

*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**

Issued: January 27, 2026

Administrative Judge Decision

Andrew Dam, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXX (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 holds access authorization in connection with his employment with a DOE contractor (DOE Contractor). Exhibit (Ex.) 1 at 7.² In July 1999, the Individual consumed six-to-seven beers before driving a car; he was arrested and charged with Aggravated Driving While Intoxicated (DWI). Ex. 16 at 244 (investigator's summary of court records). Then, in March 2022, the Individual consumed three whiskey shots and four beers over a four-hour period. Ex. 9 at 40 (January 31, 2025, response to Letter of Interrogatory (LOI)) (January 31, 2025, LOI Response). The Individual reported for work the next day and was called for a random Breath Alcohol Test (BAT), the results of which were .04%. *Id.*

The Individual completed a Questionnaire for National Security Positions (QNSP) in September 2024, wherein he self-reported that his employer had referred him to alcohol-related counseling.

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 The Local Security Office (LSO) combined Exhibits 1–16 into a single PDF workbook. This Decision references to these exhibits by the exhibit number and the PDF page number.

Ex. 14 at 158–59. Thereafter, the LSO referred the Individual for a psychological evaluation with a DOE-contracted psychologist (DOE Psychologist) on February 28, 2025. Ex. 12 at 102. During the evaluation, the Individual admitted to drinking three-to-four shots and four-to-six 12-ounce beers on either Friday or Saturday on most weekends from 2001 to 2022 and represented that he had reduced his alcohol consumption after testing positive for alcohol at work. *Id.* at 103. Following the evaluation, the DOE Psychologist issued a report (DOE Psychologist’s Report) on March 13, 2025. *Id.* at 99–120. The DOE Psychologist ultimately opined that the Individual had an “Unspecified Alcohol-Related Disorder” pursuant to the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition Text Revision (DSM-5-TR)*, which is a condition that could impair his judgment, and that the Individual had not demonstrated rehabilitation or reformation. *Id.* at 107. Shortly after his evaluation with the DOE Psychologist, the Individual on March 28, 2025, was arrested and charged with Disorderly Conduct. Ex. 7 at 29 (Criminal Complaint). The Individual reported drinking two beers and one mixed drink at a casino prior to the arrest. Ex. 8 at 36 (April 2025 LOI Response).

The LSO subsequently issued the Individual a Notification Letter advising him that it possessed reliable information creating substantial doubt regarding his eligibility for access authorization. Ex. 1 at 6–9. In the Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline G of the Adjudicative Guidelines. *Id.* at 6. The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2 at 11. 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 sixteen exhibits (Ex. 1–16). The Individual submitted nine exhibits (Ex. A–I)³. The Individual testified on his own behalf and offered the testimony of three additional witnesses: (1) the DOE Contractor’s Employee Assistance Program (EAP) counselor (EAP Counselor);⁴ (2) the DOE Contractor’s lead psychologist (Lead Psychologist) for its occupational medicine (OM) program; and (3) the Individual’s second-line supervisor (Second-Line Supervisor). Hearing Transcript, OHA Case No. PSH-25-0175 (Tr.) at 3. The LSO offered the DOE Psychologist as its sole witness, and the Individual stipulated to the DOE Psychologist’s expertise in psychology. *Id.* at 3, 7.

II. THE SECURITY CONCERNS

Under Guideline G, “[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

³ Prior to the hearing, DOE Counsel combined the Individual’s first eight exhibits, A–H, into a single exhibit notebook. This Decision references Exhibits A–H by their exhibit letter and the page in the order in which the page appears in the exhibit notebook. The Individual submitted Exhibit I as a separate PDF, and accordingly, citations to Exhibit I reference the page numbers in this individual PDF.

⁴ DOE Counsel objected to the testimony of the EAP Counselor given the fact that she had submitted a written letter. Tr. at 7–8; *see* Ex. C at 5–10. While I have discretion to exclude evidence as “unduly repetitious” pursuant to 10 C.F.R. § 710.26(h), I ultimately allowed the EAP Counselor to testify given that she could provide further information on matters outside the letter. Tr. at 8.

security concerns include “alcohol-related incidents away from work, such as driving while under the influence [or] . . . disturbing the peace . . .”; “alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition . . .”; “habitual or binge consumption of alcohol to the point of impaired judgment . . .”; and “diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder[.]” *See id.* at ¶ 22(a)–(d). In citing Guideline G, the LSO cited to the opinion in the DOE Psychologist’s Report that the Individual has an Unspecified Alcohol-Related Disorder without evidence of adequate rehabilitation or reformation; his admitted pattern of alcohol consumption from 2001 to 2022; his positive alcohol test at work in 2022; his 1999 DWI; and his March 2025 Disorderly Conduct arrest, before which he drank alcohol. Ex. 1 at 5. The DOE possesses sufficient derogatory information to raise security concerns under Guidelines G.

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).

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 eligibility for access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* at § 710.26(h). Hence, the Individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. FINDINGS OF FACT

a. The Individual's Initial Pattern of Alcohol Use, 1999 DWI, 18 Months of Sobriety, and Pattern of Alcohol Consumption from 2001 to 2022

During his February 2025 evaluation with the DOE Psychologist, the Individual reported that he first started drinking regularly when he turned 21 to cope with the loss of his brother. Ex. 12 at 103; Tr. at 71.⁵ The Individual reported to the DOE Psychologist that he would generally consume approximately three-to-four shots in conjunction with five-to-six beers on Fridays or Saturdays. Ex. 12 at 103. Eventually, the Individual was arrested for his 1999 DWI. Ex. 16 at 244.

During an Enhanced Subject Interview (ESI), when the Individual first applied for access authorization in 2019, the Individual provided an investigator with details regarding the 1999 DWI. *Id.* at 232. Before the 1999 DWI, the Individual had consumed six-to-seven beers at a friend's house and, at the time, believed himself to not be intoxicated. *Id.* The Individual subsequently drove his vehicle, and police stopped the Individual; administered a breathalyzer, which he failed; and arrested the Individual. *Id.* The Individual described himself as "young" and "naïve" at the time of his arrest. Tr. at 71; *see also* Ex. 16 at 232.

The Individual testified that the court mandated he attend Alcoholics Anonymous (AA), complete 90 hours of community service, and complete a "DWI school." Tr. at 71; *see also* Ex. 12 at 103. The DOE Psychologist summarized that the DWI school "was a classroom setting in which he was provided information" and that he attended "three or four times." Ex. 12 at 103. He also successfully attended the required number of AA meetings though he neither "ha[d] a sponsor" nor "complete[d] the steps." *Id.*

The Individual stopped drinking for 18 months due to this incident and his family's concern. *Id.* However, the Individual resumed drinking alcohol in 2001. *Id.*; Tr. at 71. During his evaluation with the DOE Psychologist, he admitted to drinking three-to-four shots with four-to-six beers on either Friday or Saturday from 2001 to 2022. Ex. 12 at 103.

b. The Individual's Random BAT in 2022 and Related DOE Contractor Programming

The Individual estimated that he obtained a security clearance in 2020 and started working with his current employer, the DOE Contractor, in January 2022. Ex. 14 at 136, 59. The Individual told the DOE Psychologist that, in March 2022, he attended a state basketball game and became upset after the team he rooted for lost. Ex. 12 at 104. The Individual went home and drank three shots and four-to-five beers to deal with his anger. *Id.*; Tr. at 105). He estimated that he drank from 7:00 p.m. to 11:00 p.m. Ex. 12 at 104. When the Individual awoke the next morning, he reported not feeling intoxicated and went to work. *Id.*; Tr. at 106. At work, the Individual underwent random alcohol and drug testing; his BAT returned a positive value of .04, which was under the DOE Contractor's "cutoff." Ex. 12 at 104. Accordingly, the Individual was cleared to return to work. *Id.*

⁵ The Individual turned 21 in 1996. Ex. 14 at 132 (2024 QNSP indicating his birthyear as 1975).

Although the Individual's BAT was under the "cutoff," the DOE Contractor's Lead Psychologist with their OM program knew that the Individual was "in line for the [Human Reliability Program (HRP)]"⁶ and expected to "see [the Individual] in a month or two, when he came through for HRP" certification. Tr. at 29–30. Accordingly, at the time the Lead Psychologist had seen him for testing positive at work, she recommended to the Individual that he participate in a six-week alcohol awareness and education course through the DOE Contractor's EAP. *Id.* at 29–30.⁷

The Lead Psychologist testified that, in December 2022, she "turned down" the Individual for HRP certification. Tr. at 30–31. The Individual asked the Lead Psychologist if she would reconsider, to which the Lead Psychologist replied, "[N]ot until you . . . ha[ve] done the six-week class." *Id.* at 30; *see also id.* at 72–73 (Individual's corroborating testimony). The Individual finally enrolled in the six-week alcohol awareness and education course in early December 2022 and completed the course in January 2023—approximately 10 months after the March 2022 incident precipitating his referral. Ex. C at 10.

The Individual reported reducing his alcohol consumption after his March 2022 incident, when he began refraining from hard liquor and drinking on weekdays. Ex. 12 at 104. *But see id.* at 103 (having self-described his drinking to have occurred one day on weekends) However, at the time of the March 2022 incident, the Individual did not believe he had a problem with alcohol. Tr. at 105–06. The Individual only began to realize that he may have an issue with alcohol consumption when the Lead Psychologist again recommended that he take the six-week alcohol awareness course and while attending the six-week course. *Id.* at 106–07. Regardless, after completing the course, the Individual continued drinking alcohol albeit in reduced amount and lower frequency. *Id.* at 107; Ex. 9 at 49 (reporting in his January 15, 2025, LOI Response that the six-week course had led him to decrease his drinking over the last few years and that he would drink two or three beers occasionally on the weekend).

The Lead Psychologist eventually met with the Individual for an evaluation two times, in May and October 2024—the first evaluation for putting him back "on the HRP schedule" and the second evaluation to ensure that he was still following "a low[-]risk drinking profile." Tr. at 31, 34. The Lead Psychologist testified that in 2024 she recommended the Individual for HRP certification; however, the Individual was ultimately denied HRP certification: "I granted it, but the certifying official did not . . ." *Id.* at 31, 34, 42.⁸

⁶ The DOE's HRP "is a security and safety reliability program designed to ensure that individuals who occupy" certain positions "meet the highest standards of reliability and physical and mental suitability." 10 C.F.R. § 712.1 For an individual to be certified, they must have a "DOE 'Q' access authorization" among other requirements and are subject to "continuous evaluation" of their "judgment and reliability . . ." *Id.* §§ 712.1, 712.11. The Individual testified that he understood the HRP certification be a "higher standard" than the security clearance. Tr. at 74.

⁷ The EAP Counselor explained that this six-week class meets weekly and "focuses on increasing awareness of each person's unique relationship to alcohol including its effect on the body, effects on relationships and money, individual triggers to drink, or drinking more than intended." Ex. C at 6. Furthermore, "[t]here is also a focus on helping participants define what changes they want to make and how to start the change process[,] and "[a]bstinence is not mandatory." *Id.*

⁸ The Individual testified that he was given "an active HRP . . . from December 2024 . . . until the end of March 2025" until he was later told that the HRP certification was a "mistake." Tr. at 74–75. His testimony regarding his HRP

c. DOE Psychologist's Evaluation and Report

The LSO referred the Individual for an evaluation with a DOE Psychologist in February 2025. Ex. 12 at 102. As part of the evaluation, the DOE Psychologist (1) reviewed the Individual's personnel security documentation; (2) conducted a clinical interview of the Individual; (3) reviewed a chain-of-custody Phosphatidylethanol (PEth)⁹ test from a February 2025 sample, the results of which were negative; (4) administered the Minnesota Multiphasic Personality Inventory-3 (MMPI-3);¹⁰ and (5) consulted with the DOE Contractor's Lead Psychologist. Ex. 12 at 102–03. During his interview, the Individual recounted his pattern of alcohol consumption from 2001 to 2022; the circumstances surrounding his March 2022 .04 BAT at work; his reduced alcohol consumption since the March 2022 incident; his participation in the six-week alcohol education and awareness course through EAP; and his issues with securing his HRP certification. *Id.* at 103–05.

The DOE Psychologist issued her Report in March 2025 and found that the Individual had not met sufficient diagnostic criteria for a diagnosis of Alcohol Use Disorder (AUD), pursuant to the *DSM-5-TR*. *Id.* at 106–07. She did, however, find that the Individual met “the criteria for Unspecified Alcohol Related Disorder due to use of alcohol that has caused impairment in occupational functioning.” *Id.* at 107. The DOE Psychologist explained that an Unspecified Alcohol Related Disorder is used when clinicians “definitely know that [alcohol is] affecting” one’s “functioning” but insufficient diagnostic criteria are met within a one-year period for an AUD diagnosis. Tr. at 118–19. In making the diagnosis, the DOE Psychologist relied upon the Individual’s “21-year history of binge drinking”; his “difficulty identifying coping skills” outside of alcohol to deal with “grief or anger”; his positive test for alcohol at work in 2022; his delay in completing the EAP course until January 2023 after the Lead Psychologist’s initial recommendation in March 2022; his MMPI-3 psychological testing showing a pattern of underreporting; and the issues related to him not obtaining his HRP certification. Ex. 12 at 106–07.

In her Report, the DOE Psychologist found a lack of adequate evidence of rehabilitation and reformation.¹¹ *Id.* at 107. The DOE Psychologist provided the following recommendations:

certification being given then later taken away appears somewhat contradictory to the Lead Psychologist's testimony that he was never HRP certified. Regardless, it remains undisputed that the Individual was found unqualified for HRP certification.

⁹ “PEth is a metabolite of ethyl alcohol and can only be made when consumed ethyl alcohol reacts with a compound in the Red Blood Cell [] membrane PEth can still be detected in the blood for about 28 days after alcohol consumption has ceased.” Ex. 12 at 105. Labs use a “cutoff of 20 ng/mL” or higher “to detect . . . alcohol consumption.” *Id.* The Individual’s negative PEth result was consistent with his self-reported minimal use of alcohol. *Id.*

¹⁰ The results of the MMPI-3 indicate a tendency of the Individual to “present[] himself in an overly positive light” and an “unwilling[ness] to admit to minor shortcomings” Ex. 12 at 105.

¹¹ The DOE Psychologist explained the difference between rehabilitation and reformation:

Rehabilitation is when somebody actually goes into counseling[.] [T]hey really change the way that they are thinking on things, and then they also have that objective data [of sobriety]

To provide adequate evidence of rehabilitation, [the Individual] would need to attend individual weekly therapy for a minimum of six months to learn coping skills and develop an alcohol relapse prevention plan. Additionally, he would need to complete monthly PEth testing for six months which will buttress his abstinence from alcohol as well as provide objective and scientific evidence of his sobriety. If [the Individual] chooses reformation, he would need to complete PEth testing monthly for 12 months and demonstrate lifestyle changes with effective coping mechanisms.

Id.

d. March 2025 Arrest for Disorderly Conduct

After meeting the DOE Psychologist and providing a sample for PEth testing in February 2025, the Individual understood that the DOE had concerns about his alcohol consumption. Tr. at 109 (Individual's testimony that he was aware of the agency's concerns about his alcohol use); *see also id.* at 117–18 (DOE Psychologist's testimony that the Individual "kind of didn't know" about the purpose of the evaluation at the beginning but that she explained the concerns to him and that they "were going to get into depth . . . into his alcohol use . . ."). Despite his awareness of the agency's alcohol-related concerns, the Individual continued consuming alcohol after his interview with the DOE Psychologist. *Id.* at 109 (admitting he drank alcohol though not "heavily" and just "a few beers on the weekends").

In March 2025, the Individual went with a friend to a casino's sports bar to watch a televised basketball game. Tr. at 76; Ex. 8 at 36. According to the Individual, he consumed two beers and one mixed vodka drink. Ex. 8 at 36; *see also* Tr. at 76 (testimony that he did not finish his mixed drink). The Individual repeatedly denied that he became intoxicated that night. Tr. at 111; Ex. 8 at 36. The Individual provided the following narrative for the events leading up to the arrest:

[The] [n]oise level in the area was loud, and security approached me as I became excited for my team . . . and asked me to leave the premises. I questioned their approach as I felt I was being singled out amongst everyone else that was in the bar who were also being loud and cheering like I was. They got offended when they were questioned by me[,] and I felt they were not being professional or fair towards me. I got upset and defended myself, an argument ensued all the way out of the casino where they chose to arrest me.

Ex. 8 at 36.

The police report confirms that a police officer became involved while the Individual was being escorted out of the casino by security:

[R]eformation is kind of more of that objective data [of sobriety] with some coping skills[] but not necessarily having delved into why the behaviors may be occurring. They just stop the behaviors.

Tr. at 128.

I arrived on scene and observed a male [the Individual] and female yelling and cussing at security because the bar had cut them off. As I approached the male . . . was face to face with the security. They were both refusing to leave.

I intervened and began walking them out to the front entrance and told them to call a safe ride. After the [Individual] had made a phone call[,] all parties were standing at the front entrance. The [Individual] continued to yell obscenities[,] calling security and law enforcement “P[*]ssies” and yelling “F[*]ck You[.]”[]

During this time[,] it is peak hour for the casino. The south entrance had approximately 15 patrons entering and exiting the establishment. The [Individual] was yelling loud enough to catch everyone’s attention as they entered or exited. The [Individual] then again got into security face and began asking him where he was from. At this time[,] I intervened and stepped in between them and slightly nudged him backwards with an open hand on the waist. The [Individual] then stepped forward towards me and began yelling at me. During this time[,] he took a fighting bladed stance and lowered his right arm.

At this time[,] Officers took the [Individual] to the ground and placed handcuffs in the rear checking for spacing and tightness. The defendant was placed in the rear passenger side of a fully marked patrol unit and transported . . . for processing.

After processing[,] the [Individual] was transported to [a detention center] for his charge of Disorderly Conduct.

Ex. 7 at 29. The Individual confirmed that he “did cuss at them” but testified that “they overexaggerated.” Tr. at 77–78. In his testimony, the Individual made further admissions and provided additional explanations for his behavior that night: (1) “When I walked out and . . . got in [security’s] face, [] tribal police was there”; (2) Tribal police “came to me . . . and [] shoved me . . .”; (3) “They say I took a fighting stan[ce], which [sic] I was just protecting myself.” *Id.* at 78. The Individual maintains that he felt singled out, possibly due to prejudice, and that he does not believe alcohol played a role in the arrest. *Id.* at 78–79, 110–11. The Individual believes that he “probably” would have behaved the same way that night with or without alcohol. *Id.* at 111–12. The Individual acknowledges that his “anger” played a role in that night’s events. *Id.*

I do not credit the Individual’s account that he only consumed three alcoholic beverages and was not intoxicated on the night of his March 2025 arrest. The record demonstrates that the Individual tends to minimize the role of alcohol in his life. For example, the Individual admitted that he believed his alcohol consumption to be unproblematic for an extended period despite blowing a .04 at work and being referred to an alcohol education and awareness course. Additionally, he has also been found to present in an “overly positive” light as noted in footnote 10 and appears to continue minimizing his alcohol consumption, as mentioned in the DOE Psychologist’s testimony. Tr. at 119 (“There was still some overly positive presentation.”). Furthermore, the police report specifically mentions that he and his friend were “cut [] off” from the bar. Taken together, the

Individual appears to have consumed more alcohol more than he reported, have been more intoxicated than he reported, or both. Ex. 7 at 29.

e. Post-Arrest Enrollment in the FFD Program

Upon returning to work after his March 2025 arrest, the Individual was evaluated by the Lead Psychologist for the DOE Contractor in May 2025 and June 2025, and then enrolled in the Fitness for Duty (FFD) program given that the Individual had made “another mistake around his alcohol use” Tr. at 44; Ex. E at 12. The Lead Psychologist explained that the FFD program “is a program that evaluates an employee’s ability to work safely and reliably due to medical, behavioral health, or substance use concern.” Ex. E at 12. The Individual was required to (1) complete a second 12-week EAP class;¹² (2) complete an anger management course; (3) attend individual counseling that addressed his alcohol use and how he handles his emotions; and (4) abstain from further alcohol use for the duration of the FFD program. Tr. at 31–32.

Regarding the first FFD requirement, the Individual attended the 12-week course from July 2025 to October 2025 and received a certificate of completion. Ex. A at 1; Ex. C at 10. The EAP Counselor described the Individual as an active participant despite his anxiety and shyness. Tr. at 18–19; Ex. C at 5. According to the EAP Counselor, the Individual shared that he had “learned from others on how to cope in situations, not hang out with certain people, [] not go to bars or casinos, [and] . . . how to do stuff on his own.” Ex. C at 5. She specifically recalled that the Individual had acknowledged the role anger played in the March 2025 arrest but could not recall if he had acknowledged that alcohol may have “heightened . . . that trigger and reaction.” Tr. at 25–26.

Regarding the second FFD requirement, the Individual also attended a 4-hour anger management class which he completed in November 2025. Ex. A at 2. From the anger management course, the Individual learned “coping skills” such as “deep breathing” and “reframing from negative thoughts.” Tr. at 93.

Regarding the third FFD requirement, the Individual began weekly individual therapy sessions on September 9, 2025. Ex. B at 3. The Individual’s therapist (Therapist) wrote a letter on behalf of the Individual. *Id.* The Therapist explained that she had diagnosed the Individual with Social Anxiety Disorder, pursuant to the *DSM-5-TR*, and they had been “working toward managing social and performance related anxiety symptoms through mindfulness breathing techniques and emotionally deescalating behaviors.” *Id.* at 3–4. Alcohol does not appear to be a focus of the Therapist’s treatment of the Individual. *Id.* at 3 (describing alcohol as “tangentially a part” of the March 2025 arrest and describing the Social Anxiety Disorder as “far more significant than any symptoms of an alcohol related disorder”); *see also* Tr. at 88 (Individual’s testimony that they did “some counseling on alcohol” but that the Social Anxiety Disorder was “what [the Therapist] was mostly working on [with] me []”). When asked if he had developed coping skills to address negative emotions, the Individual indicated that he learned to “not take things so seriously” and to engage in other activities that keep his mood positive such as hiking or yard work. Tr. at 90.

¹² The EAP Counselor explained that many of the alumni of the 6-week alcohol awareness and education course choose to enroll in the 12-week course as “an opportunity for [] participant[s] to further explore their relationship with alcohol while learning skills.” Ex. C at 7–8. The course takes place in a group setting. *Id.*

Regarding the fourth FFD requirement, the Individual testified that he had remained abstinent since the day of his March 2025 arrest. *Id.* at 90–91. However, I cannot credit this testimony. As stated above, the Individual’s MMPI-3 result reflects minimization and overly positive presentation. *See supra* n. 10. Because I found the Individual to lack credibility surrounding his alcohol use and level of intoxication during the March 2025 arrest, I also generally find the Individual lacking credibility with respect to his alcohol use after the arrest. *See supra* Section IV(d) (discussing inconsistencies regarding his March 2025 arrest). The documentary record consists of PEth tests from August 8, 2025; September 10, 2025; October 9, 2025; and December 4, 2025—all of which are negative and suggest abstinence or low amounts of alcohol consumption within the 28 days preceding each test. Ex. F at 13; Ex. G at 14; Ex. H at 15; Ex. I at 1–2. The Lead Psychologist also testified that she was aware of the Individual having taken a November 2025 PEth test, which was negative. Tr. at 38–39. Taken together, the Individual has only provided corroborating evidence of sobriety since July 2025.

The Individual testified that during the initial part of his sobriety there were times that he thought “it would be nice to have a cold beer” *Id.* at 96. When he wanted to drink, he did not reach out to anyone for help and described handling the urge with a “strong mind” and “strong heart.” *Id.* at 98 (“I don’t need anybody”). He identified some alternative activities he engages in when he feels like drinking, such as “working out” or “work[ing] around the house.” *Id.* at 97.

The Lead Psychologist explained that she would have cleared the Individual from the FFD program prior to the hearing date; however, she kept the Individual in the program so that he could continue receiving PEth testing in preparation for the hearing. *Id.* at 39–40. The Lead Psychologist acknowledged that she had concerns about the Individual’s alcohol use in 2022; that she considered his alcohol consumption to be at a “low[-]risk level” in 2024; and that she then became concerned with the Individual’s alcohol consumption again in 2025 following his arrest. *Id.* at 43–44. The Lead Psychologist, nevertheless, felt that the Individual made meaningful progress in addressing his alcohol-related issues given that “this is the most work that he’s done in his lifetime in terms of his sobriety”; that “he’s done a lot more treatment than he ever has before”; and that “he seems to be thinking about his alcohol use and more insightful than . . . prior.” *Id.* at 44–45, 47.

f. Character Evidence

The Individual’s Second-Line Supervisor described the Individual as “hardworking” and “humble.” *Id.* at 60; *see also* Ex. D at 11 (letter from the Individual’s first-line supervisor stating that the Individual has great work ethic”). However, the Individual’s Second-Line Supervisor does not associate with him outside of work. Tr. at 56. He also had limited knowledge of what gave rise to the concerns but understood there was an incident at the casino. *Id.* at 56–57.

g. Updated DOE Psychologist’s Opinion

After hearing the testimony of the Lead Psychologist, the EAP Counselor, the Individual’s Second-Line Supervisor, and the Individual and reviewing the documentary evidence submitted, the DOE Psychologist provided an updated opinion. *Id.* at 117–28. The DOE Psychologist found that the

March 2025 arrest after the February 2025 evaluation “add[s] more strength” to her diagnosis and even suggested that the Individual might qualify for an AUD diagnosis when considering the March 2025 arrest. *Id.* at 120.

With respect to rehabilitation, the DOE Psychologist reiterated her recommendation that the Individual complete individualized therapy focused on alcohol consumption. *Id.* at 120–21. The DOE Psychologist did not believe the Individual’s therapy to date to be sufficiently focused on his alcohol use to satisfy her recommendation. *Id.* In making her assessment, she recalled a 2023 study that found Social Anxiety Disorder predictive of alcohol-related disorders and acknowledged that there was value in addressing the Social Anxiety Disorder to decrease alcohol-related issues; however, she testified that the study found that addressing the Social Anxiety Disorder “cannot be the only component” and both the Social Anxiety Disorder and the alcohol disorder needed to be addressed in conjunction. *Id.* at 122.

Of particular concern to her, the DOE Psychologist noted the Individual’s lack of a relapse prevention plan that “focuses on what [his] triggers are” and lays out specific responses to triggers. *Id.* at 121, 124. She also found the Individual’s current approach to his triggers—with solely a “strong” heart and mind—to be a “risky” approach, since it lacked an outline of “what [he is] actually going to do” in the event of a trigger. *Id.* at 124. The DOE Psychologist further observed that the Individual, during his February 2025 evaluation, stated that he was going to “stay strong” with respect to his alcohol consumption only to be arrested two weeks later in March 2025. *Id.* The DOE Psychologist commended the Individual for engaging in therapy and attending the EAP courses; however, she noted that his testimony demonstrated that the “link” between alcohol use and problematic behaviors “still isn’t there” for the Individual and that his insight into his alcohol use appeared to have “waxed and waned” when considering “he denied several times that alcohol was problematic” *Id.* at 123, 26.

The DOE Psychologist found that the Individual had not demonstrated rehabilitation given (1) that he had only provided objective PEth testing demonstrating five months of the required six months of sobriety and (2) the lack of insight into the role alcohol played in problematic behaviors that might have been developed with alcohol-focused therapy. *Id.* at 126. Because of those same factors, the DOE Psychologist also found the Individual’s prognosis to be “poor or fair,” as opposed to two better prognoses she used: “good” and “excellent.” *Id.* at 127. She also found that insufficient time had passed for the Individual to demonstrate reformation. *Id.*

V. ANALYSIS

Conditions that could mitigate security concerns under Guideline G include:

- (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.

Regarding the first mitigating condition, documentary evidence indicates that the Individual has been sober from July 2025 to December 4, 2025, or five months. Accordingly, I cannot find that “so much time has passed” since his alcohol consumption, particularly in light of his decades-long history of problematic alcohol consumption. Additionally, the Individual admitted to habitually binge-drinking from 2001 to 2022 weekly, with some reduced drinking after his positive BAT at work. His March 2025 arrest strongly indicates that he continued problematically drinking after 2022. Thus, I cannot find the problematic alcohol consumption to have occurred infrequently where it continued regularly from 2001 to 2022 and possibly after. I cannot find his alcohol consumption to have occurred under unusual circumstances, since he cited no unusual circumstances with respect to his 2001 to 2022 consumption pattern. With respect to the 2025 arrest, the Individual’s alcohol consumption occurred at a casino while watching sports, which is not an unusual circumstance that would mitigate the lapse of judgment exhibited that night. Mitigating condition (a) does not apply.

Regarding the second mitigating condition, I cannot find that the Individual fully acknowledges his pattern of maladaptive alcohol use. While the Individual has some appreciation for his alcohol-related issues, he made several statements that minimized the role alcohol played in his problematic behavior. Specifically, as of the hearing date, the Individual failed to appreciate any contribution alcohol may have had in his March 2025 arrest and insisted that he would have behaved similarly regardless of alcohol use. As stated above in Section IV(d), I also found his representations that he was not intoxicated and that he only had three drinks to be unreliable. The DOE Psychologist also found that his statements showed a missing “link” with respect to the Individual’s alcohol consumption and maladaptive behavior.

That the Individual is receiving therapy, attended EAP courses, attended anger management, and documented five months of sobriety is commendable; however, the lack of alcohol-focused treatment in therapy and the failure to acknowledge the role of alcohol in the March 2025 arrest demonstrate that the Individual’s actions taken are currently insufficient to demonstrate that the problem has been overcome. For those same reasons, the DOE Psychologist found the Individual to have not demonstrated rehabilitation. Moreover, the Individual’s five months of demonstrated abstinence was not sufficient to demonstrate a clear and established pattern of abstinence, both

because of his history of relapse after abstaining from alcohol and because it fell short of the six months recommended by the DOE Psychologist. Mitigating condition (b) does not apply.

Regarding the third mitigating condition, the Individual has completed several elements required by the FFD program. However, as stated in the prior paragraph, there appears to be lack of alcohol-focused treatment and a failure to acknowledge alcohol's role in the March 2025 arrest. I also find insufficient progress in his rehabilitation given the lack of a relapse prevention plan. The Individual indicates that he will remain "strong" to address any alcohol-related cravings; however, that appeared ineffective in preventing the March 2025 arrest. Furthermore, the above led the DOE Psychologist to conclude that his prognosis was "poor" or "fair" at this stage. Without evidence of sufficient progress in his rehabilitation, I cannot find that mitigating condition (c) applies.

Regarding the fourth mitigating condition, the Individual has not completed the alcohol-focused therapy recommended by the DOE Psychologist. Furthermore, the Individual has not demonstrated six months of documented abstinence, as recommended by the DOE Psychologist. As he has not completed treatment or demonstrated abstinence in accordance with treatment recommendations, mitigating condition (d) does not apply.

Accordingly, I find that the Individual has not satisfied any mitigating condition under Guideline G and that the Individual has not resolved the security concerns asserted by the LSO.

VI. CONCLUSION

Above, I found that there existed sufficient derogatory information in the possession of DOE to raise security concerns under Guideline G 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 failed to bring forth sufficient evidence to resolve the security concerns set forth under Guideline G. Accordingly, I find the Individual has not demonstrated that restoring his security clearance would not endanger the common defense and security 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