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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 15, 2025	)	Case No.: PSH-25-0208
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Issued: March 18, 2026

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**Administrative Judge Decision**

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Kristin L. Martin, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (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.”<sup>1</sup> For the reasons set forth below, I conclude that the Individual’s security clearance should not be restored.

**I. BACKGROUND**

The Individual is employed by a DOE Contractor in a position which requires that he hold a security clearance. Derogatory information was discovered regarding the Individual’s alcohol use and criminal conduct. The Local Security Office (LSO) began the present administrative review proceeding by issuing a Notification Letter to the Individual informing him that he was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding his 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 testified on his own behalf. The LSO presented the testimony of the DOE psychologist (Psychologist) who had evaluated the Individual. *See* Transcript of Hearing, OHA Case No. PSH-25-0208 (hereinafter cited as “Tr.”). The LSO submitted fifteen exhibits, marked as Exhibits 1 through 15 (hereinafter cited as “Ex.”). The Individual submitted the results of two laboratory tests, collectively marked as Exhibit A.

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<sup>1</sup> 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 his eligibility for a security clearance. That information pertains to Guidelines G and J 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 G states that “excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. Conditions that could raise a security concern include:

- (a) Alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual’s alcohol use or whether the individual has been diagnosed with alcohol use disorder;
- (b) Alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, drinking on the job, or jeopardizing the welfare and safety of others, regardless of whether the individual is diagnosed with alcohol use disorder;
- (c) Habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder;
- (d) Diagnosis by a duly qualified medical or mental health professional (*e.g.*, physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder;
- (e) The failure to follow treatment advice once diagnosed;
- (f) Alcohol consumption, which is not in accordance with treatment recommendations, after a diagnosis of alcohol use disorder; and
- (g) Failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence.

*Id.* at ¶ 22.

Guideline J states that “[c]riminal activity creates doubt about a person’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” *Id.* at ¶ 30. Conditions that could raise a Guideline J security concern include:

- (a) A pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual’s judgment, reliability, or trustworthiness;

- (b) Evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted;
- (c) Individual is currently on parole or probation;
- (d) Violation or revocation of parole or probation, or failure to complete a court-mandated rehabilitation program; and
- (e) Discharge or dismissal from the Armed Forces for reasons less than “Honorable.”

*Id.* at ¶ 31.

The LSO alleges the following:

- On November 30, 2024, the state highway patrol arrested and charged the Individual with Driving While Intoxicated (DWI)-Alcohol, Prior Offender. His Blood Alcohol Content (BAC) was 0.16. The Individual admitted to consuming 60 ounces of light beer in the three hours prior to his arrest. This incident is cited as both an alcohol-related concern and an instance of criminal conduct.
- On November 12, 2019, a local police department in the state where he resides arrested and charged the Individual with DWI-Alcohol. His BAC at the time was 0.12. This incident is also cited as both an alcohol-related concern and an instance of criminal conduct.
- The Psychologist evaluated the Individual on June 10, 2025, and, in a June 17, 2025 report, concluded that the Individual habitually and binge-consumed alcohol to the point of impaired judgment and had not demonstrated adequate evidence of rehabilitation or reformation.
- A phosphatidyl ethanol (PEth)<sup>2</sup> test administered on June 10, 2025, returned a positive result of 199 ng/mL, which is noted as being consistent with alcohol consumption within the last 30 days.

Ex. 1 at 5.<sup>3</sup> Driving while intoxicated and habitual or binge consumption of alcohol to the point of impairment are both explicitly listed as conditions that could raise concerns under Guideline G. Adjudicative Guidelines at ¶ 23 (a), (c). Evidence of criminal conduct is explicitly listed as a condition that could raise concern under Guideline J. *Id.* at ¶ 31(b). These allegations fit neatly into these categories,<sup>4</sup> so I find that the LSO’s security concerns under Guidelines G and J are justified.

### III. REGULATORY STANDARDS

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<sup>2</sup> A PEth test measures a blood sample for levels of an alcohol byproduct. *Direct Ethanol Biomarker Testing: PETH*, Mayo Clinic Laboratories, <https://news.mayocliniclabs.com/2022/09/13/direct-ethanol-biomarker-testing-peth-test-in-focus/> (last visited March 16, 2026). The test can detect alcohol consumption in the three to four weeks preceding the test. *Id.*

<sup>3</sup> DOE exhibit page numbers will be cited using the Bates stamp in the top right corner of the documents.

<sup>4</sup> The PEth test allegation does not raise a discrete concern but is supporting evidence for other concerns.

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 his 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 November 2019, the Individual was arrested for DWI. Ex. 3 at 13. Due to the COVID-19 pandemic, his trial was delayed and he was not convicted until January 2021. Tr. at 14. He completed two years of probation and "a couple" court-mandated classes. *Id.* at 12. On November 30, 2024, at approximately 12:30 a.m., the Individual was arrested by the state highway patrol and charged with DWI-Alcohol, Prior Offender. Ex. 5 at 20. The arrest occurred after a patrol officer observed the Individual's vehicle crossing the solid fog lines on the highway multiple times. Ex. 9 at 44. During the traffic stop, the officer detected a "strong odor of intoxicants" on the Individual's breath. *Id.* The Individual admitted to consuming "one or two beers" prior to driving. *Id.* The Individual later admitted to drinking five twenty-four ounce beers prior to driving. *Id.* The officer performed a field sobriety test, which the Individual failed. *Id.* at 44–45. A preliminary breath test administered at the scene indicated a Blood Alcohol Content (BAC) of 0.161%. *Id.* at 40, 44. After he was arrested, the Individual later refused to submit to a chemical breath test at the jail. *Id.*

Following the November 2024 arrest, the DOE initiated an inquiry into the Individual's continued eligibility for a security clearance. This included multiple Letters of Interrogatory (LOI) and a psychological evaluation. Ex. 1 at 3. In his response to an LOI dated April 25, 2025, the Individual admitted to consuming alcohol before the November 2024 arrest, stating he drank three 12-ounce

beers and two 24-ounce beers over a four-hour period. Ex. 8 at 30. He claimed that since the arrest, he had significantly reduced his alcohol consumption to no more than three beers on any given occasion, approximately once a month.<sup>5</sup> *Id.* at 32. In his September 2025 Request for Administrative Review, the Individual stated that he had discontinued “drinking and driving” and was taking his Type 2 diabetes diagnosis more seriously. Ex. 2 at 11. The Individual attributed the 0.16 BAC reading from his November 2024 arrest to a potential false positive caused by a hypoglycemic state. *Id.* See also Ex. 7 at 27.

On June 10, 2025, the Individual underwent a psychological evaluation conducted by the DOE Psychologist. Ex. 11 at 71. As part of this evaluation, the Individual submitted to a PEth test, which returned a positive result of 199 ng/mL. *Id.* at 96. The Individual told the Psychologist that he typically consumed one or two beers once or twice per month, but had consumed a combined total of eight drinks over two occasions in the 30 days prior to the psychological evaluation. *Id.* at 94. According to a consulting psychiatrist’s interpretation, the Individual’s PEth level suggested that he was consuming well over fourteen drinks per week and therefore had underreported his alcohol consumption to the Psychologist. *Id.* at 76, 95.

The Psychologist concluded that the Individual habitually and binge consumed alcohol to the point of impaired judgment because he had multiple DWI events and had underreported his alcohol consumption. Ex. 11 at 76. He opined that the Individual had not demonstrated adequate evidence of rehabilitation or reformation. *Id.* The Psychologist recommended, for the Individual to show evidence of rehabilitation or reformation, that he complete a substance abuse treatment program at least four months in length; attend a support group such as Alcoholics Anonymous (AA) or SMART Recovery at least weekly for a year while working the steps of the program and meeting with a sponsor if offered by the program; attend monthly relapse prevention sessions after completing the substance abuse treatment program; abstain from alcohol; and demonstrate abstinence by undergoing monthly PEth tests for a year. *Id.* at 76.

At the hearing, the Individual testified that prior to his 2019 DWI, he typically drank alcohol while participating in pool or bowling leagues. Tr. at 9–10. He testified that he would “drink a little bit just socializing, drinking, having a few on the night and on the weekends a little bit, occasionally, when hanging out with friends.” *Id.* On the day of his 2019 DWI, the Individual drank seven or eight rum and diet soda drinks in about four hours because he was upset. *Id.* at 10. He completed two years of probation and some court mandated alcohol education classes, the names of which he could not recall at the hearing. *Id.* at 12. He testified that his mother had expressed concern about his alcohol use at that time. *Id.* at 30.

The Individual testified that after his 2019 DWI, he stopped drinking in situations where he would have to drive afterward. Tr. at 16. He typically consumed alcohol at sports events and with friends. *Id.* He testified that when he drank, it was one beer every two hours. *Id.* at 17. He testified that on the day of his 2024 DWI, he had been drinking at a football game and did not consume alcohol after 5:30 p.m. *Id.* at 18. The Individual was fighting the DWI charge because he believed he was not drinking just before driving. *Id.* at 15. The Individual continued consuming alcohol after his 2024 DWI arrest, testifying that he drank “occasionally, but it was very seldom because I was

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<sup>5</sup> The Individual told the Psychologist that prior to the November 2024 DWI, he consumed about two beers per week. Ex. 11 at 75.

distraught, but I also knew that I wasn't drinking and driving." *Id.* at 24. He then testified that in May 2025, he would go to a friend's house every other weekend, stay there for the weekend, and "drink a lot during those weekends." *Id.*

The Individual testified that he had received the Psychologist's report about four months prior to the hearing. Tr. at 21. He testified that he did not start implementing all of the Psychologist's recommendations because he "wasn't under the impression that I was instructed to start. . . . I did not make an action toward because I'm kind of an instruction follower . . . and I was kind of under the impression I was waiting for an instruction to do things." *Id.* at 21–22. The Individual testified that he stopped consuming alcohol in July 2025 after learning that he would be going through the Administrative Review process, but did not undergo any treatment. *Id.* at 22–23. He testified "I have attended AA meetings, once a week," starting two days before the hearing. *Id.* at 22–23, 43–44. He planned to continue attending weekly. *Id.* at 23.

The Individual submitted to a PEth test in October 2025, which returned a negative result. Ex. A at 1–2. He did not take another PEth test until late January 2026. *Id.* at 3. That test also returned a negative result. *Id.* at 3–4. He testified that he waited three months to undergo the second test because they were expensive and he wanted to show long-term abstinence. *Id.* at 27. He testified that he would be willing to submit to monthly PEth tests "if I hundred percent knew that I needed to do it . . . . But to not know if it would really help the decision [regarding my eligibility for a security clearance] or not, I didn't want to feel like I'm throwing \$150 away a month." *Id.*

The Individual testified that he did not change his lifestyle when diagnosed with Type 2 Diabetes in February 2024 because he did not want to believe the diagnosis. Tr. at 29, 36. He testified that he began getting regular treatment for diabetes once every three months after his 2024 DWI arrest, but had not seen a provider lately. *Id.* at 28.

The Individual testified that he believed he did not have a problem with alcohol because "a problem with alcohol is not being able to control how much," and he "could stop at any moment." Tr. at 31–32. He still participated in sports like golf or pool that he had previously done while consuming alcohol, but now he drank soda or non-alcoholic beer. *Id.* at 33. He testified that his friends knew he was abstaining from alcohol and supported him. *Id.* at 33–34. He testified that he intended to continue abstaining from alcohol. *Id.* at 35.

The Individual's 2024 DWI case was scheduled to go to trial in March 2026. Tr. at 46.

The Psychologist testified that even if the Individual had abstained from alcohol since July 2025, he still did not have an understanding of the processes involved in addiction and had not developed strategies or skills to help him make better decisions about alcohol, understand urges related to alcohol, or understand the possible consequences of future alcohol consumption. Tr. at 53–54. He testified that the Individual's prognosis was fair at best because the Individual did not believe he currently had a problem with alcohol and was therefore unlikely to seek treatment. *Id.* at 55. The Psychologist testified that the Individual's past behaviors suggested that the Individual "makes poor choices in situations where he should take a more proactive role, and he tends to deny difficulties in his life, whether they're medical issues such as diabetes, or alcohol-related experiences." *Id.* at 58. He noted that during the Individual's psychological evaluation, he had

denied or minimized “any difficulties, or even minor human foibles” on a personality test (the Minnesota Multiphasic Personality Inventory), so denial was an issue for the Individual. *Id. See also id.* at 81–91. He believed the Individual was at significant risk for future alcohol-related problems because he had not sought treatment even after repeated DWI arrests. *Id.* at 59.

## 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.

### A. Guideline G

Conditions that may mitigate Guideline G concerns 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; or
- (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. None of the mitigating conditions apply.

Regarding condition (a), the Individual was arrested for multiple DWIs in a span of five years. While it has been just over a year since the Individual's second DWI arrest, the Individual has demonstrated that a year is not enough time, on its own, to show that he will not drink and drive in the future. Moreover, he has not abstained from alcohol for a year and admitted that even six months after being arrested for his second DWI, he would go to a friend's house to "drink a lot" over the weekend multiple times per month. The Individual's alcohol use was not infrequent or so far in the past that it no longer casts doubt on his current judgment, reliability, and trustworthiness. Accordingly, I find that mitigating condition (a) does not apply.

Regarding condition (b), the Individual does not admit to having an issue with alcohol and asserted, without evidence, that his second DWI was the result of high blood sugar even though a breathalyzer test showed a BAC of twice the legal limit for driving. He admitted to continuing to consume alcohol after his second DWI because he was "distracted" and to binge drinking on weekends with friends. The Individual did not provide evidence to support his testimony regarding the effect of diabetes on his BAC result. I find the breathalyzer result and the Individual's first PEth result, both submitted as part of DOE's exhibit notebook, convincing evidence that the Individual was, indeed, intoxicated when pulled over in November 2024 and that he habitually or binge consumed alcohol to the point of intoxication. The Individual denies that he has a problem with alcohol, so I cannot find that he admitted to his pattern of maladaptive alcohol use. He has not pursued any interventions to address his maladaptive alcohol use except attending a single AA meeting and, therefore, has not demonstrated evidence of actions to overcome the problem. Furthermore, the Individual asserted that he had abstained from alcohol for only seven months and only provided documentary evidence of abstinence (via PEth testing) for two of those months. I cannot find that he has demonstrated a clear and established pattern of abstinence for one year in accordance with the only treatment recommendations the Individual received. Accordingly, I find that mitigating condition (b) does not apply.

Mitigating conditions (c) and (d) do not apply because the Individual has not started a treatment program.

For the foregoing reasons, I find that the Individual has not resolved the concerns raised under Guideline G.

## **B. Guideline J**

Conditions that could mitigate Guideline J security concerns include:

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

Adjudicative Guidelines at ¶ 32. None of the mitigating factors apply.

As an initial matter, the Individual's criminal case is still pending. Furthermore, he has not resolved the underlying substance issues that led to his two DWI arrests. Until those two items are resolved, I cannot find that the Individual is unlikely to reoffend, that he is rehabilitated, or that the criminal behavior does not cast doubt on the Individual's reliability, trustworthiness, or good judgment. In addition to the alcohol-related considerations that prevent me from finding the Guideline J concern mitigated, other factors also weigh against mitigation.

Regarding condition (a), the Individual's recidivism is recent and happened years after his original DWI. Slightly over one year without a criminal charge is not long enough, in this instance, to show that the behavior is unlikely to recur. Regarding condition (b), the Individual did not allege that he was pressured or coerced into driving while intoxicated. Regarding condition (c), there is reliable evidence (the contemporaneous breathalyzer test, the police report) to support that the Individual committed the offense. Regarding condition (d), the Individual has not yet resolved the DWI charges, and, therefore, he cannot have complied with the terms of parole or probation, completed restitution, or otherwise paid his debt to society. Moreover, he presented no evidence that he has taken any other action listed in condition (d) such that I could conclude that he has changed with respect to his compliance with rules or exercise of sound judgment.

Accordingly, I find that the Individual has not resolved the security concerns raised under Guideline J.

## **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 Guidelines G and J of the Adjudicative Guidelines. I further find that the Individual has not succeeded in fully resolving those concerns. Therefore, I cannot 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 not 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