

***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: June 1, 2026)
_____)

Case No.: PSH-26-0130

Issued: September 1, 2026

Administrative Judge Decision

Phillip Harmonick, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXXXXXX (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 not be restored.

I. BACKGROUND

The Individual was granted access authorization in 2022 in connection with his employment by a DOE contractor. *See* Transcript of Hearing, OHA Case No. PSH-26-0130 (Tr.) at 12. On December 2, 2025, the local security office (LSO) received a Personnel Security Information Report (PSIR) from the Individual in which he disclosed that he had been arrested and charged with Driving While Intoxicated (DWI). Exhibit (Ex.) 4 at 16.² The Individual claimed in the PSIR that he had consumed two beers at a club prior to his arrest. *Id.* at 17. He also indicated that he had consumed alcohol to intoxication approximately twenty-four times in the year prior to his arrest. *Id.*

On December 4, 2025, the LSO issued the Individual a letter of interrogatory (LOI) concerning the circumstances of his arrest and his alcohol consumption habits. Ex. 5 at 22–24. In his response

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 The LSO submitted its exhibits in a single PDF. This Decision cites to exhibits by reference to the exhibit number and the pages in the order in which they appear in the PDF without regard to their internal pagination.

to a question on the LOI as to whether he had consumed any alcohol before going to the club on the night of his arrest, the Individual admitted that he had consumed six beers that evening before going to the club. Ex. 6 at 27. He further indicated that he usually consumed six to eight sixteen-ounce beers per sitting twice monthly, but, contrary to the information he provided in the PSIR, claimed that he only became intoxicated “about twice a year.” *Id.* at 28.

In February 2026, the Individual underwent a psychological evaluation with a DOE-contracted psychologist (DOE Psychologist). Ex. 9 at 62. The Individual provided samples for a phosphatidylethanol (PEth)³ test, which was positive at 310 ng/mL, and an ethyl glucuronide (EtG) test,⁴ which was negative, in connection with the evaluation. *Id.* at 72. A medical doctor (MD) who reviewed the results of the Individual’s alcohol testing opined that the Individual had likely not consumed alcohol for at least three days prior to the psychological evaluation but had engaged in heavy or binge drinking in the prior four weeks. Ex. 11 at 88. The DOE Psychologist subsequently issued a report of the evaluation (Report) in which she opined that the Individual binge consumed alcohol to the point of impaired judgment.⁵ Ex. 9 at 69.

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 2–4. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines E and G of the Adjudicative Guidelines. Ex. 2 at 6–8.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 3. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge, and I conducted an administrative hearing in August 2026. The LSO submitted thirteen exhibits (Ex. 1–13) and the Individual submitted five exhibits (Ex. A–E). The Individual testified on his own behalf. Tr. at 3, 10. The LSO offered the testimony of the DOE Psychologist. *Id.* at 3, 76.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline E (Personal Conduct) of the Adjudicative Guidelines as one basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 2 at 8. “Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” Adjudicative Guidelines at ¶ 15. The SSC alleged that the Individual provided

³ PEth is a biomarker for alcohol consumption that can be detected in blood for approximately one month following moderate or greater episodes of alcohol consumption. Ex. 9 at 72; Ex. 11 at 89.

⁴ EtG is a metabolite of ethyl alcohol that can be detected for up to eighty hours after consumption of alcohol. Ex. 11 at 88.

⁵ The DOE Psychologist concluded that there was “insufficient evidence” to diagnose the Individual with Alcohol Use Disorder under the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition – Text Revision*. Ex. 9 at 69.

inconsistent accounts of his alcohol consumption in the PSIR and LOI and that the results of the alcohol testing in connection with the psychological evaluation were inconsistent with the information the Individual provided in the LOI concerning his alcohol consumption. Ex. 2 at 8. The LSO's allegation that the Individual intentionally provided false information concerning his alcohol consumption on the PSIR and LOI justifies its invocation of Guideline E. Adjudicative Guidelines at ¶ 16(a).

The LSO cited Guideline G (Alcohol Consumption) of the Adjudicative Guidelines as the other basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 2 at 6–7. "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. The SSC cited the Individual's having been arrested and charged with DWI, his admission to consuming alcohol to the point of intoxication approximately twenty-four times in one year, the Individual's admission to consuming six to eight sixteen-ounce beers per sitting when he consumed alcohol, and the inferences that the DOE Psychologist drew from the aforementioned information and the results of the alcohol testing conducted as part of the psychological evaluation. Ex. 2 at 6–7. The LSO's allegations that the Individual engaged in alcohol-related incidents away from work and binge consumed alcohol to the point of impaired judgment justify its invocation of Guideline G. Adjudicative Guidelines at ¶ 22(a), (c).

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 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 his or her 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

A. Individual's DWI Arrest & Report to the LSO

In October 2025, the Individual experienced several negative life events, including the death of his father and divorce from his wife. Tr. at 19; Ex. 10 at 64. The Individual consumed alcohol to deal with the stress of these events. Tr. at 20. On the evening of November 30, 2025, the Individual and a relative went to a club where the Individual consumed alcohol. Ex. 4 at 17. At some point after 12:00 AM on December 1, 2025, the Individual and the relative left the club and the Individual attempted to drive home. *Id.* A law enforcement officer initiated a traffic stop based on his observation that the Individual was speeding, failing to maintain his lane, and changing lanes without signaling. Ex. 7 at 32. The Individual told the officer that he had consumed alcohol and the officer perceived that the Individual's breath smelled of alcohol. *Id.* at 33.

During the traffic stop, the Individual performed poorly on a field sobriety test. *Id.* at 33, 39. The Individual submitted to a breath alcohol test which estimated his blood alcohol content at .163%. *Id.* at 33. The Individual was subsequently arrested and charged with DWI. *Id.* at 33, 36. After being arrested and transported to a police station, the Individual refused to undergo additional alcohol testing. *Id.* at 33, 39.

The Individual promptly disclosed his arrest in the PSIR. Ex. 4 at 16. Therein, in response to a prompt directing him to describe "the time you started drinking, the time you stopped drinking, and the amount of alcohol you consumed," the Individual stated he stayed at the club "for not more than 30 minutes. During that time, [he] had two [beers], each lasting about 10 to 13 minutes." *Id.* at 17. The Individual made no mention in the PSIR of having consumed any other alcohol in the hours preceding his arrest. *Id.* However, in response to the LOI, wherein he was asked if he "consume[d] any alcohol prior to arriving at the club" he admitted that he consumed "six beers [] before leaving for the club" Ex. 6 at 27.

The Individual ultimately pleaded guilty to a reduced charge to resolve the DWI charge. Ex. E at 119, 122. The Individual's driver's license was suspended, and he was ordered to pay fines and fees, attend a victim impact panel, and complete a DWI education program. *Id.* at 120. The charges against the Individual were conditionally discharged, so that he is subject to resentencing if he commits another criminal offense up to April 22, 2027. *Id.* In May 2026, the Individual completed both the victim impact panel and the DWI education program. *Id.* at 124, 126–29.

B. The Psychological Evaluation and Inconsistent Reporting of Alcohol Consumption by the Individual

The Individual provided varying accounts of the frequency of his alcohol consumption and intoxication at various points in the adjudication of his eligibility for access authorization. In the PSIR, he stated that he consumed alcohol about once weekly and became intoxicated approximately twenty-four times over the twelve-month period prior to submitting the PSIR. Ex. 4 at 17. In response to the LOI, he claimed that he consumed alcohol approximately two times monthly and only "rarely" became intoxicated "about twice a year."⁶ Ex. 6 at 28. He likewise

⁶ The Individual claimed in his hearing testimony that he intended to say that he consumed alcohol to intoxication twice monthly, consistent with his account in the PSIR. Tr. at 44. I find that claim dubious considering that the

reported alcohol consumption approximately every other week during the psychological evaluation. Ex. 9 at 64.

In his response to the LOI, the Individual stated that he typically consumed six to eight sixteen-ounce beers per sitting. Ex. 6 at 28. The Individual provided a lower estimate to the DOE Psychologist in the psychological evaluation, estimating that he consumed four to seven beers per sitting. Ex. 9 at 64.

As part of the January 2026 psychological evaluation, the Individual provided samples for PEth and EtG testing. *Id.* at 72. The PEth test was positive at 310 ng/mL, and the EtG test was negative. *Id.* The aforementioned test results were forwarded to the MD, who issued an April 30, 2026, interpretation. Ex. 11 at 88. In the interpretation, the MD stated that the negative EtG showed that the Individual had most likely not consumed alcohol for at least three days prior to the psychological evaluation. *Id.* However, regarding the PEth test, the MD opined that 250 ng/mL was the “universally accepted cut-off for heavy/binge drinking” and that the Individual’s significantly higher PEth test result was indicative of heavy or binge consumption of alcohol within two to four weeks of the psychological evaluation. *Id.* at 89.

The DOE Psychologist issued her Report on February 24, 2026. *Id.* at 62. Considering the opinion of the MD, the Individual’s extremely elevated BAC at the time of his arrest for DWI, and the Individual’s admission to having consumed five or more drinks per sitting on a relatively frequent basis, the DOE Psychologist opined that the Individual binge consumed alcohol to the point of impaired judgment. *Id.* at 69. She recommended that the Individual demonstrate rehabilitation or reformation by completing an alcohol education program or outpatient substance use counseling and demonstrate abstinence from alcohol for at least six months through “serial PEth testing.” *Id.* at 70–71.

C. Individual’s Efforts to Address His Alcohol Misuse

On May 14, 2026, the Individual was evaluated as part of intake into a substance treatment program. Ex. C at 91. In the evaluation, the Individual admitted to consuming ten to fifteen ounces of liquor on at least three occasions weekly and told the evaluator that his alcohol consumption had made his life unmanageable over the prior “several months.” *Id.* The Individual reported significant impairments to many aspects of his life as a result of alcohol and was diagnosed with Alcohol Use Disorder (AUD), Severe, under the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition (DSM-5)*. *Id.* at 92–93.

The Individual participated in weekly counseling for eight weeks from May 26, 2026, to July 13, 2026. Ex. E at 113. In the counseling, the Individual identified triggers, such as stress, that led him to misuse alcohol, as well as alternative means of coping with stress without resorting to excessive alcohol consumption. Tr. at 23. The Individual also learned about binge drinking and came to

Individual prefaced his statement in response to the LOI with the word “rarely,” which was more consistent with a claim of intoxication once or twice per year than once or twice per month.

recognize that his alcohol use had been maladaptive.⁷ *Id.* at 20, 34–35. According to the Individual, he spends time that he previously would have spent consuming alcohol pursuing hobbies, working on home improvement projects, and spending time with his children. *Id.* at 22, 33. In a letter dated July 13, 2026, the clinician who provided the Individual’s counseling stated that the Individual had “made meaningful progress toward treatment goals” and had a “favorable” prognosis. Ex. E at 113.

The Individual testified at the hearing that he had started abstaining from alcohol after a binge drinking episode on May 11, 2026, but had relapsed and consumed three drinks at a wedding on July 21, 2026. Tr. at 22, 27, 38, 52; *see also* Ex. C at 91 (indicating in records from the Individual’s counseling that he reported consuming ten to fifteen shots of liquor on May 11, 2026); Ex. E at 117 (positive PEth test result of 36 ng/mL from a sample collected on June 18, 2026). The Individual did not intend to consume alcohol at the wedding, but “it happened” despite his intention to abstain. Tr. at 61. He testified that he now intended to “live a little bit” by having “a drink or two socially” while avoiding a return to regular or excessive alcohol consumption. *Id.*

The Individual no longer sees alcohol as a problem for him because he perceives himself to be in control of his alcohol use. *Id.* at 59. As of the day of the hearing, the Individual was not participating in any form of alcohol treatment or abstinence support group. *Id.* The Individual denied having been given any recommendations for aftercare or follow-up treatment following completion of counseling and expressed surprise when asked about his AUD diagnosis, which he testified he was unaware of until his attention was directed to documentation to that effect at the hearing. *Id.* at 54, 59. The Individual testified that he intended to join an alcohol-related support group after returning from a vacation in September 2026. *Id.* at 66.

The DOE Psychologist testified that she would not make a diagnosis of AUD without having performed another evaluation, but that AUD would, in her opinion, have been an appropriate diagnosis for the Individual based on the records of the Individual’s alcohol treatment. *Id.* at 87–88. She opined that the Individual had not demonstrated rehabilitation or reformation and that his prognosis was not favorable. *Id.* at 89–90. She indicated that six to twelve months of abstinence from alcohol, corroborated by PEth testing, remained necessary for the Individual to establish sufficient behavioral change for her to find rehabilitation. *Id.* at 90.

V. ANALYSIS

A. Guideline E

Conditions that could mitigate security concerns under Guideline E include:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

⁷ The Individual testified that social events in the culture in which he grew up “revolve[d] around alcohol drinking” and that he had not perceived his drinking habits as maladaptive before undergoing the evaluation with the DOE Psychologist and subsequent treatment. Tr. at 34.

- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) the information was unsubstantiated or from a source of questionable reliability; and
- (g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17.

While the Individual provided inconsistent information regarding his alcohol consumption and likely sought to minimize the severity of his alcohol misuse, the severity of these concerns is reduced because the Individual has consistently provided information to the effect that he consumes alcohol excessively and most of the allegations at issue in this case are based on the Individual's admissions. He timely disclosed his arrest and DWI charge in the PSIR and admitted therein to consuming alcohol to intoxication dozens of times in the prior year. While the specific amounts varied, he endorsed consuming excessive numbers of alcoholic beverages per sitting in the PSIR, LOI, and to the DOE Psychologist. Most importantly, he came forward and admitted to his recent relapse in his hearing testimony. Considering the foregoing, and taking into account the regulatory factors set forth in Part 710 that must be weighed in applying the mitigating conditions, I find that the combination of the Individual's general admission to maladaptive alcohol use and forthcomingness at the hearing are sufficient to establish the applicability of the third mitigating condition. *Id.* at ¶ 17(c); *see also* 10 C.F.R. § 710.7(c) (requiring consideration of, among other things, "the circumstances surrounding the conduct," the "presence of . . . pertinent behavioral changes," and "other relevant and material factors").

Based on the foregoing, I find that the Individual has resolved the security concerns asserted by the LSO under Guideline E.

B. Guideline G

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; 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.

To the extent that the Individual's alcohol misuse began as a response to the stressors of the death of his father and his divorce from his wife, unusual circumstances were certainly present. However, the Individual's conduct was not limited to the days and weeks surrounding these events. Instead, he binge consumed alcohol to the point of impaired judgment, even after his arrest for DWI and the psychological evaluation with the DOE Psychologist, over an extended period of time. Thus, while the Individual's alcohol misuse might have been related to unusual circumstances initially, its persistence indicates that the connection between the unusual circumstances and the Individual's alcohol consumption is not such that his alcohol misuse is unlikely to recur. As noted, the Individual's alcohol misuse was frequent, and he consumed alcohol against the recommendation of the DOE Psychologist and despite his desire to abstain from alcohol mere weeks prior to the hearing. Accordingly, I find that he remains at significant risk of engaging in alcohol misuse in the future and that the first mitigating condition is inapplicable. *Id.* at ¶ 23(a).

The Individual does not fully acknowledge his maladaptive alcohol use considering that he denied having a problematic relationship with alcohol despite consuming alcohol against the recommendation of the DOE Psychologist and his intent to abstain shortly before the hearing. Moreover, it is apparent from his recent alcohol consumption that he is not fully able to control his urges to consume alcohol, placing him at risk of future maladaptive alcohol use, and that his treatment to date has not adequately addressed the problem. Finally, he continued to binge consume alcohol into at least May 2026 and has not established a sufficient period of abstinence from alcohol to satisfy the DOE Psychologist's recommendations. Accordingly, the second mitigating condition is inapplicable. *Id.* at ¶ 23(b).

While the Individual testified that he was open to attending an alcohol abstinence support group in the future, he was not pursuing any treatment as of the date of the hearing. Moreover, he recently relapsed following treatment and the DOE Psychologist opined that his prognosis was not favorable. Accordingly, I find the third mitigating condition inapplicable. *Id.* at ¶ 23(c).

As to the final mitigating condition, while the Individual completed some alcohol treatment and received a positive prognosis from the counselor, he relapsed shortly after the treatment and has not established a period of abstinence consistent with that recommended by the DOE Psychologist. Considering the Individual's recent relapse, I am more persuaded by the opinion of the DOE Psychologist than that of the Individual's counselor and conclude that the fourth mitigating condition is not applicable. *Id.* at ¶ 23(d).

For the aforementioned reasons, none of the mitigating conditions are applicable to the facts of this case. Accordingly, 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 Guidelines E and G of the Adjudicative Guidelines. After considering all relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all testimony and other evidence presented at the hearing, I find that the Individual has brought forth sufficient evidence to resolve the security concerns asserted by the LSO under Guideline E, but not those asserted by the LSO under Guideline G. 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.

Phillip Harmonick
Administrative Judge
Office of Hearings and Appeals