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

In the Matter of:	Personnel Security Hearing	)	
		)	
Filing Date:	May 19, 2026	)	Case No.: PSH-26-0122
		)	
		)	

Issued: October 19, 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. In March 2026, at which time he held a security clearance, the Individual was selected for a random drug screening by his employer and the Individual tested positive for cocaine. Exhibit (Ex.) 4 at 16–19.²

Due to unresolved security concerns raised by the Individual's drug use, the Local Security Office (LSO) began the present administrative review proceeding by issuing a letter (Notification Letter) to the Individual in which it notified him 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 explained that the

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 exhibits submitted by the Local Security Office (LSO) were Bates numbered in the upper right corner of each page. This Decision will refer to the Bates numbering when citing to exhibits submitted by the LSO.

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.* The Notification Letter also informed the Individual that he was entitled to a hearing before an Administrative Judge to resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21; *see also* Ex. 1 at 6.

In May of 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 held on September 10, 2026, which I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), I took testimony from the Individual. *See* Transcript of Hearing, OHA Case No. PSH-26-0122 (Tr.). Counsel for the DOE submitted six exhibits, marked as Exhibits 1 through 6, which were admitted into the Administrative Record without objection. Tr. at 7. The Individual submitted three exhibits, marked as Exhibits A through C, which were admitted into the Administrative Record without objection. *Id.*

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); DOE O 472.2A, Attachment 8 at 8-2. 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 O 472.2A, Appendix C at ¶ 2 (citing the Bond Amendment).

In invoking the Bond Amendment, the LSO cited the Individual's March 16, 2026, drug test, administered by his employer, the result of which was positive for cocaine.³ Ex. 1 at 5. The LSO also noted that the Individual's use of cocaine occurred while in possession of a DOE security clearance, which he was granted on July 6, 2018. *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

³ Cocaine is a “Schedule II” controlled substance. 21 U.S.C. § 812(b)(2).

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 “any substance misuse,” “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(a)–(b), (f). In invoking Guideline H of the Adjudicative Guidelines, the LSO cited the Individual’s March 16, 2026, drug test, administered by his employer, the result of which was positive for cocaine. Ex. 1 at 5. The LSO also noted that the Individual’s use of cocaine occurred while in possession of a DOE security clearance, which he was granted on July 6, 2018. *Id.*

Considering the conduct described above, I find the LSO’s invocation of Guideline H of the Adjudicative Guidelines and the Bond Amendment 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

On March 16, 2026, the Individual was selected for a random drug screening test by his employer (the Employer), the result of which was positive for cocaine. *See* Ex. 4 at 19. On March 26, 2026, the Employer was notified that the Individual had tested positive for cocaine and set up a meeting with the Individual that same day to discuss the results. *Id.* at 17. During that meeting, the Employer notified the Individual of the positive drug test result, provided him a copy of said results, and informed him that the Employer would need to receive a truthful, detailed, written statement explaining the positive drug result within two hours of the meeting. *Id.* The Individual provided the required statement in which he denied ever knowingly using cocaine or any other illicit substance. *See id.* Two months later, in May of 2026, the Individual admitted that this statement was false in a response (Response) to the SSC. *See* Ex. 2 at 11. In the Response, the

Individual stated that his use of cocaine was a one-time occurrence, after several unfortunate events, and committed to remaining drug free going forward. *Id.*

During the hearing, the Individual testified that he had taken cocaine on March 14, 2026, two days prior to the drug test. *See* Tr. at 9. When asked to describe the events leading up to his drug use, the Individual stated that he was at a friend's house prior to going to a big party. *See id.* at 10. While at the friend's house, the Individual kept seeing people go into the bathroom. *Id.* The Individual decided to go into the bathroom to see what others were doing. *Id.* at 10–11, 21. The Individual entered the bathroom with his best friend and saw “friends of friends” in the bathroom partaking in illicit substances. *See id.* at 21–22. The Individual asked what types of drugs the “friends of friends” were doing. *Id.* at 22. Once it was confirmed that the substance was cocaine, and the Individual was told that “[cocaine] doesn't stay in your system[,]” the Individual decided to partake in the illicit drug. *Id.* at 11, 21–22.

The Individual stated that two traumatic losses of loved ones prior to March of 2026, as well as stress from his job which was understaffed, contributed to his decision to use cocaine. *See* Tr. at 12–15. The Individual stated that he typically works with a therapist, however, during the time at issue, stress and deadlines at work prevented him from seeing his therapist. *Id.* at 13–15. Since his positive drug test result, the Individual has started seeing his therapist regularly, sometimes once and sometimes twice a month, and engaging in more productive pastimes with a focus on self-care, such as getting back into fitness and podcasts. *See id.* at 15–16. The Individual testified that he feels if things were to get “out of control” again he would be able to call his therapist and get assistance. *See id.* at 16. The Individual stated that he had never previously used illicit substances and that he “value[s] [his] health and [his] job more than anything else[.]” *See id.* at 9, 16–18. The Individual submitted a signed statement in which he committed to “abstaining from all illegal drug use, misuse of controlled substances, and any other involvement with illegal drugs in the future.” Ex. C (Signed Statement) at 1. The Individual affirmed his commitment to abstaining from illicit substances at the hearing and testified that he has not been to a party where people have been using harder drugs. *See* Tr. at 16, 19. The Individual submitted the results of a hair analysis drug test, with a collection date of July 28, 2026, which was negative for any illicit substances, including cocaine. *See* Ex. A (Hair Drug Test). The Individual also submitted the results of a urinalysis drug test, with a collection date of August 12, 2026, which was negative for any illicit substances, including cocaine. Ex. B (Urine Drug Test). No expert was presented during the hearing to testify, and no medical opinion—written or otherwise—has been proffered regarding the detection window or veracity of these tests.

Regarding his future association with drug-using individuals, the Individual stated that there is a chance that he will see the “friend of a friend” who gave him the cocaine on March 14, 2026, in social situations such as “at a bar or something, but [he] [has] no plans to engage with that [person].” Tr. at 24. The Individual stated if he were to run into the person who gave him cocaine he could leave or otherwise remove himself from that social situation. *See id.* at 25–26. When asked about his friends' drug use, he stated that his “good friend,” who knew the individual who had the cocaine, does not personally use cocaine but that his immediate friends smoke marijuana. *See id.* at 11, 26–27. The Individual maintained that he has not and does not smoke marijuana, but he is around his friends when they smoke marijuana. *See id.* at 11–12. The Individual gave no indication that he plans to abstain from associating with his friend who knew the person who gave

the Individual cocaine, or his immediate friends who smoke marijuana. In fact, the Individual explicitly said he still talks to his “good friend” who knew the individual with cocaine and saw him at least once over the summer. *Id.* at 24.

During the hearing, the Individual confirmed that he understood, as part of his ongoing obligations as a security clearance holder, that he was to abstain from any illicit drug use; however, when asked if he also understood that, as a clearance holder, he was required to report any illicit drug use, the Individual stated he was not. *Id.* at 9. When asked if he would have disclosed anything about his drug use absent the positive drug test the Individual stated “No.” *Id.* The Individual was asked about his conversation with his Employer, when he was informed that his drug test had returned a positive result. *Id.* at 10. The Individual admitted that he lied during the conversation with his Employer and that he lied in the follow up email when he stated he “knowingly did not take any drugs[.]” *Id.* The Individual stated that he panicked when he was selected for a random drug test and that he lied out of embarrassment and fear. *Id.* at 9–10. The Individual did not admit to knowingly using drugs until May of 2026 when he requested the administrative hearing. *See* Ex. 2 at 10–11. Other than the two negative drug tests from late July and early August, the Individual has not submitted any other evidence of drug abstinence and no evidence of drug treatment.

V. Analysis

A. 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.

While the positive test from March of 2026 is an isolated incident, the use itself occurred while the Individual was in possession of a security clearance and the Individual knew that abstaining from illicit drug use was part of his ongoing obligations to maintain his security clearance. *See* Tr. at 9. The Individual's use of cocaine while he held a security clearance and knew he was required to abstain from illicit drug use demonstrates a lack of sound judgment and loss of self-control. Additionally, while the Individual has claimed he has not engaged in any illicit drug use since the positive test result, he initially lied to his Employer about his drug use and did not admit to his drug use until his clearance was suspended. *See id.* at 9–10; Ex. 2 at 10–11. This lack of truthfulness casts significant doubt on the reliability of the Individual's claim that this was a one-time drug use or that he will abstain from illicit drugs going forward.

The Individual did submit two drug tests, a hair analysis which was collected on July 28, 2026, and a urinalysis which was collected on August 12, 2026, both of which appear to be negative for any drug use. *See* Ex. A–B. However, the Individual did not present any testimony or medical opinion as to the detection window of these tests or how to appropriately interpret the data presented in these tests. Even if such testimony or medical opinion had been proffered, the Individual first tested positive in March of 2026, and the first negative test is from a sample collected July 28, 2026. *See* Ex. 1; Ex. A. No evidence has been presented to show that the Individual was abstinent for the entire four months between March of 2026 and July 28, 2026, nor has the Individual submitted any evidence of abstinence in the month between the August 12, 2026, test and the hearing. *See* Ex. A–B. Accordingly, I do not have sufficient evidence to show when the Individual stopped using cocaine or if he has maintained that abstinence since August 12, 2026.

I do not have evidence upon which to conclude that the Individual is not addicted to cocaine, has not lost the power of self-control with reference to cocaine, or that he is not currently using cocaine. In fact, I have reason to doubt the Individual's claim that his use was a one-time occurrence on March 14, 2026, as there remains no evidence of abstinence in the period prior to March 14, between March 2026 and July 2026, and from August 12, 2026, onwards. Therefore, I find that the Individual is prohibited from holding a security clearance under the Bond Amendment.

B. 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.

I do not find that the Individual has successfully mitigated the Guideline H concerns pursuant to factor (a). The Individual admitted to lying about his cocaine use to the Employer, presented no evidence to corroborate that he did not use illegal drugs prior to March 2026, and has presented no evidence of drug abstinence between March 2026 and July 2026 or since August 12, 2026. As such, he has not brought forth sufficient evidence to determine that his cocaine use was infrequent. Furthermore, the Individual's cocaine usage occurred less than six months prior to the instant hearing, while the Individual was holding a security clearance, raising concerns about his current good judgment. *See id.* As a clearance-holder, the Individual was aware that his use of cocaine was prohibited and any such use would jeopardize his clearance and his employment, yet he made the voluntary decision to use cocaine regardless. *See Tr.* at 9. While it may be true that the Individual was suffering from stress and grief at the time of his cocaine usage, I do not find that this stress and grief constitute an unusual circumstance. Any stress and grief the Individual was feeling while partying in March of 2026 does not lessen the seriousness of the Individual's use of cocaine, a controlled substance, while holding a security clearance. This was a serious lapse in judgment, and the Individual has not brought forth sufficient evidence to convince me that his behavior or decision making has changed. Additionally, no evidence was presented to show the Individual was drug abstinent prior to March 2026 or in the period between March and July 2026. The Individual used illicit substances in a social setting with "friend of a friend" while his "best friend" was present. *Tr.* at 21. The Individual made it clear that he associates with people who use illicit substances, such as smoking marijuana, and presented no evidence that he will change that behavior going further other than avoiding the person who gave him cocaine if he sees that person at social settings, an event that the Individual admitted may occur in the future. *See Tr.* at 11–12, 24–25. Based on the foregoing, I cannot conclude that the Individual's use of the drug was so infrequent, or happened under such circumstances, that it is unlikely to recur. Therefore, the Individual's conduct continues to cast doubt on his current reliability, trustworthiness, or good judgment, and he has not mitigated the security concerns under factor (a) of the Adjudicative Guidelines. *See* 10 C.F.R. § 710.7(c) (requiring me to consider the "seriousness of the conduct," "knowledgeable participation," and "voluntariness of participation" in evaluating whether the Individual has resolved the security concerns).

I do not find that the Individual has successfully mitigated the Guideline H concerns pursuant to factor (b). While the Individual has provided a statement, which he reaffirmed in the hearing, that he will abstain from drug use going forward, he has not provided any concrete actions he has or

will take going forward to prevent any future drug use. As a preliminary matter, the Individual initially lied to his Employer about his cocaine usage and only admitted to using cocaine while holding a security clearance when he requested the instant hearing. *See* Tr. at 9–10; Ex. 2 at 10–11. The Individual used cocaine in a social setting, and the person who gave the Individual cocaine is a “friend of a friend.” Tr. at 21–22. Socializing with friends is a common occurrence, and the Individual stated that he may see the person who gave him cocaine in future social situations. *See id.* at 24. Additionally, the Individual gave no indication that he would cease contact with the “good friend” who knew the person with illicit substances. *See id.* at 24–25. Regarding the stress and grief that allegedly contributed to the Individual’s drug use, the Individual claimed that he is now seeing a therapist one to two times a month, but he did not provide any documentation or testimony to corroborate his ongoing treatment or how that will assist with him remaining drug free going forward. Additionally, while the Individual has submitted two drug tests, these tests were only administered nineteen (19) days apart, on July 28, 2026, and August 12, 2026. *See* Ex. A; Ex. C. These two tests are not sufficient to establish a pattern of abstinence. No tests were submitted for the period between March of 2026 and July 28, 2026, and therefore I cannot determine the period, if any, for which the Individual was abstinent prior to July 28, 2026. Additionally, no tests were submitted from August 12, 2026, to the date of the hearing, so there is no evidence that the Individual has remained abstinent. Finally, there was no testimony or written opinion as to the detection window of either test, and therefore I cannot determine the approximate period of time the Individual abstained from drugs based on these two tests. The Individual’s use of cocaine occurred while engaging in a social activity, after having held a security clearance for nearly eight years, and knowing his use of cocaine was prohibited and would result in adverse consequences for him. He lied to his Employer when confronted with his positive cocaine result, both in person and later by email, and only admitted to his use after being notified that his clearance was suspended. 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.

The security concerns raised by the LSO do not involve an allegation that the Individual abused prescription drugs, therefore mitigating factor (c) is not relevant to this case. The Individual stated he is attending therapy one to two times a month but indicated that the therapy was to cope with grief and stress and provided no evidence of any treatment focused specifically on drug use. Therefore, mitigating factor (d) is not relevant.

Having concluded that none of the mitigating conditions are applicable to the facts of this case, 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 Guideline H of the Adjudicative Guidelines and the Bond Amendment. After considering all 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 and that the Individual has not brought forth sufficient evidence to mitigate 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