

consultant psychologist (DOE Psychologist), which resulted in a finding that the Individual met sufficient *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition (DSM-5)* criteria for a diagnosis of Alcohol Use Disorder (AUD), moderate, in early remission. Ex. 10 at 55.

The LSO subsequently issued the Individual a Notification Letter advising him that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 1 at 6. In a 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.*

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. 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 fourteen exhibits (Ex. 1–14). The Individual submitted six exhibits (Ex. A–F). The Individual testified on his own behalf and offered the testimony of three additional witnesses. Hearing Transcript, OHA Case No. PSH-25-0212 (Tr.). The LSO called the DOE Psychologist to testify. *Id.*

II. THE SECURITY CONCERNS

Guideline G, under which the LSO raised the security concerns, relates to security risks arising from excessive alcohol consumption. “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 “diagnosis . . . of alcohol use disorder.” *Id.* at ¶ 22(d). In citing Guideline G, the LSO relied upon the DOE Psychologist’s June 2025 diagnosis that the Individual suffered from AUD, moderate, in early remission. Ex. 1 at 5. The aforementioned allegation justifies the LSO’s invocation of Guideline 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).

An individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). An individual is afforded a full opportunity to present evidence supporting their eligibility for an 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, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. FINDINGS OF FACT

Around 2016, the Individual's then-wife expressed concern about his alcohol consumption. Ex. 14 at 139, 152. At the time, the Individual consumed three to eight beers in a sitting five or six days per week. *Id.* at 139. The Individual decided to seek counseling for his alcohol use at that time because "he thought it would help his marriage." *Id.* The Individual saw a psychotherapist once a week for thirty-five weeks from June 2016 to April 2017. *Id.* at 155–56. The psychotherapist did not diagnose the Individual with any condition, but the Individual followed the psychotherapist's recommendation of sobriety while he was being treated. *Id.*; Tr. at 67. The Individual and his then-wife divorced in March of 2017. Ex. 14 at 154.

The Individual began to consume alcohol again because he believed he could safely consume alcohol socially. Tr. at 67. He would consume beer while on dates and sometimes consume beers on a Friday or Saturday between two and four weekends a month. Ex. 10 at 52. In November 2019, the Individual and his ex-wife had an argument about a childcare matter. Ex. 14 at 138, 153. There was no physical violence involved, but in December 2019, the ex-wife filed a restraining order against the Individual, raising concerns about the Individual's past alcohol use and alleging that he was consuming alcohol and driving. *Id.* at 153. The Individual was required to install an ignition interlock device in his car and attend substance abuse classes. *Id.* The Individual completed the classes, and there were no positive readings by the ignition interlock device. Ex. 9 at 41–42.

Around October of 2024, the Individual began to feel that the amount of alcohol he was consuming was unhealthy and reached out to OM about his concerns. Ex. 8 at 29; Tr. at 42. The Individual "wasn't feeling happy" and "just physically . . . wasn't feeling well." Tr. at 42. The Individual told the DOE Psychologist that starting in 2021, he consumed between one and three twelve-ounce beers on three to five nights of the week and on two to three weeknights he consumed one or two high proof fifty-mL shooters.⁴ Ex. 10 at 53. The Individual had an appointment with an OM therapist on October 17, 2024, where he asked for assistance with his alcohol use. *Id.* at 51. On the same day, the Individual underwent a PEth test, which came back positive at 1578 ng/mL.⁵ *Id.* The Individual began abstaining from alcohol on October 22, 2024. *Id.* at 54; Tr. at 44. OM began an FFD evaluation of the Individual on November 4, 2024. Ex. 7 at 27. On November 18, 2024, a second PEth test was administered, which came back positive at 38 ng/mL. Ex. 10 at 54. OM also administered weekly breathalyzer tests on the Individual, which all returned negative results. *Id.* (record of the DOE Psychologist's conversation with the OM director indicating that the Individual had passed all alcohol-related testing administered by OM); Ex. A (carbon copies of the

⁴ One standard shot is approximately 1.5 ounces or 44 mL. *What Is A Standard Drink?*, <https://www.niaaa.nih.gov/alcohols-effects-health/what-standard-drink> (last accessed Apr. 9, 2026).

⁵ The DOE Psychologist explained that she understood this result to have been indicative of "heavy" drinking or "chronic excess alcohol consumption," citing a 2018 article by Ulwelling and Smith and the 2022 Basel Convention on PEth. Ex. 10 at 48–49.

Individual's urine and breath tests between June 6, 2025 and October 7, 2025)⁶; Tr. at 69. The Individual also testified that it was his understanding that if any of the alcohol testing that OM administered came back positive, he would be immediately terminated and would not have passed FFD. Tr. at 69–70. While he was in FFD, the Individual had a check-in phone call with the OM Director “every couple of weeks.” *Id.* at 68–69. The Individual successfully completed FFD on October 7, 2025. Ex. F (letter from OM indicating the closure of the FFD process); Tr. at 18 (testimony of the Individual's supervisor that it was his understanding that the Individual successfully completed FFD).

Around the time that the Individual stopped consuming alcohol, the OM Director recommended that the Individual attend alcohol education programming through his employer's employee assistance program (EAP). Tr. at 44. In December 2024, the Individual began to attend one course, and he received a certificate for completing that course on January 30, 2025. Ex. C (certificate showing completion of alcohol education course); Ex. E (letter from EAP detailing the Individual's participation). After completing that course, he began attending another EAP course focused on providing participants additional time to “explore their relationship with alcohol” and learn coping skills. Ex. E. The Individual received a certificate for completing twelve weeks in this course in May 2025 and has attended the course intermittently since that time. Ex. B (showing attendance in the second EAP course, including several months between June 2025 and February 2026 where the Individual did not attend any classes and several months where he attended multiple classes); Ex. D (certificate showing completion of twelve weeks in the second EAP course); Ex. E (letter from EAP therapist confirming use of EAP services, including classes through March 2026). The Individual testified that he enjoys going to the second course because of the bond the attendees have because of their shared workplace and experiences. Tr. at 51–52. The EAP therapist who ran both courses testified that the Individual was quiet when he first attended the classes, and, over time, he became “much more open and interactive.” *Id.* at 32–33.

The Individual was evaluated by the DOE Psychologist on June 22, 2025. Ex. 10. As part of his evaluation, the Individual underwent a PEth test in June 2025. *Id.* at 53–54. The PEth test came back negative. *Id.*

After the Individual completed the evaluation, the DOE Psychologist issued a report in which she concluded that the Individual met sufficient criteria for a diagnosis of AUD, moderate, in early remission. *Id.* at 55. In order for the Individual to show rehabilitation from the AUD, the DOE Psychologist stated that the Individual should: (1) complete counseling one time per month to include “coping skills surrounding alcohol use” for a period of one year; and (2) maintain abstinence as corroborated by monthly negative PEth test results. *Id.* In order to show reformation, the Individual would need to “complete monthly PEth testing for a total of 18 months and demonstrate lifestyle changes with effective coping mechanisms.” *Id.*

⁶ The Individual provided the carbon copies that he had of these tests. However, many of the documents were illegible or did not show a result.

Additionally, the DOE Psychologist testified that the Individual's breath tests could come back negative, even if he was consuming alcohol, because the tests were typically completed on a weekly basis. Tr. at 83. She also stated that the urinalysis tests show alcohol use in the prior twelve to eighty hours, and, therefore, the Individual's urinalysis tests could also be negative even if he was consuming alcohol. *Id.* at 85–86.

The Individual testified that he had not consumed alcohol since October 2024 and had no desire to resume his consumption of alcohol. Tr. at 44, 48. He also said that he believes that his sobriety is “something that continually needs to be thought about . . . worked on, self-reflected to maintain.” *Id.* at 54. Since he has stopped consuming alcohol, the Individual feels that he sleeps better, his personal and professional relationships are better, and he is happier. *Id.* at 48. He feels more energetic, and he can think more clearly. *Id.* at 49. He spends more time helping his school-aged child with her homework when she is in his custody, and he has time for his own hobbies when she stays with her mother. *Id.* at 50, 71.

The Individual remarried about one month prior to the hearing. *Id.* at 59. He has known his new wife for about three years, and according to the Individual, she is supportive of his decision to abstain from consuming alcohol. *Id.* at 59–60. There is no alcohol kept in his home. *Id.* at 65.

When asked why he did not undergo monthly PEth tests as recommended by the DOE Psychologist, the Individual stated that he did not have a primary care physician and did not like blood draws, which PEth tests require. *Id.* at 58. He had asked the OM Director if OM could perform additional PEth testing for him, but he was told that OM was unable to conduct those tests for him. *Id.* at 70.

The Individual’s supervisor testified that he had been the Individual’s direct supervisor for more than five years and in that time, he typically saw the Individual multiple times a day. *Id.* at 12–13. The supervisor stated that before the Individual stopped consuming alcohol the supervisor had “some suspicion that he could have been drinking a little more than he should have” “based on his appearance.” *Id.* at 14–15. After the Individual self-reported his alcohol use and started attending EAP classes, the supervisor began to notice that the Individual handled himself differently, but when asked at the hearing, he was unable to explain how the Individual’s behavior had changed. *Id.* at 14. The Individual told his supervisor that he does not plan to consume alcohol in the future. *Id.* at 17.

The Individual’s coworker testified that they had worked together for about five years. *Id.* at 22–23. The coworker said that prior to the Individual’s abstinence from alcohol, he would sometimes appear to be hungover when he came to work in the morning. *Id.* at 24. After the Individual stopped consuming alcohol, she thought he looked healthier at work. *Id.* The Individual told his coworker that he does not plan to consume alcohol in the future. *Id.* at 25.

The DOE Psychologist testified that after listening to the hearing testimony she would still diagnose the Individual with AUD, moderate, in early remission. *Id.* at 75. She explained that even though the Individual had testified that he had not consumed any alcohol since she evaluated him in June 2025, she did not feel that there was sufficient object evidence to corroborate his testimony. *Id.* at 75, 77. She stated that the Individual was “doing all of the behavioral things,” but the lack of PEth tests means there is not sufficient scientific evidence to say that he has not been consuming alcohol. *Id.* at 78–79. The DOE Psychologist testified that she believed the Individual’s testimony that he had not consumed alcohol and was doing well because (1) he was able to talk about his triggers; (2) he took accountability for his actions in a way that he had not when she evaluated him in June 2025; and (3) his witnesses testified that they could see a difference in the Individual at work. *Id.* at 80.

Although she did not feel it was appropriate to update her diagnosis, the DOE Psychologist opined that she believed the Individual was rehabilitated from his AUD because he had completed the treatment she recommended and was abstaining, “per his report,” from alcohol consumption. *Id.* at 81. The DOE Psychologist went on to say that the Individual had a “good” prognosis because he has “done a lot of the demonstration [sic] rehabilitation,” “but it wasn’t quite meeting the recommendation that was asked.” *Id.* at 83. She testified that although there is a difference between counseling like she recommended and the kind of psychoeducational classes that the Individual participated in, the distinction “wasn’t very clear in the recommendations” set forth in her report, and she believed that the Individual had “done the work” “that was the point of the counseling.” *Id.* at 82. However, even though the DOE Psychologist thought that the classes impacted the Individual in the way she hoped counseling would, she did not consider the psychoeducational classes to be treatment. *Id.* at 87–88.

V. ANALYSIS

An individual may be able to mitigate security concerns under Guideline G through the following conditions:

- (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 maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified alcohol 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.

Mitigating factor (a) does not apply to the security concern raised here. According to the testimony of the DOE Psychologist, the Individual’s AUD, is still only in early remission. Therefore, at the time of the hearing it was an active concern, and I cannot say that a sufficient amount of time has passed. The security concern here is the Individual’s AUD, rather than a behavior, and, therefore, it cannot be resolved based on its frequency or the circumstances surrounding it.

The Individual acknowledged his maladaptive alcohol use and provided evidence of actions taken to overcome the problem. However, while the alcohol testing results that the Individual provided showed some proof that the Individual was not, at the very least, consuming alcohol at the rate he was before his self-report, the provided testing did not fully cover the period of time during which the Individual testified that he had been abstinent from alcohol, and the Individual provided no testing or other evidence that specifically corroborated his testimony that he had not consumed alcohol in the five months between completion of his FFD and the hearing. Further, during the Individual's last attempt at abstinence from alcohol consumption, he began to attempt to consume alcohol socially again shortly after he stopped seeing his psychotherapist. As the Individual's participation in alcohol-related programming decreases, I have increased concern about the likelihood of reoccurring problems. *See* 10 C.F.R. § 710.7(c) (explaining that the DOE officials should consider "the likelihood of continuation or recurrence"). Therefore, I cannot say he has demonstrated a clear and established pattern of abstinence in accordance with the treatment recommendations, and the security concerns are not resolved pursuant to mitigating factor (b).

Even assuming that the Individual's participation in the EAP courses constituted counseling or treatment, which the DOE Psychologist testified was not the case, he has a previous history of treatment and relapse. In 2016 and 2017, the Individual was in regular therapy for his depression and alcohol use. During that time, he did not consume alcohol on the advice of his therapist. After the Individual stopped his therapy sessions, he resumed alcohol consumption, which would be considered a relapse. Therefore, mitigating factor (c) does not apply.

Mitigating factor (d) does not apply because the Individual has not successfully completed a treatment program and required aftercare. Further, as explained above, the breath tests and urine tests that he provided are not sufficient to establish a pattern of abstinence in accordance with treatment recommendations because they do not satisfactorily establish abstinence during the period in which the tests were administered or fully cover the period of time that the DOE Psychologist recommended the Individual provide testing to show his abstinence from alcohol.

Accordingly, I find that the Individual has not resolved the security concerns asserted by the LSO under Guideline G.

VI. CONCLUSION

In the above analysis, I found that there was 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, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve all of the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Erin C. Weinstock
Administrative Judge
Office of Hearings and Appeals