

reported that before his arrest he was consuming alcohol, and while driving his vehicle, he lost control of the vehicle and a passenger in his vehicle was hurt. *Id.* at 52.

Due to the security concerns raised by the Individual's alcohol-related arrest, the LSO referred the Individual for an evaluation by a DOE-contractor psychologist (DOE Psychologist), who conducted a clinical interview of the Individual in August 2025 and issued a report (the Report) of his findings. Ex. 13. During the psychological evaluation, the Individual told the DOE Psychologist that before his June 7, 2025, arrest, he consumed "6 to 7 shots and [two] 12-ounce beers." *Id.* at 78. Based on his evaluation of the Individual, the DOE Psychologist opined that the Individual met sufficient diagnostic criteria in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR)* for a diagnosis of Alcohol Use Disorder (AUD), Mild, In Early Remission, without adequate evidence of rehabilitation or reformation. *Id.* at 83.

In September 2025, the LSO informed the Individual, in a Notification Letter, that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. Ex. 1 at 7–8. In a Summary of Security Concerns (SSC) attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline G (Alcohol Consumption) and Guideline J (Criminal Conduct) of the Adjudicative Guidelines. *Id.* at 5.

The Individual requested an administrative hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). Ex. 2. 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), I took testimony from three witnesses: the Individual, the Individual's fiancée, and the DOE Psychologist. *See* Transcript of Hearing, OHA Case No. PSH-26-0012 (Tr.). Counsel for the DOE submitted 16 exhibits, marked as Exhibits 1 through 16. The Individual submitted eleven exhibits, marked as Exhibits A through K.

II. The Summary of Security Concerns

A. Guideline G

Under Guideline G, "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 under Guideline G include: "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 . . ." and a "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." *Id.* at ¶ 22(a), (d).

In invoking Guideline G, the LSO cited the Individual's June 7, 2025, arrest and charge for DWI, which was later enhanced to a charge of Intoxication Assault with a Vehicle causing Serious Bodily Injury, and his admission, during his August 2025 psychological evaluation, that he consumed "six to seven shots and two (12-ounce) beers in the span of an hour and a half prior to his arrest." Ex. 1 at 6. The LSO also cited the DOE Psychologist's opinion that the Individual met

sufficient *DSM-5-TR* diagnostic criteria for a diagnosis of AUD, Mild, In Early Remission, without evidence of rehabilitation or reformation. *Id.*

B. Guideline J

Under Guideline J, “[c]riminal activity creates doubt about a person’s judgment, reliability, and trustworthiness,” and, “[b]y its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” Adjudicative Guidelines at ¶ 30. Conditions that could raise a security concern under Guideline J include “[e]vidence . . . of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted[.]” *Id.* at ¶ 31(b). In invoking Guideline J, the LSO cited the Individual’s charge of Intoxication Assault with a Vehicle causing Serious Bodily Injury, and his admission, in the LOI, that before his arrest, he lost control of his vehicle, and a passenger in his vehicle was hurt. Ex. 1 at 6.

This information adequately justifies the LSO’s invocation of Guideline G and Guideline J.

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 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 their 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.

IV. Findings of Fact and Hearing Testimony

On June 7, 2025, the Individual and his fiancée arrived at a bar around midnight and, over the next hour and a half, the Individual consumed six or seven shots of liquor and two twelve-ounce beers. Ex. 13 at 78. Later that night, police responded to a report of a vehicle hitting the building. Ex. 12 at 72. The vehicle was gone, but the license plate had fallen off at the scene. *Id.* Police went to the address to which the vehicle was registered and spoke with the Individual's parents, who called the Individual. *Id.* The Individual told his parents he had been in a car accident and went to a hospital. *Id.* Police officers went to the hospital and administered a breathalyzer test to the Individual, the result of which estimated the Individual's blood alcohol content (BAC) at 0.158%. *Id.* at 72–23. The Individual was arrested and charged with DWI, which was later enhanced to Intoxication Assault with Vehicle causing Serious Bodily Injury due to his fiancée's injuries from the accident. *Id.*; *see also* Tr. at 15–16 (Individual's fiancée testifying that she suffered several broken ribs and a punctured lung). The Individual was released on a \$25,000 bond, and he was required to install an ignition interlock device in his vehicle and avoid drinking alcohol. Ex. 13 at 70; Tr. at 52–53; Ex. F. In his LOI, the Individual reported that the last time he consumed alcohol was June 7, 2025. Ex. 10 at 54.

In August 2025, the Individual was evaluated by the DOE Psychologist. Ex. 13. In the Report, the DOE Psychologist noted that the Individual had expressed a desire to abstain from alcohol indefinitely, and that he intended to enroll in an intensive outpatient program (IOP) with the Veterans Administration (VA), which would meet three times a week, for three hours each day. *Id.* at 79–80. As part of the evaluation, on August 8, 2025, the Individual underwent phosphatidylethanol (PEth)³ testing, the result of which was negative, and which the DOE Psychologist opined corroborated the Individual's report that he last consumed alcohol on June 7, 2025. *Id.* at 80–81, 88. The DOE Psychologist opined that the Individual met sufficient *DSM-5-TR* criteria for a diagnosis of AUD, Mild, In Early Remission, without adequate evidence of rehabilitation or reformation. *Id.* at 83. To demonstrate rehabilitation from his AUD, Mild, the DOE Psychologist recommended that the Individual complete the IOP, including undergoing individual counseling for six months, and provide six months of negative PEth tests. *Id.*

In September 2025, the Individual enrolled in an IOP, which he completed on November 25, 2025. Tr. at 48; Ex. A; *see also* Tr. at 19–20 (Individual's fiancée confirming his attendance in her testimony). The program's group sessions were held three days a week and included reading from Alcoholics Anonymous (AA) books, alcohol and drug education, and discussions about the effects of alcohol use on the drinker and those close to them. Tr. at 43, 58, 71, 73–74; Ex. E. The Individual also attended weekly individual counseling sessions while in the IOP, which he found beneficial for discussing his guilt and getting advice on how to avoid alcohol. Tr. at 46–47, 71–75. The individual counseling sessions also taught him to not let his remorse for the accident lead him back into drinking alcohol to manage his emotions. *Id.* at 65. Since completing the IOP, the Individual has not had a formal appointment with his counselor, but he visits the IOP to speak to his counselors and attend the group classes, which he sees as a way of “giving back to the community.” *Id.* at 47–48, 59, 65. He also explained that he had family members and friends that worked at the

³ 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 May 6, 2026). The test can detect alcohol consumption in the three to four weeks preceding the test. *Id.*

IOP facility, so he feels comfortable visiting the IOP, even if he does not have a formal appointment to see a counselor. *Id.* at 59–60. He believed he would be tested for both drugs and alcohol while in the IOP, but he was only subject to random drug-testing during the program. *Id.* at 49–50; Ex. C.

The Individual testified that reading the DOE Psychologist’s Report had been eye opening and validated his decision to stop consuming alcohol. Tr. at 40, 43. When he read the recommendations in the Report, he took them seriously and did his best to comply with them. *Id.* at 61–62. The Individual expressed remorse for the June 2025 accident and admitted that it had been his fault. *Id.* at 45. He intended to abstain from alcohol indefinitely. *Id.* at 45–46. The Individual submitted documentary evidence, to support his testimony concerning his abstinence, that he underwent PEth testing in October 2025, November 2025, December 2025, January 2026, and February 2026, and on March 6, 2026, and March 31, 2026, the results of which were negative for alcohol consumption. *Id.* 51–52; Ex. D, Ex. H, Ex. I.

As for the criminal charges stemming from his June 2025 arrest, the Individual testified that he is cooperating with all the legal requirements. Tr. at 63. The ignition interlock device is monitored by his State, and since June 2025, the device had never detected alcohol on his breath. *Id.* at 33–35, 75–76. As of the hearing, his criminal charges had been downgraded to “aggravated assault,” and he is working with his criminal defense attorney on a plea bargain to resolve his criminal charges. *Id.* at 76–79.

At the hearing, the Individual’s fiancée testified that, since the accident, the Individual had been consistent in his decision to no longer drink alcohol. *Id.* at 16. The Individual told her that alcohol had a negative impact on their lives and that he intended to abstain from alcohol permanently. *Id.* at 22–23, 27. She explained that the Individual stays busy by going to the gym, shopping, watching movies, discussing the bible with her son, and doing yardwork. *Id.* She testified that they spent most of their free time together and that she had not seen the Individual consume alcohol since the accident. *Id.* at 31.

The DOE Psychologist testified that after listening to the testimony provided during the hearing and reviewing the Individual’s exhibits, he believed the Individual was rehabilitated from his AUD, Mild. Tr. at 83–84. He explained that the Individual had done, and continued to do, everything he recommended. *Id.* at 83. He believed the Individual had a strong support system, his fiancée was supportive of the Individual’s decision to abstain from alcohol, and the Individual’s habit of going to the gym provided the Individual with “positive peer pressure.” *Id.* at 87. As for his recommendation to obtain individual counseling, he explained that the Individual’s continued visits to the IOP, since November 2025, showed that he is comfortable with that environment, and his continued visits are helpful and reinforcing and constitute a “hybrid” version of his recommendation to have individual counseling. *Id.* at 86–87. He concluded that the Individual had complied with his recommendation to obtain individual counseling. *Id.* Finally, the DOE Psychologist explained that the Individual’s PEth testing established that he had abstained from alcohol for six or seven months. *Id.* at 88. He stated the Individual’s prognosis was good. *Id.* at 84.

V. Analysis

A. Guideline G

The Adjudicative Guidelines provide that 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.

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses presented at the hearing. After due deliberation, I have determined that the Individual has sufficiently mitigated the security concerns raised by his June 2025 arrest and subsequent charge with Intoxication Assault with a Vehicle causing Serious Bodily Injury and his diagnosis of AUD, Mild, under ¶ 23(d) of the Adjudicative Guidelines.

Since meeting with the DOE Psychologist, the Individual submitted evidence that he successfully completed the treatment program recommended by the DOE Psychologist to resolve his AUD, Mild. From September 2025 to November 2025, the Individual participated in, and successfully completed, an IOP, which included alcohol education, reading from AA materials, discussions about the effects of alcohol, and individual counseling. The DOE Psychologist testified that although the Individual had not had formal appointments with his counselor since November 2025, the Individual's continued visits to the IOP, to talk to his counselors and attend group sessions, appeared to be helpful to him and reinforcing. Therefore, the DOE Psychologist concluded that the Individual's continued visits were a "hybrid" version of individual counseling and that he complied with his recommendation. Finally, the Individual submitted seven negative PEth tests, dated from October 2025 to March 2026, to demonstrate a clear and established pattern of abstinence from alcohol, the full length of which has been at least six or seven months. Therefore, I agree with the opinion of the DOE Psychologist, who opined that the Individual was rehabilitated from his AUD, Mild. The DOE Psychologist also opined that the Individual's prognosis was good.

Therefore, I conclude that the Individual has successfully completed the treatment program recommended by the DOE Psychologist, and he has demonstrated a clear and established pattern of abstinence from alcohol sufficient to mitigate the stated Guideline G concerns. Adjudicative Guidelines at ¶ 23(d).

I have also determined that the Individual has sufficiently mitigated the security concerns raised by his June 2025 arrest and subsequent charge with Intoxication Assault with a Vehicle causing Serious Bodily Injury and his diagnosis of AUD, Mild, under ¶ 23(b) of the Adjudicative Guidelines.

The Individual testified that when he read the Report, which included the DOE Psychologist's finding that he had AUD, Mild, he found it eye opening, and that it validated his decision to abstain from alcohol indefinitely. Therefore, I find that the Individual has acknowledged his maladaptive alcohol use. The Individual has provided evidence he has taken actions to overcome his AUD by following the DOE Psychologist's recommendation to enroll in alcohol treatment. As explained above, the Individual submitted sufficient evidence to establish that he successfully completed an IOP, and he submitted seven negative PEth tests, dated from October 2025 to March 2026, to demonstrate a clear and established pattern of abstinence from alcohol, for at least six or seven months.

Therefore, I conclude that the Individual has acknowledged his pattern of maladaptive alcohol use, provided evidence of action to overcome the problem, and demonstrated a clear and established pattern of abstinence from alcohol sufficient to mitigate the stated Guideline G concerns. Adjudicative Guidelines at ¶ 23(b).

B. Guideline J

The Adjudicative Guidelines provide that conditions that could mitigate security concerns under Guideline J 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.

Having mitigated the stated Guideline G concerns, I conclude that the Guideline J concerns raised by the Individual's June 2025 arrest have also been mitigated under ¶ 32(d) of the Adjudicative Guidelines.

The Individual's June 2025 arrest for DWI was linked to his AUD, Mild. Since his arrest, the Individual expressed his remorse for causing the accident that led to his June 2025 arrest for DWI and caused physical injury to his fiancée. The Individual testified that he intends to abstain from alcohol indefinitely. The Individual's fiancée testified that since the accident, the Individual has

been committed to abstaining from alcohol permanently, and her testimony supports his claim that he is complying with the conditions of his bond by abstaining from alcohol and not ever triggering the ignition interlock device in his vehicle. Finally, as explained above, the Individual has abstained from alcohol for a least six or seven months, and completed the treatment program recommended by the DOE Psychologist, who opined that the Individual was rehabilitated from his AUD, Mild.

Therefore, I conclude the root cause of the Individual's June 2025 arrest has been sufficiently addressed, and he has mitigated the stated Guideline J concerns. *Id.* at ¶ 23(d).

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked Guideline G and Guideline J of the Adjudicative Guidelines. After considering all the evidence, 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 brought forth sufficient evidence to resolve the concerns set forth in the SSC. Accordingly, the Individual has demonstrated that restoring his security clearance would not endanger the common defense and security and would be clearly consistent with the national interest. Therefore, I find that the Individual's access authorization should be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Diane L. Miles
Administrative Judge
Office of Hearings and Appeals