

***The original of this document contains information which is subject to withholding from disclosure under 5 U.S. C. § 552. Such material has been deleted from this copy and replaced with XXXXXX's.**

**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing)
)
Filing Date: December 5, 2025) Case No.: PSH-26-0024
)
)
_____)

Issued: June 18, 2026

Administrative Judge Decision

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.”¹ For the reasons set forth below, I conclude that the Individual’s security clearance should be restored.

I. BACKGROUND

The Individual is employed by a DOE Contractor in a position which requires a security clearance. When administered a breathalyzer test as part of a normal procedure at work, the Individual provided a positive sample of over 0.04 g/210L. The Individual was subsequently referred to a DOE-consultant psychologist (Psychologist) for an evaluation related to his alcohol consumption. Thereafter, 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 and testified on his own behalf. *See* Transcript of Hearing, OHA Case No. PSH-26-0024 (hereinafter cited as “Tr.”). The LSO presented the testimony of the Psychologist who had evaluated the Individual. *See id.* The LSO submitted thirteen exhibits, marked as Exhibits 1 through 13 (hereinafter cited as “Ex.”). The

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.

Individual submitted fifteen exhibits—the results of thirteen phosphatidylethanol (PEth)² tests, all negative, a letter from a testing clinic stating that the Individual had arrived for a PEth test but was unable to take it due to an error in the test order, and a certificate of completion of an intensive outpatient program for substance abuse (IOP)—marked as Exhibits A through O.

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 Guideline G 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

² 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 19, 2026). The test can detect alcohol consumption in the three to four weeks preceding the test. *Id.*

- (g) Failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence.

Id. at ¶ 22.

The LSO alleges that, on June 16, 2024, the Individual had positive breathalyzer tests at work with results of .043 at 8:08 a.m., .039 at 8:24 a.m., and .032 at 8:27 a.m. Ex. 1 at 5.³ In addition, the LSO alleged that, after a September 2024 evaluation, the Psychologist wrote in an October 2024 report that the Individual met sufficient *Diagnostic and Statistical Manual for Mental Disorders, Fifth Ed., Text Revision* diagnostic criteria for a diagnosis of Alcohol Use Disorder, moderate severity, that the Individual habitually consumed alcohol to the point of impaired judgment, and that the Individual had not shown adequate evidence of rehabilitation or reformation. *Id.*

The LSO's allegations of positive breathalyzer tests at work raise Guideline G concerns under condition (b), alcohol-related incidents at work. Adjudicative Guidelines at ¶ 22(b). The allegations involving the Psychologist's opinion and diagnosis raise Guideline G concerns under condition (c), habitual or binge consumption, and condition (d), diagnosis by a duly qualified medical or mental health professional. *Id.* at ¶ 22(c)–(d). Accordingly, the LSO's security concerns under Guideline G 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.* at § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

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

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

On the night of June 15, 2024, the Individual was in his home with friends watching a sporting event. Tr. at 14. Between 7:00 p.m. and 11:00 p.m., the Individual consumed four 12-ounce beers and two mixed drinks. Ex. 10 at 63; *see also* Tr. at 14 (Individual's wife testifying that he consumed "a few drinks"). He was aware of his employer's prohibition on alcohol consumption in the eight hours preceding a work shift. Ex. 9 at 51. The Individual was called in for an overtime shift and instructed to arrive at 7:00 a.m. the next day. Ex. 7 at 36. When employees in the Individual's field are called in for an overtime shift, they are required to submit to a Return to Duty Blood Alcohol Test. Ex. 4 at 15. The Individual did not feel intoxicated at the time of the breathalyzer test and did not suspect that he was at risk of having a positive test result. *Id.* He did not try to avoid or circumvent the test. *Id.* As a result of the positive breathalyzer result, the Individual was placed on administrative leave pending investigation. Ex. 7 at 30.

The Individual was asked to respond to a Letter of Interrogatory. Ex. 9. By the time of his response on August 19, 2024, the Individual had stopped consuming alcohol. *Id.* at 53. He wrote that his most recent alcohol consumption occurred on August 3, 2024, when he consumed about five beers and three mixed drinks over a twelve-hour period while golfing with friends and later gathering at a friend's home. *Id.* at 54.

The Individual was referred to the Psychologist for a substance abuse evaluation, which occurred on September 30, 2024. Ex. 10 at 70. On October 10, 2024, the Psychologist issued a report on the evaluation. Ex. 10. The Individual told the Psychologist that he had discontinued alcohol consumption a few times over the years for durations of a month or a week. *Id.* at 65. He told the Psychologist that he had not consumed alcohol since August 3, 2024. *Id.* at 64. The Psychologist noted that the Individual did not try to deny that the positive breathalyzer at work was valid, instead "taking responsibility for his actions." *Id.* at 67. The Psychologist diagnosed the Individual with Alcohol Use Disorder, moderate severity, and noted that his pattern of alcohol consumption—heavy drinking on weekends—was habitual. *Id.* at 69. He acknowledged that the Individual had taken a "first step" toward reformation by abstaining from alcohol, but had not yet demonstrated evidence of rehabilitation or reformation. *Id.*

The Psychologist recommended, for the Individual to show rehabilitation, that the Individual complete an IOP, followed by aftercare and individual therapy. Ex. 10 at 70. He further recommended that the Individual submit to PEth testing monthly for a year as proof of one year of abstinence. *Id.* He also recommended that the Individual attend Alcoholics Anonymous (AA) meetings and work with a sponsor. *Id.* The Individual submitted into evidence a certificate of completion from his IOP, which he attended from December 2024 through March 2025, and the results, all negative, of thirteen PEth tests.⁴ Tr. at 44; Ex. O; Exs. A–K, M, N. The Individual did not attend AA because he did not understand it was different than the IOP and counseling he was

⁴ The PEth tests were administered monthly from December 2024 through January 2026, with November 2025 being the month the Individual arrived to take the test but was unable to due to an issue with the order for the test. Ex. A–N.

already doing. Tr. at 40. He continued aftercare group therapy sessions for ninety days after finishing the IOP and then would attend occasionally as needed. *Id.* at 44.

At the hearing, the Individual's spouse testified that they had known each other since middle school, began cohabitating in 2018, and married in 2023. Tr. at 13. She testified that the Individual had shared with her what he had learned in alcohol treatment, such as clarity of mind, the seriousness of his issues with alcohol, and communication skills. *Id.* at 14. She added that the Individual had used what he'd learned to improve his listening, communication, and conflict management skills at home. *Id.* at 15. The spouse testified that the Individual had not consumed alcohol in nearly two years. Tr. at 17. She testified that many of their family members do not drink, and social situations where alcohol is served are not difficult for him. *Id.* She testified that she keeps some alcoholic seltzers in the house from time to time to share with friends and that she had never noticed any missing. *Id.* at 18. She believed the Individual intended to continue abstaining from alcohol and stated that she was proud of him. *Id.* at 19. She testified that he had a strong support system between her, his mother, and his IOP therapist. *Id.* at 19–20.

The Individual's colleague had worked with the Individual since about 2021. Tr. at 24. He also considered the Individual a close friend. *Id.* They saw each other daily, including at family and social events outside of work. *Id.* at 24–25, 27–28. He testified that the Individual intends to continue abstaining from alcohol and that he believed the Individual would succeed in that. *Id.* at 30. He testified that when he played golf with the Individual on the weekends, the Individual did not seem bothered by others drinking around him. *Id.* at 27. The colleague also did not consume alcohol. *Id.*

The Individual testified that he understood why the positive breathalyzer test and the subsequent diagnosis by the Psychologist were concerning to DOE. Tr. at 34, 36. He testified that he had learned many things in the IOP, including the way an addict's mind works, coping mechanisms, how to respond to social situations where alcohol is present, and that he had a problem with alcohol. *Id.* at 40–41. He testified that he had not consumed alcohol since August 3, 2024. *Id.* at 42. The Individual testified that he began experiencing health improvement soon after abstaining from alcohol and described having better mental clarity. *Id.* at 43. He testified that he was a better listener and was able to better meet his family's needs. *Id.* at 43–44. The Individual was wary of complacency and understood the value of returning to aftercare as needed.⁵ *Id.* at 44–45. He believed that by continuing to work on himself, he would be able to remain sober indefinitely. *Id.* at 44–45, 51. The Individual testified that he had stopped drinking in the past for set periods of time and had resumed alcohol consumption once he had "met his goals." *Id.* at 45–46. Now, he feels like he let his family down through his alcohol use and wants to ensure that he can care and provide for them, which includes staying sober. *Id.* at 46. The Individual has learned about his triggers, which included family stress and grief associated with death, and has successfully faced those triggers without consuming alcohol on several occasions since abstaining. *Id.* at 54–55. When he recognized that his "muscle memory" was urging him to turn to alcohol to deal with a trigger, he would find an activity like doing something with his family or going to church in lieu of consuming alcohol. *Id.*

⁵ The Individual's insurance lapsed when he was placed on administrative leave pending the outcome of this proceeding, so he had not been able to return to aftercare since January 2026. Tr. at 50–51.

The Individual's IOP therapist, who also did his individual counseling during and after the IOP, testified that the Individual was an enthusiastic participant in the IOP from the beginning. Tr. at 40, 51–52, 60. He testified that the Individual attended aftercare weekly for about five months after completing the IOP. *Id.* The therapist gave the Individual a good prognosis. *Id.* at 61. He testified that the Individual had absorbed the foundational techniques taught in the IOP and knew how to plan for triggers and how to deal with them. *Id.* at 63. The therapist testified that the Individual understood “environmental factors, high-risk people, places, situations, how to plan for them and how to create safety plans to either maintain abstinence while being engaged in those environments and/or removing yourself from that environment.” *Id.* He testified that the Individual had little insight about his alcohol use initially, but through the program began to see how his alcohol use was maladaptive and that he needed to abstain. *Id.* at 64. He testified that “throughout the program [the Individual] learned that there are many layers of a human being that can contribute to this desire or urge to medicate, numb or depart from willful behavior.” *Id.*

The Psychologist testified that the Individual had a good attitude and had fulfilled his recommendation for a year of PEth testing. Tr. at 70. He testified that the Individual had “met the challenge of reformation that takes him into a commitment to treatment, and his progress shows rehabilitative progress that will be something that he will need to keep in scope of his thinking and planning forever.” *Id.* at 70. He testified that he felt good about the Individual's ability to remain sober because of what the Individual learned, how he articulated it, and how he explained it during the hearing. *Id.* at 71. He believed the Individual had a good support system. *Id.* at 72. He gave him a good prognosis. *Id.* The Psychologist testified that the Individual was “adequately rehabilitated to move forward.” *Id.* He testified that the only recommendation of his that the Individual did not fulfill was AA attendance. *Id.* However, he knew that the Individual's therapist did not typically recommend AA, and therefore, he could “overlook [the Individual's] not following the AA.” *Id.*

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.

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. Mitigating conditions (b) and (d) apply.

The Individual was originally somewhat defensive regarding his maladaptive alcohol use, but he went into the IOP with an open mind and learned how his alcohol use was harming him and his family. He acknowledged that he had a problem with alcohol and committed to abstaining permanently. He completed the IOP and attended aftercare. He built a support system and fostered relationships with people who also do not drink. While he is comfortable with and confident about his commitment to abstinence, he remains vigilant against complacency. He realizes that alcohol will continue to be a problem for him, so he needs to keep working on himself to maintain his sobriety. He is motivated to remain sober because he wants to provide for his family and avoid letting them down. He has shared what he has learned with his wife, and his wife noted improvement in the Individual's daily life as a result of what he learned. I find that the Individual has acknowledged his pattern of maladaptive alcohol use, provided evidence of actions taken to overcome the problem, and also described how he intends to continue taking action in the future. The Individual provided documentary evidence of a year of sobriety and fulfilled almost all of the treatment recommendations. I find that the Individual's testimony and evidence are sufficient to demonstrate a clear and established pattern of abstinence in accordance with the Psychologist's recommendation of one year with PEth testing. Therefore, I find that mitigating condition (b) applies.

The Individual successfully completed his IOP. His therapist testified to his openness and participation in the IOP, as well as his regular aftercare attendance. Both the therapist and Psychologist gave the Individual a good prognosis, which, while not required for condition (d) to apply, is an indicator of the Individual's success in treatment. I find that the Individual has

successfully completed a treatment program and the required aftercare. As stated above, I further find that the Individual has demonstrated a clear and established pattern of abstinence in accordance with treatment recommendations. Therefore, I find that mitigating condition (d) applies.

For the foregoing reasons, I find that the Individual has mitigated the Guideline G security concerns.

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 Guideline G of the Adjudicative Guidelines. I further find that the Individual has succeeded in fully resolving those concerns. Therefore, I 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 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