

*The original of this document contains information which is subject to withholding from disclosure under 5 U.S. C. § 552. Such material has been deleted from this copy and replaced with XXXXXX's.

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

In the Matter of: Personnel Security Hearing)
)
Filing Date: May 23, 2025)
)
_____)

Case No.: PSH-25-0127

Issued: December 12, 2025

Administrative Judge Decision

Kristin L. Martin, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as “the Individual”) for access authorization under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, entitled, “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position.”¹ For the reasons set forth below, I conclude that the Individual’s security clearance should be restored.

I. BACKGROUND

The Individual is employed by a DOE Contractor in a position which requires her to hold a security clearance. Derogatory information regarding the Individual’s drug use was discovered. The Local Security Office (LSO) began the present administrative review proceeding by issuing a Notification Letter to the Individual informing her that she was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding her eligibility to continue holding a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing and the LSO forwarded the Individual’s request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), the Individual presented the testimony of three witnesses, in addition to her own. *See* Transcript of Hearing, OHA Case No. PSH-25-0127 (hereinafter cited as “Tr.”). The LSO submitted ten exhibits, marked as Exhibits 1 through 10 (hereinafter cited as “Ex.”). The Individual submitted ten exhibits, marked as Exhibits A through J.

¹ Under the regulations, “[a]ccess authorization” means 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). Such authorization will also be referred to in this Decision as a security clearance.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning her eligibility for a security clearance. That information pertains to Guideline H of the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, effective June 8, 2017 (Adjudicative Guidelines). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. 10 C.F.R. § 710.7.

Guideline H states that

[t]he illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.

Adjudicative Guidelines at ¶ 24. Conditions that could raise a security concern include:

- (a) any substance misuse (see above definition);
- (b) testing positive for an illegal drug;
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia;
- (d) diagnosis by a duly qualified medical or mental health professional (*e.g.*, physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of substance use disorder;
- (e) failure to successfully complete a drug treatment program prescribed by a duly qualified medical or mental health professional;
- (f) any illegal drug use while granted access to classified information or holding a sensitive position; and
- (g) expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.

Id. at ¶ 25.

The LSO alleges that the Individual tested positive for marijuana on a random drug test administered at her place of work on July 8, 2024. Ex. 1 at 1. The LSO further alleges that in her

response to an August 2024 Letter of Interrogatory (LOI) sent by DOE, the Individual admitted that she consumed cannabis gummies on July 1 and 2, 2024, while holding a security clearance. Marijuana is a controlled substance pursuant to 21 U.S.C. § 812, which brings its use under the definition of substance misuse outlined in Guideline H. Furthermore, the Individual is alleged to have tested positive for an illegal drug and admitted to using an illegal drug while holding a security clearance. Accordingly, the LSO's security concerns under Guideline H are justified. Adjudicative Guidelines at ¶ 25(a)–(b), (f).

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 entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." Adjudicative Guidelines at ¶ 2(a). The protection of the national security is the paramount consideration. The regulatory 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 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.

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 2024, the Individual experienced an "intense period of emotional distress and personal upheaval." Ex. 2 at 1. The Individual witnessed her mother's death and was named executor of the estate soon after. *Id.* At the same time, the Individual was experiencing significant marital conflict. *Id.* The Individual began experiencing persistent insomnia. *Id.* After several sleepless nights, "in a moment of poor judgment and desperation for relief, [the Individual] consumed cannabis gummies in an attempt to calm [her] mind and rest." *Id.* In her request for this hearing, the Individual described the behavior as "out of character" and expressed remorse for her actions. *Id.* She later testified that she obtained the marijuana from a friend who had offered them to her as a sleep aid that was working for them. Tr. at 16. She testified that she was sleep deprived and desperate for

relief and did not think about her security clearance until the next day. *Id.* at 19–20. Despite feeling guilty, she used marijuana a second time that night. *Id.* at 20.

At the hearing, the Individual testified that after consuming the cannabis gummies a second time, she wrestled over the holiday weekend with the question of how to handle her reporting requirements for her security clearance and decided that she would discuss the matter with her supervisor in their one-on-one meeting when she returned to the office on July 8, 2024. Tr. at 11. However, on the morning she returned to the office, before her 1:30 P.M. meeting with her supervisor, she was selected for a random drug screening. *Id.* She testified that she immediately went to her supervisor and informed them that she had used marijuana recently. *Id.* She then took the drug test and contacted the LSO to report her drug use. *Id.* The Individual acknowledged that “it sounds a little convenient to be like I got the drug test notice, but I was going to tell my supervisor that afternoon.” *Id.* at 23. She testified that she did not talk to her supervisor immediately upon arriving at work because she was mentally preparing for the difficult conversation. *Id.* The Individual testified that the random drug screening was “the universe . . . teaching [her] a lesson.” *Id.* at 24. She described the experience as humbling and recalled thinking to herself, “you made your bed, now you have to lay in it.” *Id.* at 24–25.

The Individual signed a Last Chance Agreement with her employer on July 19, 2024, in which she admitted that she had failed the drug test, agreed to complete a treatment course approved by her employer’s Employee Assistance Program (EAP) manager, and agreed to undergo random drug screenings. Ex. A at 1–3. The agreement was effective for two years. *Id.* at 3. She also submitted into evidence a signed statement committing to abstinence from illegal drugs and misuse of legal substances and acknowledging that failure to abstain from such could result in revocation or denial of her security clearance. Ex. L. In an effort to comply with the agreement and address the LSO’s concerns, the Individual completed a four-hour comprehensive drug and alcohol awareness course, participated in bi-monthly random drug testing, and decided to disassociate from the person who gave her the cannabis gummies. Ex. 2 at 2; Ex. D (July 2024 Drug Awareness Course Certificate of Completion); Ex. F (results of random drug screenings from August 2024 to August 2025, all negative).² She also participated in counseling through her employer’s EAP in which she “explore[d] the underlying personal experiences that led to [her] decision to consume cannabis,” and “worked through unresolved trauma and gained critical insights into [her] behavior.” Ex. 2 at 2; Ex. G (attendance verification with EAP psychologist). She stated that she had grown through the counseling and that she had learned tools to make better decisions and manage difficult circumstances in a responsible way. Ex. 2 at 2.

The Individual testified that, prior to her drug use and subsequent counseling, she had suppressed most of her emotions and viewed needing help as a weakness. Tr. at 38–39, 43–44. In counseling, she had worked on those issues and various other topics, such as marital troubles and trauma, that had contributed to her drug use. *Id.* at 31, 43–44. She testified that as she worked through and processed those issues, her counselor would prompt her to identify ways to manage stress in real time. *Id.* She learned that she could not shoulder all burdens by herself, how to ask for help, and when to take breaks. *Id.* at 31–32, 37–38, 45. She testified that she learned how to set boundaries

² In Exhibit G, the EAP Lead Psychologist wrote that the Individual had been tested at a reduced frequency recently due to lack of concern for substance misuse and that she had been tested monthly on September 17, October 2, and November 13, 2025, all returning negative results. Ex. G at 1.

and say “no” when she could not reasonably handle a task or responsibility. *Id.* at 32. She also learned how to identify when she was beginning to feel overwhelmed so she could communicate and get the support she needed. *Id.* at 36. The Individual had also been doing marriage counseling with her spouse and testified that the exercises had led them to greater understanding and tremendous growth. *Id.* at 33–34. Their communication had improved, and her husband had become one of her biggest sources of support. *Id.* at 35.

The Individual engaged in nightly sleep meditations to help her get a good night’s rest and peace of mind. Tr. at 45–46. She testified that she felt the most stable she had ever been. *Id.* at 46. She added:

I would definitely not want this to repeat itself, this situation, but I have learned so much about myself and the circumstances that led me to this situation and just myself as a whole. . . . [I]t made me learn so many valuable things, life lessons that unless I would have went through this I don’t know that I would have learned them.

Id. at 46. The Individual testified that her sleep was significantly improved now. *Id.* at 50. She testified that she had melatonin supplements in case she had trouble sleeping and, in the worst-case scenario, could take time off to sleep if she needed it. *Id.* at 51–52. The Individual was asked whether she felt she could take time off of work if she ever began feeling such significant stress that her judgment was impacted. *Id.* at 48. She responded, “100 percent,” and testified that she had sufficient sick leave and Family and Medical Leave Act leave to facilitate that time off if needed. *Id.* She testified that her supervisor checked in with her consistently and had told her to take time off as needed without worry. *Id.* at 49. The Individual testified that their relationship was closer as a result of this process. *Id.*

The Individual testified that her drug awareness course covered the mental and physical effects of illegal substances and highlighted the potential outcomes of drug use. Tr. at 32. She also learned to look for certain behaviors or methods of coping that could indicate a person used drugs so she could avoid associating with them. *Id.* at 33. She testified that she had not used drugs before or since the two days in July 2024 and intended to abstain indefinitely. *Id.* at 12, 13, 39 (“[T]here will not be any future substance abuse. And I can guarantee that.”).

The Individual’s supervisor had known her for about nine years and had been her supervisor for about three years. Tr. at 55. She was aware of the Individual’s positive drug test. *Id.* She testified that immediately after being told to take a drug test, the Individual told her about her drug use and the circumstances leading up to it. *Id.* She testified that the Individual immediately acknowledged that she had done something wrong and stated that she would deal with the consequences of her actions. *Id.* at 56. She described the Individual as extremely responsible and stated that the Individual makes sound decisions at work. *Id.* at 57. She also described the Individual as strong with high integrity. *Id.* at 64. To the best of the supervisor’s knowledge, the Individual had been compliant with all the terms of her Last Chance Agreement.³ *Id.* at 60. She testified that she and the Individual talked a lot and that, through the Individual’s honesty, trust was quickly rebuilt and their relationship became stronger. *Id.* at 62. She stated, “I trust [the Individual] explicitly.” *Id.*

³ Exhibits F and G also contain statements by the EAP Lead Psychologist that the Individual was in full compliance with the agreement.

The supervisor also confirmed that the Individual had the scheduling flexibility to take time off if needed. *Id.* at 66.

The Individual's colleague testified she met with the Individual about every two weeks, as schedules allowed, and that they liked to stay in touch personally and professionally. Tr. at 72. They had known each other for over ten years. *Id.* She testified that the Individual had called her after taking a marijuana gummy and told her that she had made a mistake. *Id.* at 73. She testified that she encouraged the Individual to contact her supervisor to report the incident. *Id.* at 74. She testified that the Individual had always been a rule follower, so she was surprised when the Individual told her she had used marijuana. *Id.* at 73–74. She confirmed that the Individual was having sleep difficulty pursuant to stress from her marriage and her mother's death at the time of the incident. *Id.* at 74. She also confirmed that the Individual had been attending counseling and testified that the Individual seemed happier. *Id.* at 75. She described the Individual as an "extremely solid human being." *Id.* She testified that the Individual was more willing to reach out for help and more open, even discussing her feelings about her marriage and her mother. *Id.* at 76. She was confident that the Individual would never use drugs again. *Id.* at 77.

The Individual's friend had known her for about ten years and saw her about three times per month. Tr. at 81. She had been surprised to learn that the Individual had used marijuana because it was out of character for the Individual. *Id.* at 82–83. She testified that the Individual had been under a lot of stress at the time but had developed coping mechanisms to handle such situations in the future. *Id.* at 83, 85. She testified that, since the Individual began attending counseling, she had seen the Individual's "joy come back" and that she had "seen her really flourish as a person." *Id.* She believed the Individual intended to abstain from marijuana indefinitely. *Id.* at 86. She described the Individual as honest with high morals and character. *Id.* She testified that no one in their shared friend group used any illicit substance or used alcohol excessively. *Id.* at 87–88.

V. ANALYSIS

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government places a high degree of trust and confidence in individuals to whom it grants access authorization. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

The issue before me is whether the Individual, at the time of the hearing, presents an unacceptable risk to national security and the common defense. I must consider all the evidence, both favorable and unfavorable, in a commonsense manner. "Any doubt concerning personnel being considered for access for national security eligibility will be resolved in favor of the national security." Adjudicative Guidelines at ¶ 2(b). In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Because of the strong presumption against granting or restoring security clearances, I must deny access authorization if I am not convinced that the LSO's security concerns have been mitigated such that restoring the Individual's clearance is not an unacceptable risk to national security.

Conditions that could mitigate 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. Condition (b) applies.

Regarding condition (a), the Individual testified that her drug use was infrequent, and the circumstances surrounding it were unique. I cannot find that the Individual's drug use was so infrequent that it does not cast doubt on her judgment reliability and trustworthiness because, though it was an isolated incident, she was explicitly aware at the time that using marijuana was impermissible for her as a security clearance holder. This displays such poor judgment that its infrequency does not, by itself, remove doubt about the Individual's judgment, trustworthiness, and reliability. I also cannot find that the conditions surrounding her drug use make future drug use unlikely to occur because, unfortunately, being under significant stress and suffering from a lack of sleep are not unique conditions for anyone. The Individual's drug use was fairly recent, and not enough time has passed for time alone to allay concerns about future drug use. Accordingly, condition (a) does not apply. However, the Individual's actions since her drug use have shown her to be trustworthy, reliable, and of sound judgment, and therefore, I find that condition (b) does apply.

The Individual acknowledged immediately upon being asked to take a drug test that she had used marijuana in violation of the rules for security clearance holders. She took responsibility for her actions without defensiveness or defiance. She testified that she has disassociated from the person who gave her the gummies. Her friend testified that no one in their friend group uses drugs. The Individual has taken concrete steps to make it less likely she is in a fragile mental state or sleep

deprived, thereby changing the environmental conditions that led to her poor decision-making. She has engaged meaningfully in counseling and was able to identify both the reasons she got to a fragile mental state and the tools she now has to avoid it in the future, including reaching out to her support system for help and meditating nightly. The Individual also submitted “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,” and signed a Last Chance Agreement with her employer, with which she has complied. Additionally, the drug testing the Individual underwent pursuant to the Last Chance Agreement provides objective evidence corroborating her claim to have established a pattern of abstinence from illegal drugs. I find that the Individual has made a lasting change that now makes it unlikely that she will use drugs in the future.

Condition (c) is inapplicable because prescription drug abuse is not alleged. Condition (d) is inapplicable because no substance abuse diagnosis requiring treatment and a positive prognosis is alleged.

VI. CONCLUSION

Upon consideration of the entire record in this case, I find that there was evidence that raised concerns regarding the Individual’s eligibility for access authorization under Guideline H of the Adjudicative Guidelines. I further find that the Individual has succeeded in fully resolving those concerns. Therefore, I conclude that restoring DOE access authorization to the Individual “will not endanger the common defense and security and is clearly consistent with the national interest.” 10 C.F.R. § 710.7(a). Accordingly, I find that the DOE should restore access authorization to the Individual.

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

Kristin L. Martin
Administrative Judge
Office of Hearings and Appeals