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United States Department of Energy
Office of Hearings and Appeals

In the Matter of: Personnel Security Hearing

Filing Date: April 4, 2026

Case No.: PSH-26-0100

Issued: September 16, 2026

Administrative Judge Decision

Erin C. Weinstock, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (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 her to hold an access authorization. Exhibit (Ex.) 1 at 6.² On September 8, 2025, the Individual was arrested and charged with Aggravated Battery. Ex. 7 at 33. She had consumed one alcoholic beverage prior to this incident. Ex. 8 at 36. On January 4, 2026, the Individual was arrested and charged with Aggravated Driving While Under the Influence of Liquor or Drugs (DWI). Ex. 6 at 21. Subsequently, the Local Security Office (LSO) asked the Individual to complete a letter of interrogatory (LOI), which the Individual did on January 28, 2026. Ex. 8. Upon receipt of the responses to the LOI, the LSO asked the Individual to undergo a psychological evaluation in February 2026, by a DOE-consultant psychologist (DOE Psychologist). Ex. 12 at 66. The DOE Psychologist's evaluation resulted in a finding that the Individual met sufficient *Diagnostic and Statistical Manual of Mental Disorders*

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.

– *Fifth Edition (DSM-5)* criteria for a diagnosis of Unspecified Alcohol-Related Disorder (UARD). Ex. 12 at 66.

The LSO subsequently issued the Individual a Notification Letter advising her that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 1 at 6–8. 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.*

The Individual exercised her 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 fifteen exhibits (Ex. 1–15). The Individual submitted twenty-three exhibits (Ex. A–W). The Individual testified on her own behalf and presented the testimony of three other witnesses. Hearing Transcript, OHA Case No. PSH-26-0100 (Tr.). The LSO presented the testimony of the DOE Psychologist. *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 September 2025 arrest for Aggravated Battery and her January 2026 arrest for DWI. Ex. 1 at 5. The LSO also cited the DOE Psychologist’s diagnosis of UARD. *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 September 2025 and January 2026 arrests. Ex. 1 at 5. 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

On September 8, 2025, the Individual was arrested and charged with Aggravated Battery. Ex. 7 at 33. On that night, she had gone out with her mother and some friends to hear a band play. Tr. at 46. One of the Individual’s friends went to the restroom, and a stranger sat in her seat. *Id.* When the friend returned, the Individual tapped the stranger on the shoulder and asked if her friend could have her seat back. *Id.* The Individual stated that the stranger yelled at her and pushed her, and the Individual’s mother tried to intervene. *Id.* The stranger spit on the Individual’s mother and pushed her. *Id.* The Individual then got involved in a physical altercation with the stranger, which resulted in the Individual’s arrest and the subsequent criminal charge. *Id.* The Individual testified that she had consumed one drink prior to this incident, and she did not think the alcohol played any role in her actions. *Id.* at 47, 82. At the hearing, the Individual testified that looking back at this incident, she now knows she should have taken a step back and called security or left when the stranger began to act aggressively. *Id.* at 81.

On January 4, 2026, the Individual was arrested and charged with DWI. Ex. 6 at 21. The Individual had been attending a concert with some friends and stated that she consumed three alcoholic beverages between 1:00 PM and 8:00 PM. Ex. 8 at 38, 40. She then drove her friends back to a hotel around 11:45 PM. *Id.* at 38. On the way to the hotel, the Individual was pulled over for speeding and underwent field sobriety tests and breath tests. *Id.* The Individual blew a 0.16/0.17 on the breath tests. *Id.* at 41. She was subsequently charged with DWI. *Id.* at 38. At the hearing, the Individual testified that the night of her arrest was the last time that she consumed any alcohol. Tr. at 73.

The Individual began to attend a course on alcohol education offered through her employer’s employee assistance program (EAP) shortly after her DWI arrest and completed that course on February 12, 2026. Ex. B at 2. After completing that course, she began a twelve-week substance cessation support course, which she completed on May 13, 2026. Ex. C at 3. The Individual has also used her employer’s EAP to access individual therapy services. Tr. at 9, 67. The EAP counselor testified that in the five sessions that they have had so far, they talked both about alcohol and general concerns in the Individual’s life. *Id.* at 13, 19. The EAP counselor said that the

Individual was making satisfactory progress in these sessions. *Id.* at 18. The Individual testified that she is allowed eight individual counseling sessions through EAP, and she intends to find a counselor to continue with outside of work once she is out of EAP sessions because she has “really enjoyed it.” *Id.* at 67–68.

In January 2026, the Individual also began attending SMART Recovery³ meetings. Tr. at 63; Ex. D (SMART Recovery attendance information showing the Individual regularly went to meetings from January 2026 to shortly before the hearing in July 2026). At the hearing, the Individual explained that at her SMART Recovery meetings, she has learned about different tools she can use to help to prevent herself from using alcohol and how to get back on track if she were to relapse. Tr. at 66. She specifically spoke about using journaling as a method to help her figure out why she might be having a craving and identify the trigger. *Id.*

The Individual was evaluated by the DOE Psychologist on February 24, 2026. Ex. 12 at 60. As part of her evaluation, the Individual underwent a Phosphatidyl Ethanol (PEth) test⁴ on the same date. *Id.* at 69. The PEth test came back negative. *Id.* This result was consistent with her report to the DOE Psychologist that she had not consumed any alcohol since her January 2026 DWI arrest. *Id.* at 64. The DOE Psychologist was also provided a PEth test that the Individual had undergone on January 6, 2026, which came back positive at a level of 119 ng/mL. *Id.*; Ex. M (January 2026 PEth result). The DOE Psychologist stated that this result indicated that the Individual consumed more alcohol than the “two or three drinks, generally twice per month” that the Individual reported consuming. Ex. 12 at 65 (citing to the results of a study that found PEth results in reproductive age women “above 127 ng/mL [which is very close to 119 ng/mL] were highly specific for drinking *in excess of 2 drinks per day*” in the weeks preceding measurement (emphasis added)). The DOE Psychologist also opined that the Individual underreported her alcohol consumption on the day of the DWI, because if her reported consumption was accurate, “her BAC would have been 0.00 g/210L by the time of her testing,” rather than 0.16 or 0.17 g/210L.⁵ *Id.*

After the Individual completed the evaluation, the DOE Psychologist issued a report in which she concluded that the Individual met the *DSM-5* criteria for a diagnosis of UARD. *Id.* at 66. In explaining her diagnosis, she noted that the Individual’s “use of alcohol has been disruptive to her work, contrary to her efforts for weight loss and general health improvement and resulted in two-alcohol-related arrests in four months.” *Id.* In order for the Individual to show rehabilitation, the DOE Psychologist stated that the Individual should continue to attend her SMART Recovery meetings and continue with her monthly individual counseling sessions. *Id.* The DOE Psychologist

³ “SMART Recovery is an evidenced-informed recovery method grounded in Rational Emotive Behavioral Therapy (REBT) and Cognitive Behavioral Therapy (CBT), that supports people with substance dependencies or problem behaviors to: (1) Build and maintain motivation, (2) Cope with urges and cravings, (3) Manage thoughts, feelings and behaviors, (4) Live a balanced life.” Self Management and Recovery Training (SMART), <https://smartrecovery.org/what-is-smart-recovery> (last visited Sept. 15, 2026).

⁴ “The Phosphatidyl Ethanol (PEth) test is a blood test which detects any significant alcohol use over the past three to four weeks.” Ex. 12 at 64. “PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption.” *Id.* at 69.

⁵ The DOE Psychologist also rejected the Individual’s contention that her weight-loss prescription medication accounted for the unusually elevated breath test results because it slows her metabolism. Ex. 12 at 65 (citing to a study whose findings contradict the Individual’s unsupported assertion).

also said that the Individual should abstain from alcohol and provide monthly PEth tests for a total of six months. *Id.*

The Individual began a third EAP alcohol cessation support class in May 2026, and, at the time of the hearing, had two more classes to attend before she would receive her certificate of completion. Tr. at 59–61. She testified that she planned to continue attending that class because she enjoyed it. *Id.* at 61.

The Individual pled no contest to the Aggravated Battery charge. *Id.* at 47. As a result of this plea, she was required to pay some fines and fees and complete twenty-four hours of community service. *Id.* at 47–48. She completed these requirements and was subsequently released from her probation related to this arrest on May 29, 2026. Ex. K (signed court order indicating that the Individual had completed all the requirements of her probation related to the Aggravated Battery charge and was released early from probation). The Individual also took a plea related to her DWI charge. Tr. at 53. Because this DWI charge was her first DWI offense, she was required to complete a year of supervised probation, have an ignition interlock device installed in her car for a year, be subject to random drug and alcohol screenings, take classes related to her DWI, and complete more community service. *Id.* at 53–54. At the hearing, the Individual testified that she had the interlock installed in her vehicle, took the required classes related to her DWI, and completed the required community service. *Id.*

As a result of her arrests, the Individual was enrolled in her employer’s Fitness for Duty (FFD) program. Ex. I. Shortly before the hearing, the medical professionals involved in FFD reported that the Individual was compliant with all requirements of the program and has “shown great motivation to make positive changes in her life.” *Id.*

To support her report that she had not consumed any alcohol since the night of her DWI, the Individual provided seven negative PEth tests dated February 5, 2026; March 5, 2026; April 7, 2026; May 5, 2026; June 2, 2026; July 1, 2026; and August 6, 2026. Ex. N; Ex. O; Ex. P; Ex. Q; Ex. R; Ex. S; Ex. U.

The Individual’s boyfriend is very supportive of her sobriety and has helped to encourage her to remain sober. Tr. at 66–67. The Individual also explained that her family supports her sobriety, sharing that when she reaches milestones in her sobriety, she sends a message in her family group chat and gets many messages back telling her how proud they are of her and how great her choice to remain sober is for her life. *Id.* at 73–74. At the hearing, her cousin testified that she has seen the Individual at several family gatherings where the Individual would have consumed alcohol in the past, and the Individual socializes as she has in the past, but she does not consume alcohol at these events now. *Id.* at 41–42. One of the Individual’s friends also testified at the hearing. *Id.* at 23. This friend also had alcohol-related concerns raised with regard to his security clearance and has been using his experience navigating that process to support the Individual. *Id.* at 24.

At the hearing, the DOE Psychologist testified that based on her review of the Individual’s exhibits and witness testimony, at the time of the hearing she did not believe that the Individual met any of the *DSM-5* criteria for any type of alcohol use disorder. *Id.* at 88. She stated that the Individual had a “very good” prognosis on a “poor, fair, and very good” scale. *Id.* at 89. The DOE Psychologist

also testified that the actions that the Individual had taken had exceeded the recommendations that she made in her report. *Id.*

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 or her 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 mitigated the security concerns pursuant to mitigating factor (b). She acknowledged that her past alcohol use was problematic and took several steps to overcome these problems. She completed two alcohol education and support groups through her employer and is very close to having completed a third. She has engaged in monthly personal counseling about her life and alcohol use and testified that she plans to continue that care. The Individual has also been regularly attending SMART Recovery classes for about eight months. Further, she has demonstrated a clear and established pattern of abstinence in accordance with the DOE Psychologist's recommendations by providing seven months of negative PEth tests.

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.

As to the Individual's Aggravated Battery arrest, I find the security concern has been mitigated pursuant to mitigating factor (d). The Individual provided proof that she has successfully completed her probation related to that arrest by complying with all of the requirements placed on her by the court. Further, she was able to clearly explain to me what she learned from the incident and how she would handle similar conflict differently in the future.

With regard to the Individual's DWI, she testified that she is complying with the terms of her probation, which I credit because of her successful completion of her probation related to her Aggravated Battery arrest and her continued diligence in complying with recommendations and requests from DOE. Moreover, the arrest 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 her alcohol use by completing appropriate treatment and testified that she does not plan to consume alcohol in the foreseeable future, I find these factors to be relevant here as the Individual will not commit alcohol-related offenses if she does not consume alcohol. Although the Individual has not yet completed her probation, I find that, in light of the aforementioned considerations, her actions to date are sufficient to resolve the security concern pursuant to 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 Guidelines G and 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