

*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:	May 12, 2026	)	Case No.: PSH-26-0114
		)	
		)	

Issued: October 13, 2026

Administrative Judge Decision

Diane L. Miles, 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 not be restored.

I. Background

The Individual is employed by a DOE Contractor, in a position that requires that he hold a security clearance. On February 4, 2026, at which time he possessed access authorization, the Individual was selected for a random drug screening by his employer, the result of which was positive for marijuana. Exhibit (Ex.) 4 at 26–27.²

Due to unresolved security concerns raised by the Individual's drug use, in April 2026, the local security office (LSO) informed the Individual, in a Notification Letter, that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. Ex. 1 at 6–8. In a Summary of Security Concerns (SSC) attached to the Notification Letter, the LSO

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 DOE's exhibits were combined and submitted in a single, 227-page PDF workbook. Many of the exhibits are marked with page numbering that is inconsistent with their location in the combined workbook. This Decision will cite to the DOE's exhibits by reference to the exhibit and page number within the combined workbook regardless of any internal pagination.

explained that the derogatory information raised security concerns under Guideline H (Drug Involvement and Substance Misuse) of the Adjudicative Guidelines. *Id.* at 5. The SSC also notified the Individual that his conduct was subject to the applicable provisions of the Bond Amendment. *Id.*

In May 2026, the Individual requested an administrative hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). Ex. 2. The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened on September 9, 2026, pursuant to 10 C.F.R. § 710.25(d), (e), and (g), I took testimony from the Individual and the Individual's wife. *See* Transcript of Hearing, OHA Case No. PSH-26-0114 (Tr.). Counsel for the DOE submitted six exhibits, marked as Exhibits 1 through 6. The Individual submitted seven exhibits, marked as Exhibits A through G.

II. The Summary of Security Concerns

A. The Bond Amendment

The relevant provisions of the Bond Amendment provide that “the head of a [f]ederal agency may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict.” 50 U.S.C. § 3343(b); *see also* DOE Order 472.2A, Personnel Security, Appendix C: Adjudicative Considerations Related to Statutory Requirements and Departmental Requirements (June 10, 2022). A “controlled substance” is any substance listed as a controlled substance by 21 U.S.C. § 802. 50 U.S.C. § 3343(a)(1); *see also* DOE O 472.2A, Attachment 8 at 8-2; Adjudicative Guidelines at ¶ 24. An “addict” is defined as an “individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare; or is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.” 50 U.S.C. § 3343(b) (incorporating by reference the definition found at 21 U.S.C. § 802(1)); *see also* DOE Order 472.2A, Appendix C at ¶ 2 (citing the Bond Amendment).

In invoking the Bond Amendment, the LSO indicated that on February 4, 2026, the Individual was selected for a drug screening by his employer, the result of which was positive for marijuana.³ Ex. 1 at 5. The LSO also indicated that the Individual's illegal use of marijuana occurred while he was in possession of a DOE security clearance, which was granted to him on January 7, 2002. *Id.*

B. Guideline H (Drug Involvement and Substance Misuse)

Under Guideline H of the Adjudicative Guidelines, the illegal use of controlled substances “can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.” Adjudicative Guidelines at ¶ 24. Conditions that could raise a security concern under Guideline H include “testing positive for an illegal drug” and “any illegal drug use while granted access to classified information or holding a sensitive position.” *Id.* at ¶ 25(b), (f). In invoking Guideline H of the Adjudicative

³ Marijuana is a “Schedule I” controlled substance. 21 U.S.C. § 812(b)(1).

Guidelines, the LSO cited the results of the Individual's February 4, 2026, drug screening by his employer, which was positive for marijuana. Ex. 1 at 5. The LSO also indicated that the Individual's illegal use of marijuana occurred while in possession of a DOE security clearance, which was granted to him on January 7, 2002. *Id.*

Considering the conduct described above, I find the LSO's invocation of the Bond Amendment and Guideline H of the Adjudicative Guidelines to be 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 the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting their eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. Findings of Fact and Hearing Testimony

At the hearing, the Individual testified that between 2019 and 2023, he was experiencing anxiety and depression, which he managed by consuming alcohol. Tr. at 36–37, 68–69; Ex. 2 at 12. He believed that in 2022 he asked his primary care physician for advice on how to stop drinking, but he did not believe he adequately explained his drinking problem to his physician. Tr. at 81. In May 2023, he realized that his alcohol consumption was getting progressively worse and he researched ways he could stop drinking. *Id.* at 37–38; Ex. 2 at 12. After reading information online about people who consumed marijuana, rather than drinking alcohol, he became "curious." Tr. at 39.

In May 2023, the Individual decided to use marijuana as a way to stop him from managing his anxiety by drinking alcohol. Tr. at 77–78. He had a friend, one that he met when he was a teenager, who he knew used marijuana and could get some for him. *Id.* at 44–45, 47. He contacted his friend, who gave him marijuana "every two to three months." *Id.* at 39, 85–86. He claimed that this friend was the only person he knew to contact for marijuana products. Ex. A at 5. The Individual admitted

that he used marijuana products, including gummies and vapes, daily, between May 2023 and February 2026. Tr. at 36; Ex. 2 at 12. He admitted that his use of marijuana did not lead to him avoiding alcohol. Tr. at 39–40. He hid his use of marijuana from his wife, by consuming it in their garage, or in their bathroom. *Id.* at 15, 41. Every day, he would go home from work, cook dinner, and tell his wife that he was going into their garage to clean their cat’s litter box. *Id.* at 36. While he was in the garage, he would either consume marijuana gummies or use a vape pen. *Id.* at 28–29, 41–42.

On February 4, 2026, the Individual learned that he was selected for a random drug test. Ex. 2 at 13. He knew that it was likely he would test positive for marijuana, but he was too embarrassed to notify his supervisor of his marijuana use. Tr. at 34–35; Ex. 2 at 13. He also chose not to notify his wife, who testified that she did not know the Individual was using marijuana until he told her he failed a drug test. Tr. at 14.

On February 12, 2026, the Individual learned, from one of his managers, that his drug test was positive for marijuana. Ex. 2 at 13; Tr. at 48–49. He stated that he went home and told his wife about his positive drug test, and his wife recommended to him that he “block” on his phone the friend who provided him marijuana. Tr. at 20, 45. That day, the Individual’s employer recommended that he contact their Employee Assistance Program to determine if he could enroll in an intensive outpatient program (IOP) for treatment. *Id.* at 50–51, 53; Ex. 2 at 13; Ex. A at 8. He also discarded the remaining marijuana he had in his possession. Ex. 2 at 13. His wife made him show her all the marijuana he had, and she watched as he placed it in the trash. Tr. at 20. The Individual believed he last used marijuana on February 8, 2026, but his wife believed he may have used until February 11, 2026. *Id.* at 21, 41.

On February 16, 2026, the Individual began substance abuse treatment at an IOP. Tr. at 54, 66; Ex. 2 at 14; Ex. C. He attended the IOP Monday through Friday, from 9:00 a.m. to 12:00 p.m., and he underwent drug testing twice a week. Tr. at 54, 65; Ex. 2 at 14. He submitted the results of 14 drug tests, dated from February 16, 2026, to March 26, 2026, to support his testimony that he was tested twice per week. Ex. F; Ex. G. He stated that at the start of the IOP, his drug test results were still positive because he still had marijuana in his system. Tr. at 65–66. The results of the Individual’s drug testing during the IOP were as follows: February 16, 2026: positive; February 20, 2026: positive; February 23, 2026: negative; February 26, 2026: positive; March 2, 2026: negative; March 5, 2026: negative; March 9, 2026: negative; March 12, 2026: negative; March 16, 2026: negative; March 19, 2026: negative; and March 23, 2026: negative. Ex. F at 1–3, 7–8; Ex. G at 1. The test results also show that the Individual’s March 26, 2026, test was negative, and an additional drug test, from a sample collected on March 23, 2026, was positive for marijuana. Ex. F at 23; Ex. G at 2.⁴ The Individual did not present the testimony of, or a written opinion from, a medical doctor interpreting the results of his drug tests. The Individual described attending group sessions during the IOP, but he did not provide any details about what was discussed during the

⁴ The Individual submitted the results of his drug testing during the IOP, from February 16, 2026, to March 26, 2026, after the hearing, but before the administrative record was closed, so he was unable to face questioning as to the positive result of the March 23 test, which was inconsistent with his reported abstinence from marijuana since early February. Ex. F; Ex. G. The results of the Individual’s drug testing includes a March 23, 2026, test result that was negative for marijuana, and a March 23, 2026, test result that was positive for marijuana. Ex. F. at 21–22; Ex. G at 2. The Individual did not submit evidence explaining these inconsistent test results.

sessions. Tr. at 82. He did not obtain individual therapy sessions to address his anxiety. *Id.* at 82–83. He explained that the IOP helped him increase his confidence and forgive himself for what he had done. *Id.* at 56–57. Since completing the IOP, he no longer craves marijuana, and he learned that he had a lot in common with other people who were suppressing their feelings to make themselves feel better. *Id.* at 57–59. The Individual submitted a March 27, 2026, letter from the IOP’s Clinical Director, which indicated that the Individual attended the program as scheduled, “participated actively,” and made “remarkable progress in treatment.” Ex. A at 7. The letter from the IOP’s Clinical Director also indicated that the Individual met his goal of sobriety, as evidenced by laboratory testing for marijuana, as well as other drugs. *Id.* On March 27, 2026, the Individual completed the IOP. Tr. at 59; Ex. A at 7. Approximately a week after completing the IOP, in April 2026, the Individual learned from a friend, via text, that the friend who provided him with marijuana passed away. Tr. at 85. The Individual was unable locate an obituary or any record of the friend’s death. *Id.* at 46, 85.

Two weeks after completing the IOP, on April 13, 2026, the Individual enrolled in the IOP’s aftercare program, which he attended once per week. Tr. at 58–60; Ex. 2 at 14. He stated that he signed an attendance roster before every class, but he did not submit copies of rosters. Tr. at 62–63. He stated that the aftercare program allowed participants to view their history of attendance using an app, and he submitted screenshots of his phone showing his weekly aftercare appointments from April 13, 2026, to August 31, 2026. Ex. D. He explained that the records did not reflect his attendance for two sessions, April 20, 2026, and May 11, 2026, which he believed was caused by a mistake in how the aftercare staff recorded attendance for those classes. Tr. at 62–63.

He explained that each aftercare session is one hour and consists of a group discussion, during which everyone talks about their “sober day,” what is going on in their lives, or a subject raised by the facilitator. Tr. at 63–64. The Individual submitted a letter from one of the IOP’s therapists, who wrote that the Individual was “a highly motivated individual” during the IOP, participated in weekly aftercare groups, as of September 1, 2026, had over six months of consecutive sobriety, “evidenced by urine drug/alcohol screens,” and was not at risk of relapse. Ex. E. The Individual last attended an aftercare meeting one week before the hearing. Tr. at 86–87. He stated he intends to continue attending the aftercare program, although he stated he may not be able to attend every week. *Id.* at 64.

Before he received treatment, he believed he suffered from anxiety. Tr. at 40. Although he did not receive treatment focused on his anxiety during the IOP, he stated that his anxiety had “gone away.” *Id.* at 69–70. His wife explained that since the Individual completed the IOP, he expressed to her why he felt depressed years ago and why he was using alcohol to manage his emotions. *Id.* at 16, 18, 22. The Individual also stated that since completing treatment, he understood that his consumption of alcohol, and later, marijuana, was causing his anxiety. *Id.* at 40, 69. He admitted that he had been selected for random drug testing in the past, and that he knew he was taking a risk by consuming marijuana. *Id.* at 43, 49–50. He believed that because of his good work performance, if his marijuana use was discovered, the most he would have to do was complete a recovery program and then he could “go back to work and it would be all good.” *Id.* at 73. He admitted his rationale was “poor thinking.” *Id.*

The Individual submitted the negative results of four additional drug tests, dated May 15, 2026, June 18, 2026, July 20, 2026, and August 20, 2026, to support his testimony that he was no longer using marijuana. Ex. B; Tr. at 64–65. His relapse prevention plan is to not associate with anyone that is using marijuana, and to avoid drinking alcohol because he believed alcohol clouds his thinking. Tr. at 74. His wife stated that, to her knowledge, none of the Individual’s friends, or his brothers, with whom he currently socializes with, use marijuana. *Id.* at 29. On May 2, 2026, the Individual signed a statement of intent to abstain from “all drug involvement and substance misuse,” and an acknowledgment that any future involvement or misuse is grounds for revocation of his security clearance. Ex. A at 6.

V. Analysis

The Bond Amendment

The Bond Amendment provides that a federal agency “may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict.” 50 U.S.C. § 3343(b); *see also* DOE Order 472.2A, Appendix C. The DOE policy implementing the Bond Amendment defines “an unlawful user of a controlled substance” and an “addict” as follows:

- a. An unlawful user of a controlled substance is any person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance or who is a current user of the controlled substance in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use occurred recently enough to indicate the individual is actively engaged in such conduct.
- b. An addict of a controlled substance is as defined in 21 U.S.C § 802(1), which is any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare; or is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his or her addiction.

DOE Order 472.2A, Appendix C at ¶ 2 (citing the Bond Amendment).

I cannot conclude that the Individual is not an “unlawful user” or an “addict” of a controlled substance, as defined by the Bond Amendment and DOE policy. The Individual, and his wife, testified that the Individual last used marijuana during the second week of February 2026, either February 8, 2026, or February 11, 2026. However, the results of the Individual’s drug testing show that after seven consecutive negative tests, between March 2, 2026, and March 23, 2026, the Individual tested positive for marijuana on March 23, 2026. The positive March 23 test result contradicts the Individual’s testimony and is evidence that he may have used marijuana during March 2026. The Individual’s dishonesty as to his prior use of marijuana leaves me to doubt that his isolated drug tests, from May 15, 2026, to August 20, 2026, are reliable evidence that he has stopped using the drug. Based on my assessment of the evidence, I am unable to conclude that the Individual is not an “unlawful user” of marijuana, or is not an “addict” under the Bond Amendment.

Based upon the foregoing, I find that the Bond Amendment prohibits the DOE from restoring the Individual's security clearance.

The Adjudicative Guidelines

The Adjudicative Guidelines provide that conditions that could mitigate security concerns under Guideline H include:

- (a) The behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) The Individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:
 - (1) Disassociation from drug-using associates and contacts;
 - (2) Changing or avoiding the environment where drugs were used; and
 - (3) Providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility;
- (c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and
- (d) satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Adjudicative Guidelines at ¶ 26.⁵

As to factor (a), the Individual intentionally consumed marijuana, from May 2023 until at least February 2026. Although the Individual testified that he stopped using the drug during the second week of February 2026, the result of his March 23, 2026, drug test suggests that he may have used the drug during March 2026. The Individual did not submit evidence he underwent drug testing after August 20, 2026, and submitted only four isolated test results after March 2026, so I am unable to determine whether the Individual abstained from marijuana during this five-month period. Because the Individual tested positive for marijuana use in March 2026, and he may have used marijuana not detected by his occasional drug tests before the hearing, not enough time has elapsed to mitigate the security concerns, based solely on the passage of time. The Individual also admitted that he used the drug daily, for three years, so I cannot conclude that his use was infrequent.

⁵ The security concerns raised by the LSO do not involve an allegation that the Individual abused prescription drugs, therefore, the mitigating factor found at subparagraph (c) is not applicable to this case.

The Individual testified that he wanted to stop drinking alcohol to manage his anxiety and chose to consume marijuana, as the lesser of two evils, after reading information on the internet. I do not find that the Individual's use of marijuana for this purpose constitutes an unusual circumstance that makes it unlikely to recur or lessens my doubt as to the Individual's reliability, trustworthiness, or good judgment. Finally, although the Individual completed an IOP and, as of the hearing, was attending an aftercare program, he admitted that he did not receive treatment targeting his anxiety. The Individual has held a security clearance for over 20 years, and he admitted that he consumed marijuana knowing the risks and that he believed the consequences for doing so would be minor because of his work performance. *See* 10 C.F.R. § 710.7(c) (requiring me to consider the "the voluntariness of participation," the "circumstances surrounding the conduct," and "the likelihood of continuation or recurrence," among other factors). Based on these admissions, the Individual's behavior continues to cast doubt on his judgment, and he has not mitigated the security concerns under the factor at ¶ 26(a) of the Adjudicative Guidelines.

As to factor (b), the Individual admitted that he used marijuana, from May 2023 to February 2026, while possessing a security clearance. The Individual submitted evidence that he completed a six-week IOP, focused on substance abuse, and that, as of the date of the hearing, he was attending an aftercare program. However, the results of the Individual's drug testing taken during March 2026, suggest that he may have used marijuana while he was participating in the IOP. In addition, the Individual did not present the testimony of, or a written opinion from, a medical doctor interpreting his drug test results and the period they measure, so I do not have sufficient evidence upon which to conclude that the Individual's four negative drug tests, from May 15, 2026, to August 20, 2026, establish a pattern of abstinence from marijuana during those months.

Furthermore, the Individual did not submit evidence to support his testimony that he no longer contacts the individual who provided him with marijuana for three years, and I am unable to conclude that he no longer associates with the individual. Finally, because the Individual's use of marijuana occurred after having held a security clearance for over 20 years, and knowing his use of marijuana was prohibited and would result in consequences for him, I do not find the Individual's sworn statement that he will not engage in illegal drug use in the future persuasive. Therefore, the Individual has not mitigated the security concerns under ¶ 26(b) of the Adjudicative Guidelines.

As to factor (d), the Individual completed a six-week IOP and, as of the hearing, was currently attending an aftercare program. However, as explained above, evidence of the Individual's drug testing during March 2026, suggests that he may have used marijuana while participating in the IOP. The September 1, 2026, letter from the IOP indicated that the Individual had demonstrate six months of sobriety, but I cannot give the letter much weight, as to the Individual's abstinence from marijuana, when compared to his positive March 2026 drug test result. Therefore, I cannot conclude that the Individual has satisfactorily completed an IOP "without recurrence of abuse," and the Individual has not mitigated the security concerns under ¶ 26(d) of the Adjudicative Guidelines.

Based on the foregoing, I find that the Individual has not resolved the security concerns asserted by the LSO under Guideline H.

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked the Bond Amendment and Guideline H of the Adjudicative Guidelines. After considering the evidence, both favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Bond Amendment prohibits the DOE from restoring the Individual's security clearance. I also find that the Individual has not brought forth sufficient evidence to resolve the Guideline H concerns set forth in the SSC. Accordingly, the Individual has not demonstrated that restoring his security clearance would not endanger the common defense and security and would be clearly consistent with the national interest. Therefore, I find that the Individual's access authorization should not be restored.

This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Diane L. Miles
Administrative Judge
Office of Hearings and Appeals