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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: February 13, 2026	)	Case No.: PSH-26-0062
	)	
	)	

Issued: July 30, 2026

Administrative Judge Decision

Erin C. Weinstock, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."¹ As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should be restored.

I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires him to hold an access authorization. Exhibit (Ex.) 1 at 7.² On May 18, 2025, the Individual was arrested and charged with Aggravated Driving While Under the Influence of Intoxicating Liquor or Drug (Aggravated DWI), Reckless Driving, Open Container, Improper Turning at Intersection, and Failure to Maintain Traffic Lane. Ex. 6 at 27. Subsequently, the Local Security Office (LSO) asked the Individual to complete a letter of interrogatory (2025 LOI), which the Individual did on August 20, 2025. Ex. 10. Upon receipt of the responses to the LOI, the LSO asked the Individual to undergo a psychological evaluation in October 2025, by a DOE-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, without adequate evidence of rehabilitation or reformation. Ex.

¹ The regulations define access authorization as "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). This Decision will refer to such authorization as access authorization or security clearance.

² References to the Local Security Office's (LSO) exhibits are to the exhibit number and the PDF page number from the LSO's exhibit notebook.

12 at 88. Additionally, the Individual was arrested for Criminal Damage to the Property of a Household Member in April 2024, after he punched his girlfriend's car windshield, causing it to crack. Ex. 8 at 61. In an LOI (2024 LOI) completed shortly after this incident, the Individual admitted he had consumed five beers prior to this incident. Ex. 11 at 74.

Subsequent to the psychological evaluation, the LSO 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 7–9. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline G and Guideline J of the Adjudicative Guidelines. *Id.* at 6.

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 sixteen exhibits (Ex. 1–16). The Individual submitted two exhibits (Ex. A–B). The Individual testified on his own behalf. Hearing Transcript, OHA Case No. PSH-26-0062 (Tr.). The LSO presented the DOE Psychologist as a witness. *Id.*

II. THE SECURITY CONCERNS

Guideline G, under which the LSO raised 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: “alcohol-related incidents away from work” and “diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder.” *Id.* at ¶ 22(a), (d). In citing Guideline G, the LSO relied upon the Individual’s April 2024 alcohol-related arrest for Criminal Damage to the Property of a Household Member and his May 2025 arrest for Aggravated DWI and other related offenses. Ex. 1 at 6. The LSO also cited the DOE Psychologist’s diagnosis of AUD, Moderate. *Id.* The aforementioned allegations justify the LSO’s invocation of Guideline G.

Guideline J, under which the LSO raised additional security concerns, provides: “Criminal activity creates doubt about a person’s judgement, reliability, and trustworthiness. By 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: “evidence . . . of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.” *Id.* at ¶ 31(b). The LSO cited the Individual’s April 2024 and May 2025 arrests. Ex. 1 at 6. This derogatory information adequately justifies the LSO’s invocation of 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 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

In April 2024, the Individual went to a bar with his partner and his cousin. Tr. at 16. Between 8:00 PM and 1:30 AM, he consumed five to eight beers. *Id.* at 20. The Individual's partner drove them all home, and, while she was driving them home, the Individual's partner started talking about how she felt the Individual was looking at other women at the bar. *Id.* at 16. The Individual asked for her to let him and his cousin out of the car because he was "trying to avoid conflict." *Id.* at 17. When the partner would not let him out of the car, he "struck her windshield in anger." *Id.* The partner let the Individual and his cousin out of the car, and they walked home. *Id.* While the Individual and his cousin were walking home, the Individual called the police to "try[] to avoid conflict." *Id.* When the police officer arrived at the Individual's home, he noticed that the Individual was intoxicated and observed damage to the partner's car. Ex. 8 at 51 (police report describing the incident). The police officer arrested the Individual and took him to jail. *Id.*; Tr. at 18. The charges in this matter were eventually dropped because the Individual's partner decided not to cooperate with the investigation. Tr. at 19. The Individual explained that since this incident he and his partner had learned more about each other and improved their communication such that incidents like this had not recurred. *Id.* at 20–21.

As a result of these charges, the Individual took an alcohol education course through his employer's Employee Assistance Program (EAP) and completed about three individual therapy sessions through EAP. Ex. 12 at 86. The Individual testified that he appreciated being able to talk to the therapist about his life and personal problems. Tr. at 34.

In May 2025, the Individual was arrested and charged with Aggravated DWI, Reckless Driving, Open Container, Improper Turning at Intersection, and Failure to Maintain Traffic Lane. Ex. 6 at

27. The Individual had gone to a bar and consumed at least four alcoholic drinks. Ex. 10 at 66. While he was driving home, a police officer observed him driving in the median and over a curb. Ex. 6 at 27–28. The police officer pulled the Individual over and arrested him. *Id.* at 28. In November 2025, the Individual agreed to a plea deal which would drop the charges other than DWI and allow him to take a deferred sentence for the DWI. Tr. at 11. The Individual had to complete unsupervised probation which included required treatment and community service to be completed within two months of entering the plea. *Id.*

On July 29, 2025, the Individual underwent a Phosphatidylethanol (PEth) test³ as a part of a fitness for duty (FFD) evaluation by his employer. Ex. 12 at 86–87. That test came back positive at a level of 145 ng/mL. *Id.* FFD had him complete a second PEth test on August 19, 2025, which came back positive at a level of 30 ng/mL. *Id.*

The Individual was evaluated by the DOE Psychologist on September 30, 2025. Ex. 12. As part of his evaluation, the Individual underwent a PEth test on the same date. *Id.* at 87. 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. *Id.* at 88. In order for the Individual to show rehabilitation, the DOE Psychologist stated that the Individual should: (1) complete the intensive outpatient program (IOP) for alcohol treatment that he was enrolled in pursuant to the terms of his probation at the time of the evaluation; (2) continue in any recommended aftercare programs; and (3) maintain abstinence for at least twelve months as corroborated by monthly negative PEth test results. *Id.* If the Individual chose not to complete his IOP, the DOE Psychologist stated that he could show reformation by providing eighteen months of negative PEth tests while also “demonstrat[ing] lifestyle changes with effective coping mechanisms.” *Id.*

The Individual testified at the hearing that he last consumed alcohol “towards the end of July [2025].” Tr. at 23–24. To support this testimony, he provided eleven negative PEth tests dated September 5, 2025; October 13, 2025; November 4, 2025; December 5, 2025; January 9, 2026; February 9, 2026; March 10, 2026; April 7, 2026; May 5, 2026; June 2, 2026; and July 1, 2026. Ex. A at 5–15. He also provided copies of the FFD PEth tests from July 2025 and August 2025 that were positive at a level of 145 ng/mL and 30 ng/mL, respectively. Ex. A at 1–4.

At the time of the hearing, the Individual had completed the community service and the treatment required as a part of his plea agreement. Tr. at 12. The Individual completed the IOP in January 2026. Ex. B at 1–2 (letter and certificate indicating the Individual began and completed the IOP). After the Individual completed the IOP, he completed the IOP’s six-month aftercare program. *Id.* at 3 (letter from IOP indicating the Individual had successfully completed the recommended aftercare in June 2026).

³ “PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption.” Ex. 12 at 100. “PEth can still be detected in the blood for about 28 days after alcohol consumption has ceased.” *Id.* at 87.

The Individual testified that because of his DWI and the Criminal Damage charge, he realized that it “is best if [he] stay[s] away” from alcohol. Tr. at 31–32. Therefore, he does not plan to consume alcohol in the future. *Id.*

At the hearing, the DOE Psychologist testified that she believed the Individual had shown rehabilitation. *Id.* at 44. She explained that this opinion was based on his completion of the IOP and aftercare, and the PEth tests that first showed a decrease in alcohol consumption then no alcohol consumption. *Id.* She stated that the PEth tests provide “scientific proof that he has not been drinking” since his last reported drink in July 2025. *Id.* The DOE Psychologist also explained that the Individual had a “good” prognosis on an excellent, good, fair, poor scale. *Id.* at 44, 47.

V. ANALYSIS

Guideline G

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.

The Individual has resolved the security concerns pursuant to mitigating conditions (b) and (d). At the hearing, he acknowledged that his alcohol use was maladaptive and provided compelling evidence that he had taken actions to overcome his problem by completing his IOP and attending recommended aftercare. In order to support his testimony that he had not consumed alcohol since July 2025, he provided eleven months of negative PEth tests. He also provided proof that he had completed his IOP and the aftercare program run by his IOP. Considering the positive prognosis of the DOE Psychologist, I find that the Individual has complied with the DOE Psychologist’s

recommendations and demonstrated rehabilitation from his AUD. Additionally, in light of his rehabilitation, I find that future alcohol-related incidents are unlikely to recur.

Accordingly, I find that the Individual has resolved the security concerns asserted by the LSO under Guideline G.

Guideline J

An individual may be able to mitigate security concerns under Guideline J though the following conditions:

- (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.

Both of the criminal incidents cited in the SSC occurred while the Individual was under the influence of alcohol. Under 10 C.F.R. § 710.7(c), I am required to consider, among other things, the "presence of rehabilitation or reformation and other pertinent behavioral changes," "the likelihood of continuation or recurrence," and "other relevant and material factors" in applying the mitigating conditions. Because the Individual has resolved the security concerns regarding his alcohol use and testified that he does not plan to consume alcohol in the future, I find these factors to be relevant here as the Individual will not commit alcohol-related offenses if he does not consume alcohol. Further, the Individual completed the IOP as required by his probation and has had no issues continuing to comply with the terms of his probation. Therefore, I find that he has provided evidence of successful rehabilitation as described in mitigating factor (d).

Accordingly, I find that the Individual has resolved the security concerns asserted by the LSO under Guideline J.

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 and Guideline J 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 brought forth sufficient evidence to resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined 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.

Erin C. Weinstock
Administrative Judge
Office of Hearings and Appeals