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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 30, 2025) Case No.: PSH-25-0215
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Issued: March 4, 2026

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 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 honesty and drug use. 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 presented the testimony of three witnesses, in addition to his own. *See* Transcript of Hearing, OHA Case No. PSH-25-0215 (hereinafter cited as “Tr.”). The LSO submitted six exhibits, marked as Exhibits 1 through 6 (hereinafter cited as “Ex.”). The Individual submitted fourteen exhibits, marked as Exhibits A through N.

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 his eligibility for a security clearance. That information pertains to the Bond Amendment and Guidelines E and 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 E states that:

[c]onduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

Adjudicative Guidelines at ¶ 15. Conditions that could raise a security concern include:

- (a) Deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities;
- (b) Deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative;
- (c) Credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information;
- (d) Credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-

person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

- (1) Untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;
 - (2) Any disruptive, violent, or other inappropriate behavior;
 - (3) A pattern of dishonesty or rule violations; and
 - (4) Evidence of significant misuse of Government or other employer's time or resources;
- (e) Personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:
- (1) Engaging in activities which, if known, could affect the person's personal, professional, or community standing;
 - (2) While in another country, engaging in any activity that is illegal in that country;
 - (3) While in another country, engaging in any activity that, while legal there, is illegal in the United States;
- (f) Violation of a written or recorded commitment made by the individual to the employer as a condition of employment; and
- (g) Association with persons involved in criminal activity.

Id. at ¶ 16.

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.

Id. at ¶ 24. Conditions that could raise a security concern and may be disqualifying include:

- (a) Any substance misuse;
- (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 Bond Amendment provides that federal agencies “may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict.” 50 U.S.C. § 3343(b); *see also* DOE Order 472.2A, Personnel Security, Appendix C. DOE defines “an unlawful user of a controlled substance” and an “addict” as follows:

- a. An unlawful user of a controlled substance is any person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance or who is a current user of the controlled substance in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use occurred recently enough to indicate the individual is actively engaged in such conduct.
- b. An addict of a controlled substance is as defined in 21 U.S.C § 802(1), which is any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare; or is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his or her addiction.

DOE Order 472.2A, Appendix C at C-1 (citing the Bond Amendment).

The LSO alleges that the Individual tested positive for Marijuana Metabolite in a random drug screening in July 2025. Ex. 1 at 5.² The LSO alleges that the Individual tested positive for the drug while holding a security clearance and did not report his use of a federally illegal drug in accordance with DOE Order 472.2A.³ *Id.* The Individual's behavior falls squarely under concerning condition (b) of Guideline E and concerning conditions (a), (b), and (f) of Guideline H. Furthermore, at the time of his drug test, while granted access to classified information, the Individual appears to have been an unlawful user of a federally illegal drug, marijuana. 21 U.S.C. § 812 (identifying marijuana as a controlled substance). Accordingly, the LSO's security concerns under Guidelines E and H and its invocation of the Bond Amendment are justified.

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 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

² DOE exhibit page numbers will be cited using the Bates stamp in the top right corner of the documents.

³ "All individuals have a specific obligation to report personnel security-related matters as they occur, whether related to themselves or to other individuals applying for or in possession of a DOE security clearance." DOE Order 472.2A at ¶ 4(w)(1). *See also* DOE Order 472.2A, Attachment 5 at ¶ 6 (providing that "[t]he use of any Federally illegal drug" must be reported "in no event later than three (3) working days after occurrence").

On April 21, 2021, as part of the paperwork for his employment, the Individual signed a Security Acknowledgment that stated, in relevant part, “I understand that my use of alcohol habitually to excess, and/or my involvement with any illegal drug, could result in the loss of my access authorization.” Ex. 5 at 26. The Individual later testified regarding the document, “I signed a document, as part of my Q Clearance, indicating that I would not [use marijuana], and if I did I would notify.” Tr. at 33. On five occasions between April 1 and July 5, 2025, the Individual smoked marijuana. *Id.* at 20–21. In his response to the Notification Letter, the Individual asserted that he had been using marijuana as a means of controlling his Irritable Bowel Syndrome (IBS). Ex. 2 at 11. The Individual intentionally did not disclose his marijuana use to his wife because she was also a clearance holder, and he did not want to cause trouble for her. Tr. at 30. He would wait until she had gone to bed, then go to their pool house to smoke the marijuana. *Id.* at 30, 102. On July 15, 2025, the Individual was directed to submit to a random drug test. Ex. 3 at 1. The test returned a positive result. *Id.*

In his response to the Notification Letter, the Individual stated that he took full responsibility for his illegal use, but argued, without further information, that this use did not fall under the Bond Amendment. Ex. 2 at 11. He further argued that mitigating factors should apply to the Guideline E and H concerns “given his medical issues that he was facing at the time” and the “uniqueness of the issues.” *Id.*

The Individual submitted the following documents into evidence:

- A statement of intent, signed by the Individual and dated January 3, 2026, to “not use, purchase, or otherwise be involved with any illegal drugs in the future,” including the misuse of legal drugs. Ex. A. The statement acknowledged that violation of the agreement could result in revocation of his security clearance. *Id.*
- A letter from the Individual’s treating doctor stating that the Individual was diagnosed with IBS in 2020 and that the Individual had tried several medications. Ex. B. He noted that the Individual had not tried two potential medications, one because of the drug’s high cost, and the other because it was “a controlled substance that [the Individual] cannot take at work.” *Id.* The letter stated that some patients have tried using marijuana or cannabidiol (CBD) products to help with IBS but added that illegal substances could not be prescribed. *Id.* The doctor wrote that the Individual informed him that he had tested positive for marijuana after using “a few times from April through early July 2025.” *Id.* Finally, he wrote that the Individual was following up with a gastroenterologist, that he had an upcoming appointment, and that the Individual was struggling to follow the diet prescribed by the gastroenterologist. *Id.*
- A note from the Individual’s medical chart from an October 3, 2025, visit at which he had requested the letter presented in Exhibit B. Ex. C. It stated that the Individual’s symptoms started more than three months prior to the visit and were of moderate intensity. Ex. C at 4.⁴ The doctor had recommended that the Individual stop using aspirin and non-steroidal

⁴ The Individual’s exhibits are cited using the Bates stamp number in the top right corner of the page.

anti-inflammatory drugs, discontinue alcohol intake, avoid spicy foods, and use over the counter antihistamines as needed. *Id.* at 6.

- The results of two random drug tests taken on October 14, 2025 (Ex. D), and January 6, 2026 (Ex. E). Both tests returned a negative result for the various drugs tested, including cannabinoid. Ex. D; Ex. E.
- Character reference letters from the Individual’s spouse (Ex. F), his previous manager (Ex. G), and two of his colleagues (Ex. H; Ex. I). The letters described the Individual as “forthright and transparent” (Ex. I), reliable (Ex. G), and honest (Ex. H). The Individual’s spouse wrote that the Individual had severe episodes of IBS in April, May, and June of 2025 following a period extended travel. Ex. F at 10. She learned after the Individual’s positive drug test that he had “tried to remedy these issues by taking Marijuana and/or CBD products for IBS.” *Id.* She wrote that the Individual was committed to never using illegal drugs or misusing legal drugs. *Id.* at 11.
- The Individual’s resume. Ex. J.
- A memorandum dated April 4, 2024, notifying the Individual that he had received a promotion. Ex. K at 20.
- A letter dated September 11, 2024, notifying the Individual that he had been awarded a monetary award for “contributions to the [site] that were significant and beyond [his] normal performance level.” Ex. K at 21.
- A letter dated February 24, 2025, notifying the Individual that his salary had been increased. Ex. K. at 22.
- The Individual’s performance reviews for Fiscal Years 2021 through 2024. Ex. L.
- A copy of the President’s December 18, 2025, Executive Order entitled “Increasing Medical Marijuana and Cannabidiol Research.” Ex. M.
- A note from the Individual’s medical chart from a January 15, 2026, visit. Ex. N at 47. The note stated that the Individual’s abdomen felt better after he changed his diet and began taking the drug Nexium. *Id.*

In July or August 2025, the Individual completed a half-hour intake session at a recovery center and one session with a therapist, both at the direction of his employer. Tr. at 103, 110. He went to the therapist one more time on his own about a month later. *Id.*

The Individual initially tried a fiber supplement to manage his IBS, but it offered little relief. Tr. at 21–22. He tried a prescription that also was not effective. *Id.* at 22. The Individual tried to change his diet at his doctor’s suggestion, but he was not compliant with the recommended diet. *Id.* at 56–57. In late 2024, the Individual’s staff was reduced by about 75%, and he was required to travel more for work. *Id.* at 22–23. This situation increased the Individual’s stress, and he began experiencing diarrhea and severe stomach cramps. *Id.* at 23. Once in April 2025, the Individual

tried a cannabidiol (CBD) product he believed contained tetrahydrocannabinol (THC), but he experienced sinus issues after use, so he did not use it again. *Id.* In late April 2025, after unsuccessfully attempting to treat his symptoms with the CBD/THC product, the Individual tried marijuana. *Id.* He testified that his doctor had mentioned that smoking marijuana could help with stomach cramps. *Id.* at 24. He further testified that he told the doctor at that time that marijuana was not an option for him due to his security clearance. *Id.* The Individual testified that marijuana reduced his symptoms. *Id.* at 25.

The Individual lived in a state that had not legalized marijuana for any purpose. Tr. at 48. In order to obtain the marijuana in a way he thought would be legal, the Individual purchased it from a dispensary several states away and transported the drug across state lines. *Id.* at 45.

When the Individual was called in to take the random drug test in July 2025, he suspected that he would not pass the test because of his drug use. Tr. at 25. However, he did not report his drug use until after the test returned a positive result. *Id.* at 90. After testing positive for marijuana, the Individual returned to his doctor and explained what had occurred with the drug test. *Id.* at 25. The doctor ordered testing of the Individual's abdomen and referred him to a gastroenterologist. *Id.* at 25–26. The gastroenterologist prescribed Nexium for the Individual, and the Individual's symptoms improved. *Id.* at 26. The Individual changed his diet and limited himself to one cola per day instead of four to six per day; he experienced improvement from those changes as well. *Id.* at 26, 56. The Individual reduced his cigarette consumption to under half a pack per day and hoped to quit entirely at some point so he could undergo a needed surgery. *Id.* at 27, 54–55. The Individual testified that his doctors had identified smoking as a contributing factor to his IBS symptoms. *Id.* at 55. The Individual admitted that he had chosen to use marijuana before exhausting legal avenues to symptom relief, such as consistent diet changes, smoking cessation, and over-the-counter medications. *Id.* at 57–58.

The Individual testified that when he initially signed an abstinence agreement at the start of his employment, he did not intend to use marijuana. Tr. at 59. He further testified that he signed the abstinence agreement in Exhibit A to show that he did not intend to use marijuana in the future. *Id.* The Individual testified that he did not initially report his marijuana use because he did not want to get in trouble or go through the administrative review process. *Id.* at 58–59. The Individual testified that he was motivated to avoid future drug use because he did not want to have to go through the administrative review process again. *Id.* at 59.

The Individual's previous supervisor had known the Individual since 2020. Tr. at 64. He supervised the Individual from 2020 to 2023 and spent time with the Individual socially. *Id.* at 65, 71. He described the Individual as a good friend. *Id.* at 71. He described the Individual as straightforward and honest. *Id.* at 65. He initially testified that he believed the Individual had ingested marijuana gummies to help his IBS. *Id.* at 69. He elaborated, testifying that, around September 2025, when the Individual initially told him about the positive drug tests, the Individual said he took a gummy, and the previous supervisor assumed he meant a CBD gummy. *Id.* at 77–78. The previous supervisor had not asked many questions about the Individual's marijuana use, but believed the Individual had a “misunderstanding too with the gummy bears and—and how that would affect your . . . clearance.” *Id.* at 70. He testified that the Individual admitted to him recently that he had also smoked marijuana. *Id.* at 79. He believed that “nevertheless, [the Individual]

regrets . . . the actions he took,” and that the Individual had just made a bad choice that did not reflect negatively on his character as a whole. *Id.* at 70, 73.

The Individual’s current supervisor testified that he had known the Individual for about five years. Tr. at 85. He testified that he did not ask the Individual for details about his drug use when he received the results of the positive drug test. *Id.* at 87. He testified that the Individual did not notify him in advance that his drug test may come back positive and that the Individual did not disclose his drug use until he was confronted with the results of the drug test. *Id.* at 87, 90. He testified that the Individual was “very regretful” of his actions. *Id.* He was vaguely aware that the Individual had a medical issue and believed it was “something to do with his stomach.” *Id.* at 88. He did not believe the Individual was the type of person to make the same mistake twice. *Id.* at 89.

The Individual’s spouse testified that she had known the Individual most of her life. Tr. at 95. She described him as caring and supportive. *Id.* at 96. She testified that she first learned about the Individual’s drug use when, on the day the drug test results came back, she called him and learned that the Individual was at home instead of work. *Id.* He told her that he had used marijuana and CBD. *Id.* at 96–97. She did not ask him for details—they had not even discussed how he ingested the drug. *Id.* at 97, 104. She testified that the Individual had learned his lesson and owned up to his mistake. *Id.* at 100.

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 E

Conditions that could mitigate Guideline E concerns include:

- (a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

- (b) The refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) The information was unsubstantiated or from a source of questionable reliability; and
- (g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17. None of the mitigating conditions apply.

1. Mitigating Condition (a)

The Individual did not report his drug use before being confronted with the facts by his supervisor. Even though he knew he would likely fail the drug test, he declined to fulfil his obligation to report any illegal drug use. Mitigating condition (a) does not apply.

2. Mitigating Condition (c)

The Individual's lack of candor was not minor. It was a direct violation of his obligations as a clearance holder that he was fully aware of at the time he used marijuana. Moreover, he went out of his way to ensure that he concealed his drug use from his spouse so her reporting requirements would not be triggered. While he is motivated to be candid in the future by the prospect of getting in trouble, it was this very motivation that led him to conceal the truth from DOE in the first place. The desire to avoid negative consequences is not a unique circumstance; it is a part of life. Doubt remains about the Individual's candor because the intentional, informed, and recurring⁵ nature of

⁵ The Individual used marijuana on several occasions separated by days, perhaps weeks at times, and did not report as required for any of them. As such, I consider this a pattern of violations, rather than a single violation.

his violation leaves little room for claims of mistake or impulse that could result in a lesson learned. Instead, the Individual chose to violate his obligations multiple times in a premeditated, calculated manner. Without evidence showing that the Individual's judgment has improved since July 2025, I cannot find that he has resolved doubts about his judgment, reliability, and trustworthiness. For these reasons, mitigating condition (c) does not apply.

3. Mitigating Condition (d)

The Individual has not meaningfully engaged in counseling, having attended two counseling sessions only, one of which was required by his employer. As previously stated, the stressor that motivated him to conceal his drug use—the desire to avoid trouble—remains his primary motivation for compliance with his obligations going forward. As previously stated, the Individual's lack of candor was calculated and intentional, and I do not have confidence that the Individual will not conceal information in the future so he can avoid negative consequences. Mitigating condition (d) does not apply.

4. Mitigating Condition (e)

The LSO did not allege that the Individual had engaged in conduct placing him at special risk of exploitation, manipulation, or duress. Accordingly, mitigating condition (e) does not apply.

5. Mitigating Conditions (b), (f), and (g)

The Individual has not alleged that his lack of candor was on the advice of counsel. The Individual admitted to using marijuana and concealing that use. The LSO did not allege that the Individual's concerning behavior involved persons involved in criminal activity. Accordingly, mitigating conditions (b), (f), and (g) are not applicable to this case.

For the foregoing reasons, I cannot find that the Guideline E security concerns are mitigated.

B. Guideline H

Conditions that may mitigate Guideline H 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. None of the mitigating conditions apply.

1. Mitigating Condition (a)

The LSO's Guideline H concerns related to the Individual's drug use and the fact that it occurred while he held a security clearance. The Individual's drug use happened less than a year ago and, during his period of use, he used monthly. The behavior was neither long ago nor infrequent. The Individual's current and previous supervisors believed the Individual's actions should not weigh negatively on his character and that he would not "make the same mistake twice." However, the Individual made the same mistake at least five times between April and July 2025, despite full knowledge of his obligations as a security clearance holder. The Individual claims that he used marijuana to alleviate the symptoms of IBS, a condition he still has. While he is currently doing well, he continues to consume products that can aggravate his condition (*i.e.*, cola and cigarettes) and has had difficulty adhering to diets long term in the past. When the Individual tried marijuana in 2025, he knew, and had even expressed to others, that it was not permitted while holding a security clearance and that it was not legal in his state. Given this blatant disregard for the rules and law governing his behavior, I cannot be certain that the Individual would not turn to an illicit method of symptom relief in the future, especially during times of stress or during condition flare-ups. In short, the circumstances the Individual claims led to his drug use persist such that future drug use is not unlikely to recur and that his behavior still casts doubt on his judgment, trustworthiness, and reliability. Mitigating condition (a) does not apply.

2. Mitigating Condition (b)

The Individual has acknowledged that he unlawfully consumed marijuana and that his drug use while holding a clearance was a mistake. However, because I am not certain the Individual is unlikely to use illicit substances in the future, I cannot find that he has provided evidence of steps taken to overcome his substance use issues. The three examples listed in condition (b) are not readily applicable to the Individual's situation. The Individual's drug use was not social or in a changeable environment. It was solitary and secret. It happened on his property while his wife was at home. There were no known drug-using associates or contacts from whom to distance himself. And, as discussed above, the Individual has not shown sufficient evidence that, assuming the sincerity of his explanation, his medical condition will not motivate him to use drugs in the future. Moreover, the Individual had already agreed in writing not to use drugs at the time when he smoked marijuana. A second statement now is of little value without more evidence to show lasting change.

I am concerned that the Individual appeared to think it was legal to purchase marijuana and transport it across state lines. I am concerned that the Individual's wife does not know the details of his drug use, even though he intentionally hid it from her for months. I am concerned that the Individual's motivation to avoid drug use is the same motivation that led him to conceal his drug use from DOE. I am concerned that the Individual used marijuana even after turning down a prescription from his doctor due to concerns about how it would affect his security clearance. With so many concerns remaining, I cannot say that the steps the Individual took to control his IBS symptoms at long last is evidence of action taken to overcome his substance use issues. He has taken steps in that direction, perhaps, but I cannot say he is close to overcoming the problem. Regarding a pattern of abstinence, the Individual has taken two random drug tests several months apart showing less than one year of abstinence, which I do not find sufficient to establish a *pattern* of abstinence. Mitigating condition (b) does not apply.

3. Mitigating Conditions (c) and (d)

The Individual is not accused of misusing prescription drugs and has not completed a drug treatment program. Accordingly, mitigating conditions (c) and (d) do not apply.

For the foregoing reasons, I find that the Individual has not resolved the LSO's security concerns under Guideline H.

C. Bond Amendment

DOE's definition of "unlawful user" is broad and does not require use to have occurred within a few days or weeks. Instead, I must assess whether the Individual's marijuana use is recent enough that he is actively engaged in the conduct. As stated above, the Individual failed to demonstrate a pattern of abstinence. Therefore, I cannot say he is not an unlawful user of marijuana. Accordingly, the Bond Amendment prevents restoration of the Individual's security clearance.

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 the Bond Amendment and Guidelines E and H of the Adjudicative Guidelines. I find that the Individual is prohibited from holding a security clearance pursuant to the Bond Amendment, and he has not succeeded in fully resolving the security concerns under Guidelines E and H. 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