investigation. Ex. 12. In her response to the Second LOI, the Individual denied recollection of the days on which she misrepresented that she had worked overtime on her time and attendance reports and responded to additional questions concerning the August 2024 security incident by

indicating that she believed she had already answered the questions in her previous submission. Ex. 13 at 106–07. The Individual admitted in her response to the Second LOI that she had “thrown or banged” items in her cubicle when upset and that she behaved “unprofessional[ly]” towards the Senior Leader. *Id.* The Individual represented that she had responded in kind after the Senior Leader “came to [her] unprofessional[ly] and [with] aggression . . .” *Id.* at 107; *but see* Ex. 7 at 70 (Manager stating in an interview related to the insider threat investigation that he had never observed the Senior Leader “belittle or put [the Individual] down in any way”).

At the hearing, the Individual reiterated her claim that she had left the contractors unattended because she was called to conduct other escort duties. Tr. at 35. She further asserted that if Employee A had not been absent that day, she “would have had help . . . and he would have maintained [her duties] downstairs” instead of her “trying to do multiple tasks” which led to the security violation. *Id.* at 60–61. The Security Official testified that if the Individual’s claim to having been called to other escort duties was true she had several options for managing the conflicting request without violating security policies by leaving the contractors unescorted, such as communicating via radio with her supervisor that another escort would need to be found or requiring the contractors to accompany her back to the entrance so that she could conduct the other escort. *Id.* at 79.

E. Individual’s Recent Conduct

The Individual testified at the hearing that she had not committed any security infractions since the escort violation and would strictly adhere to security rules in the future. *Id.* at 36. The Current Supervisor, who began working as the Individual’s supervisor in April 2025, is not aware of the Individual having committed any security violations during his time as her supervisor, has never had occasion to counsel the Individual regarding excessive socializing or cellphone use in the workplace, and has never experienced the Individual behaving insubordinately. *Id.* at 15, 18, 28–30; *see also* Ex. I (character letter from a coworker of the Individual who indicated that he had observed the Individual adhere to rules and handle classified material appropriately); Ex. B (letter from another coworker indicating that he had never observed the Individual commit a security infraction).

The Individual claimed that, since September 2024, she had “been very professional” and “swallow[ed] [her] pride” during difficult interactions in the workplace. Tr. at 41–42. The Current Supervisor, however, has observed “flare-ups” as a result of the Individual’s tone or way of communicating information; though, the Current Supervisor did not consider the incidents unusual and noted that other employees contributed to the “flare-ups” with their own defensiveness. *Id.* at 23–25. The Current Supervisor also reported that the Individual continued to use vulgar language and to display a high level of emotionality in the workplace, such as by crying, which he attributed to her becoming overwhelmed by difficulties “quite fast.” *Id.* at 26; *see also id.* at 33 (testifying that since late June or early July the Individual had refrained from this conduct in areas where she might be overhead by new personnel with whom she shares a work area). As many as ten DOE and contractor employees have told the Current Supervisor that they would prefer not to interact with the Individual in the future, though the Current Supervisor characterized this as a small minority of the people with whom the Individual has engaged in the workplace. *Id.* at 27; *see also*

Ex. J (character letter from a former coworker of the Individual who retired in 2020 who observed the Individual display positive interpersonal behaviors in the workplace).

V. ANALYSIS

A. Guideline E

Conditions that could mitigate security concerns under Guideline E include:

- (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.

The first mitigating condition is inapplicable to the Individual's false statements to the Security Official and in response to the First LOI concerning her August 2024 security violation. The Individual was confronted with video evidence of her conduct rather than admitting that she had been untruthful. Moreover, during the hearing she continued to offer an account of her conduct that contradicted the conclusions drawn by the Security Official based on his investigation. For these reasons, the first mitigating condition is inapplicable. *Id.* at ¶ 17(a).

The second mitigating condition is irrelevant to the facts of this case because the Individual did not assert that she relied on the advice of counsel or another representative with respect to any of the behaviors cited by the LSO in the SSC. *Id.* at ¶ 17(b).

The Individual's 2016 warning for bumping another employee with a cart is mitigated pursuant to the third mitigating condition. The conduct in question was relatively minor, occurred approximately nine years ago, and appears to be an unusual event in the Individual's career considering the absence of other instances in which the Individual engaged in potentially physically harmful conduct. Accordingly, I find the security concerns presented by the 2016 warning to be resolved. *Id.* at ¶ 17(c).

The remaining allegations by the LSO under Guideline E are not resolved under the third mitigating condition. Starting with the Individual's falsifications, the Individual's false statements to the Security Official and in response to the First LOI related to her August 2024 security violation were not minor. If the Security Official credited the Individual's false statements without independent investigation, they would have concealed a security violation that presented independent security concerns under Guideline K and which the Security Official considered to be a significant security event. The behavior was not infrequent because the Individual offered similarly untruthful or incomplete accounts of her conduct in response to the First LOI and in her hearing testimony. The conduct did not happen under unique circumstances because the untruthfulness began in relation to the Individual's performance of routine workplace duties.

Considering the remaining allegations by the LSO under Guideline E, the Individual's false reporting of her time and attendance, repeated violations of cellphone use policies, insubordination and repeated failure to follow directions, disruptive behavior, and discordant relationships with coworkers and contractors are relatively distinct events. However, considering that these events all either occurred or escalated in an approximately one-year time frame, and that the Individual is a mature adult who has held a security clearance for many years, I find that the circumstances surrounding the conduct enhance the security concerns. *See* 10 C.F.R. § 710.7(c) (requiring consideration of the "circumstances surrounding the conduct" and "the age and maturity of the individual" in applying the Adjudicative Guidelines). While some of these events are relatively minor, cumulatively they suggest that the Individual's reliability and stability have degraded since the time she was first granted access authorization. Taken together, I find that the alleged conduct is not minor. Moreover, the behaviors in question occurred frequently in a short span of time under routine workplace circumstances. While approximately one year has passed since the last instance of misconduct cited in the SSC, I find that this period of time is not so long as to convince me that the issues will not reemerge when the Individual is no longer under the scrutiny of the administrative review process. Accordingly, I find that the Individual has not resolved the aforementioned concerns pursuant to the third mitigating condition. Adjudicative Guidelines at ¶ 17(c).

The fourth and fifth mitigating conditions are irrelevant to the facts of this case because the Individual does not claim to have pursued counseling, and the LSO did not allege that the Individual engaged in conduct that placed her at special risk of exploitation, manipulation, or duress. *Id.* at ¶ 17(d)–(e).

The sixth mitigating condition is applicable to the allegations by Employee A that the Individual threatened violence against senior leaders. Employee A previously made a claim against the Individual which the Security Official did not substantiate and which he attributed to sensitivity on the part of Employee A. Employee A also alleged that the Individual “destroyed” her work area only to recant that claim. No witnesses supported Employee A’s claims with respect to the Individual threatening violence, and numerous DOE employees, including the Manager, opined that the Individual did not present a threat of violence towards others. Considering these facts, I find the allegations from Employee A related to threats of violence by the Individual to be from a source of questionable reliability. Accordingly, I find any security concerns associated with these allegations mitigated pursuant to the sixth mitigating condition. *Id.* at ¶ 17(f).

The seventh mitigating condition is irrelevant to the facts of this case because the LSO did not allege that the Individual associated with persons involved in criminal activities. *Id.* at ¶ 17(g).

For the aforementioned reasons, I find that the Individual has resolved the security concerns alleged by the LSO under Guideline E related to the 2016 warning for bumping another employee with a cart and Employee A’s claims that the Individual threatened violence against other DOE employees. However, the Individual has not resolved the other security concerns asserted by the LSO under Guideline E.

B. Guideline K

Conditions that could mitigate security concerns under Guideline K include:

- (a) so much time has elapsed since the behavior, or it has happened so infrequently or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment;
- (b) the individual responded favorably to counseling or remedial security training and now demonstrates a positive attitude toward the discharge of security responsibilities;
- (c) the security violations were due to improper or inadequate training or unclear instructions; and
- (d) the violation was inadvertent, it was promptly reported, there is no evidence of compromise, and it does not suggest a pattern.

Id. at ¶ 35.

The Individual committed multiple security violations from 2023 to 2024 under normal circumstances. Considering that the Individual’s security violation for failing to properly escort uncleared contractors occurred less than one year after being issued a memorandum for her cellphone-related security violation, and that in failing to properly escort the uncleared contractors she also disregarded prior direction from her management regarding fraternizing with security personnel when they were on duty, I am not convinced that the Individual will not once again engage in lax security practices when she is no longer subject to monitoring as part of the

administrative review process. Accordingly, I find the first mitigating condition inapplicable. *Id.* at ¶ 35(a).

The Individual testified during the hearing as to her commitment to adhering to security rules going forward. However, the fact that the Individual committed the 2024 security violation relatively soon after her counseling for the 2023 security violation calls into question the extent to which she has responded favorably to counseling. Moreover, considering the Individual's dubious testimony at the hearing, which I concluded called her credibility into doubt, it is unclear whether her commitment to adhering to security rules in the future is reliable. Accordingly, I find the second mitigating condition inapplicable. *Id.* at ¶ 35(b).

There is some question as to whether the Individual's management contributed to the Individual's 2024 security violation. However, considering the opinion of the Security Official to the contrary and the fact that the Individual's 2023 security violation was preceded by numerous warnings about her cellphone use, I find it more probable that the Individual was aware of her escort obligations and willfully failed to adhere to them. For these reasons, the third mitigating condition is inapplicable. *Id.* at ¶ 35(c).

As previously indicated, I think it probable that the Individual's 2023 and 2024 security violations were willful. Even if they were not, for the reasons described above, I believe that they were part of a pattern of lax security practices by the Individual in 2023 and 2024. Accordingly, I find the fourth mitigating condition inapplicable. *Id.* at ¶ 35(d).

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

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 K 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 not brought forth sufficient evidence to fully resolve the security concerns asserted by the LSO. Accordingly, I have determined that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Phillip Harmonick
Administrative Judge
Office of Hearings and Appeals