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

In the Matter of: Personnel Security Hearing )  
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Filing Date: September 18, 2023 ) Case No.: PSH-23-0139  
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Issued: January 16, 2024

**Administrative Judge Decision**

James P. Thompson III, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material."<sup>1</sup> 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 possession of a security clearance. On August 15, 2022, the Individual reported to the DOE Local Security Office (LSO) that she had been hospitalized for mental health treatment earlier that month. Following the report, the LSO asked her to complete two Letters of Interrogatory (LOI) and be evaluated by a DOE-consultant psychologist (Psychologist). The LSO also received information that the Individual tested positive for marijuana while hospitalized. Afterward, the LSO informed the Individual by letter (Notification Letter) that it possessed reliable information that created substantial doubt regarding her eligibility to possess a security clearance. In an attachment to the Notification Letter, entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information implicated provisions of the Bond Amendment, 50 U.S.C. § 3343(b), and raised a security concern under Guideline E, Guideline H, and Guideline I of the Adjudicative Guidelines.

<sup>1</sup> 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.

The Individual exercised her right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. The Director of the Office of Hearings and Appeals appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. At the hearing, the Individual presented the testimony of a work colleague and testified on her own behalf. The LSO presented the testimony of the Psychologist. The Individual submitted eighteen exhibits, marked Exhibits A through R. The LSO submitted nine exhibits, marked Exhibits 1 through 9.<sup>2</sup>

## II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the LSO cited the Bond Amendment and Guideline E (Personal Conduct), Guideline H (Drug Involvement and Substance Misuse), and Guideline I (Psychological Conditions) of the Adjudicative Guidelines as the basis for concern regarding the Individual's eligibility to possess a security clearance. Exhibit (Ex.) 1.

The relevant Bond Amendment section provides that “the head of 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). In the SSC, the LSO cited that the Individual consumed and tested positive for cannabis in 2022 while holding a security clearance. Ex. 1 at 5. This information justifies the LSO's invocation of the Bond Amendment.

Guideline E provides that “[c]onduct 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.” Adjudicative Guidelines at ¶ 15. “Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” *Id.* Conditions that could raise a security concern include:

- (a) Deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities;
- (b) Deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative;

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*Id.* at ¶ 16. The SSC cited that the Individual admitted that she did not timely report her cannabis use or positive drug test as required by a security clearance holder, she did not report it on her

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<sup>2</sup> References to the LSO exhibits are to the exhibit number and the Bates number located in the top, right corner of each exhibit page.

Questionnaire for National Security Positions (QNSP), she did not report it to an investigator during a security interview, and the Psychologist reported concerns regarding the Individual's trustworthiness "due to her inconsistent and minimized reporting" during her evaluation and in responses to the LSO. Ex. 1 at 5–6. The cited information justifies the LSO's invocation of Guideline E.

Guideline H provides that "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 include "any substance misuse," which includes "illegal use of controlled substances," "[t]esting positive for an illegal drug," and "[a]ny illegal drug use while granted access to classified information or holding a sensitive position . . ." *Id.* at ¶ 25(a), (b), and (f). The SSC cited the above information regarding the Individual's use of cannabis and positive drug test. Ex. 1 at 6. The above allegations justify the LSO's invocation of Guideline H.

Guideline I provides that "[c]ertain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness." Adjudicative Guidelines at ¶ 27. Conditions that could raise a security concern include "[a]n opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness . . ." *Id.* at ¶ 28(b). The SSC cited the Psychologist's conclusion that the Individual meets the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*, criteria for Major Depressive Disorder, Recurrent, in Partial Remission and Generalized Anxiety Disorder, which are emotional conditions that have impaired the Individual's judgment, stability, and trustworthiness. Ex. 1 at 6. The SSC did not cite the hospitalization as a basis for concern. The cited information justifies the LSO's invocation of Guideline I.

### 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 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 his or her 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.

The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

#### IV. FINDINGS OF FACT

The Individual has held a security clearance since 2018. Hearing Transcript, OHA Case No. PSH-23-0139 (Tr.) at 26. She testified that in July 2022 she attended a potluck after being invited by her brother. *Id.* at 27. While there, she ate “a little bit of everything” set out for the guests. *Id.* Two weeks later, her brother called her and told her that one of the potluck pies had been made with “THC flour.”<sup>3</sup> *Id.* at 27–28. She testified that she did not intend to consume cannabis at the potluck, she has since learned that marijuana products can be used to make “all kinds of stuff,” and she is therefore “more cautious . . . .” Tr. at 28, 30. She testified that she put this knowledge into practice recently on Thanksgiving by not eating several food items because she did not know who prepared the dishes. *Id.* at 30–31.

She confirmed the accuracy of the allegation that she did not report her cannabis use at the time she learned of it.<sup>4</sup> *Id.* at 31. While she could not recall a specific reason, she explained that the conversation with her brother happened on a weekend, her child was starting school the next day and it caused a “massive amount of stress,” and she was not “thinking clearly.” *Id.* at 33. She was hospitalized five days later in early August 2022. *Id.*

The Individual provided the following information regarding her August 2022 hospitalization and the circumstances that led up to it. She had “recently lost [her] great grandfather . . . suddenly” and “in a very traumatic way . . . .” *Id.* at 37–38. On the day of her hospitalization, she began thinking about her own children, estate planning, and the guilt she observed her father experiencing around death; and she decided to write letters to her husband and children to include in her will because she “didn’t want them to experience that type of guilt” if something should happen to her. *Id.* at 38. She consumed pain medication before writing the letters, and the writing caused anxiety, which she decided to treat by ingesting anxiety medication.<sup>5</sup> *Id.* at 38–39. At some point, her husband observed her acting “loopy” and read the letters that she had drafted. *Id.* at 39. He panicked as a result and “called 911,” which resulted in her hospitalization. *Id.* at 39–40. The Individual was administered a drug test at the hospital, and a nurse told her the drug test results were positive for THC. *Id.* at 54, 70. She testified that did not see the results until July 2023 when she requested and received the documentation related to her hospitalization. *Id.* at 54. The Individual was discharged eight days later. Ex. 6 at 65. The final diagnosis she received from the hospital staff was

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<sup>3</sup> Throughout this decision, cannabis will be also referred to as THC or marijuana, which is consistent with its reference throughout the record.

<sup>4</sup> DOE Order 472.2A, Attachment 5, entitled “Reporting Requirements,” required the Individual to report her illegal drug use within three working days. Order 472.2A, Attachment 5, at 78.

<sup>5</sup> She also testified that, in retrospect, she took too much anxiety medication. *Id.* at 38.

“[d]epression and generalized anxiety.”<sup>6</sup> Tr. at 40. The Individual also testified that she did not experience any suicidal ideations on the day of her hospitalization and that she did not take her medication with the intent to end her life. *Id.* at 61.

The hospital records are included as an attachment to the report (Report) the Psychologist produced for the LSO in December 2022. The hospital’s preadmission evaluation details the information provided by the Individual and includes her statement that she took her medication because “she did not want to wake up.” Ex. 6 at 73. She also stated that she had a “high tolerance” and “should have taken more.” *Id.* She denied any history of suicide attempts. *Id.* The records also reflect that the Individual stated that she “had 3 suicidal notes,” and she reported symptoms of depression that included “[h]opelessness, [w]orthlessness, [and] [h]elplessness . . .” *Id.* By contrast, the hospital records from the following day indicate that she reported she had been writing a “living will” and letters to her husband and children and took anxiety medication because she was anxious. *Id.* at 75. The Report includes information the Psychologist obtained from the Individual’s therapist and psychiatrist regarding the incident. *Id.* at 40. Both the psychiatrist and the therapist reported that, on the day of her hospitalization, the Individual had consumed her medication with suicidal thoughts and intention. *Id.* at 40–41. The therapist noted that, as of December 2022, the Individual had made “phenomenal progress” and no longer presented “suicidal ideation.” *Id.* at 41.

The Individual confirmed that she failed to report her marijuana use after she returned from the hospital. Tr. at 53. She testified that she was focused on reporting accurate information regarding her hospitalization and different medications and “the THC thing was . . . weeks in the past and [she] didn’t think about it.” *Id.* at 54–54. She testified that she knew she was required to report drug usage and completed training on the subject, but she only learned the actual reporting timeframe in November or December 2022. *Id.* at 56–57. She admitted that she also failed to disclose the drug use and positive drug test on her October 2022 QNSP and testified that her failure was due to being “more concerned about the hospitalization and the mental status” when completing the paperwork. *Id.* at 34. She testified that there were a lot of questions in the paperwork, she “just didn’t pause long enough” to recall the positive drug test, and the omission was unintentional. *Id.* at 55. She also explained that she “flew by the drug section” because she does not consider herself “a drug user.” *Id.* at 34. She acknowledged that she made a mistake by not disclosing her drug use prior to the evaluation. *Id.* She testified that she would take additional time in the future to ensure that she provides accurate information in response to security-related questions. *Id.* at 35. She testified that she disclosed the drug use to the Psychologist during the November 2022 evaluation because one of the Psychologist’s questions prompted the Individual to recall the conversation with her brother. *Id.* at 57–58. As for why she did not disclose the drug use during a subsequent interview with a security clearance investigator in December 2022, the Individual testified that she could not recall whether the investigator asked her about any past drug use. *Id.* at 55–56. The Individual provided the results of two random drug tests: one administered in August 2023, the other in September 2023. Ex M. Both test results are negative for marijuana. *Id.*

The Individual’s work colleague testified that, based on his observations in a work environment, the Individual is capable of following all rules and regulations. Tr. at 18. He also testified that she

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<sup>6</sup> This was not a new diagnosis as the Individual has been treated for depression and anxiety for approximately six years prior to the hearing. *Id.*

is diligent, and she has demonstrated a willingness to incorporate feedback to change her behavior at work, and he therefore believes that she is able to learn from her mistakes and alter her behavior for a more positive outcome. *Id.* at 20–22. The record also includes character reference letters from four work colleagues; she is described as being dedicated, hardworking, trustworthy, reliable, and diligent. Ex. C.

The Report contains the Psychologist’s opinion that the Individual met the criteria for Major Depressive Disorder, Recurrent, Severe, and Generalized Anxiety Disorder. Ex. 6 at 44. The Report also contains the treatment the Individual reported undergoing as of November 2022, which included weekly individual therapy and monthly medication appointments with her psychiatrist. Ex. 6 at 39, 43. The Psychologist recommended that the Individual continue her treatment and medication regimen. *Id.* The Psychologist also noted that the Individual “tended to minimize the severity of her emotional state and/or deny that she had suicidal ideation and intentionally overdosed.” *Id.* at 43. During the evaluation, for example, the Individual “denied any suicidal ideation,” now or ever, which is contradicted by the hospital records.<sup>7</sup> *Id.* at 42; *supra*. The Psychologist also referenced information she obtained from the Individual’s therapist, who also had access to the Individual’s psychiatrist’s clinical notes. *Id.* at 40–41. The therapist reported that the Individual stated that she “just lost it and took pills” when describing her suicidal ideation and attempt. *Id.* at 41. The psychiatrist’s notes include that the Individual “took an intentional dose of [anxiety medication] with suicidal thoughts and intention.” *Id.* The Psychologist also noted the Individual provided inconsistent reporting on the amount of medication she ingested at the time of her hospitalization, and the Psychologist opined that the Individual had been “deliberately misleading.” Ex. 6 at 43.

Exhibit 8 contains the Individual’s October 2022 QNSP. In providing an explanation for her hospitalization, the Individual stated, “I was taken by ambulance to the hospital because they thought I was trying to commit suicide, when I was just writing letters to put with my living will and took anxiety [medication] that made me loopy.” Ex. 8 at 125. She reported similar information during her December 2022 interview with the investigator and added that she “inadvertently took an additional anxiety medication due to not realizing she had already taken her daily medication.” Ex. 9 at 196.

The record includes a letter dated August 2023 from the Individual’s psychiatrist that provides the same diagnoses of Major Depressive Disorder, Recurrent, in Partial Remission, and Generalized Anxiety Disorder. Ex. N. At the hearing, the Individual testified that she agreed with the diagnoses and continues to receive treatment from her psychiatrist and therapist. *Id.* at 41, 67. She testified that in addition to complying with her prescribed medication regimen, she continues to work with her therapist weekly and engages in exercise, meditation, journaling, and producing art. *Id.* She credits her success to weekly therapist visits, coping skills, and remaining vigilant. *Id.* The psychiatrist’s letter reports that the Individual “has been compliant with treatment

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<sup>7</sup> The Psychologist administered the Minnesota Multiphasic Personality Inventory-3 (MMPI-3) during the evaluation, which tests for several areas of personality functioning and psychopathology. Ex. 6 at 43. The Psychologist noted that the Individual “did not respond affirmatively to any of the [MMPI-3’s] seven items on suicide, denying that she had ever thought about killing herself or wished she were dead.” *Id.* However, the Psychologist note that the hospital admission records state that the Individual had a “[h]igh risk score on the [Columbia-Suicide Severity Rating Scale],” indicating that the “person endorses thoughts of suicide and has thought of at least one method.” *Id.*; *see also id.* at 73.

recommendations” for over a year; and, based on her progress, the psychiatrist has no concerns regarding the Individual’s judgment, stability, reliability, or trustworthiness. Ex. N. A letter from the Individual’s therapist dated October 2023 reports that the Individual has made significant progress in therapy since August 2022, and that the Individual has a good prognosis, “especially as she continues to engage with therapeutic interventions . . . .” Ex. O.

The Psychologist testified that the Individual has a good prognosis for her Major Depressive Disorder and Generalized Anxiety Disorder so long as she continues treatment with the therapist and psychiatrist. *Id.* at 76–77. The Psychologist agreed with the positive prognosis given by both the Individual’s treatment professionals and testified that the Individual’s conditions are controllable with treatment and currently under control. *Id.* at 76, 87. The Psychologist testified that the Individual “has continued with her treatment faithfully and been compliant with the recommendations of her providers” and has demonstrated the ability to “manage her symptoms” and “manage her depression and anxiety.” *Id.* at 80–81.

The Psychologist also testified that while the Individual had denied being suicidal at the time of her hospitalization, the Individual “was more acknowledging of . . . having suicidal feelings” at the hospital and when describing the event to her therapist subsequent to the hospitalization. *Id.* at 78–79. The Psychologist viewed the discrepancies in her statements regarding her mental state as “minimizing[] the seriousness of [the Individual’s] emotional condition at the time.” *Id.* at 79. As an example, the Psychologist referenced the Individual’s reported statements to her therapist “of not wanting to wake up . . . [and] that she was surprised that she had suicidal thoughts because she had not experienced that before . . . .”<sup>8</sup> *Id.* at 90. The Individual testified in response that she and her therapist discussed how the Individual initially seemed “nonchalant” about taking too much medication prior to her hospitalization but that the therapist is no longer concerned with the Individual’s perspective around the incident because the Individual acknowledged that she needs to follow the prescription dosage instructions. *Id.* at 71–72. To explain the inconsistencies the Psychologist noted, the Individual testified that, while she told the therapist that she had had suicidal thoughts in the past, she did not intend to communicate that she experienced suicidal thoughts at the time of her hospitalization. *Id.* at 93. Instead, she meant to communicate to the therapist that she had suicidal thoughts years before she began treatment with the therapist, including when she was first diagnosed with depression.<sup>9</sup> *Id.* at 93. She also testified that she did not “recall saying anything about not wanting to wake up.” *Id.* at 94.

## V. ANALYSIS

### A. Bond Amendment

The Bond Amendment provides that federal agencies “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

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<sup>8</sup> The record demonstrates the Individual made the statement of not wanting to wake up to the hospital staff, not her therapist. Ex. 6 at 42, 73.

<sup>9</sup> The Individual testified that she had been on antidepressants for ten years. Tr. at 40.

Considerations Related to Statutory Requirements and Departmental Requirements (June 10, 2022). DOE 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 conclude that the Individual does not meet the above definition of an unlawful user or addict. There is no dispute that she previously used a controlled substance, marijuana, one time in 2022. She admitted it. However, there is no evidence that she is a current user of marijuana or that she ever lost self-control with regard to marijuana. To the contrary, the evidence indicates that she ingested the marijuana one time, over a year ago, and unintentionally. The Individual’s circumstances are quite distinct from that of a person who has lost self-control or who is a current user of marijuana. Furthermore, and for the same reasons, I conclude that the Individual does not meet the definition of addict. Thus, I conclude that the Bond Amendment is not a bar to the Individual holding a security clearance.

## **B. Guideline E Considerations**

Conditions that can mitigate security concerns based on personal conduct include the following:

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

I conclude that none of the above mitigating conditions apply to resolve the Guideline E concerns.

Paragraph 17(a) does not apply to resolve the concerns because although the Individual eventually disclosed her marijuana use, I do not conclude that her disclosure is sufficient to demonstrate prompt, good-faith efforts to correct omitted or false information before being confronted with the facts. The Individual did not attempt to promptly report her marijuana use after learning of it despite several opportunities: at the time she learned she ingested marijuana at the potluck, at the time she learned of the positive drug test, and at the time she submitted her QNSP. Her eventual disclosure several months after the fact is not sufficient to mitigate the concerns raised by this conduct. Furthermore, for the reasons provided in detail below in my analysis of the mitigating factor at ¶ 17(c), I do not conclude that she made a prompt, good-faith effort to correct the inconsistent or false information she provided to the Psychologist and LSO.

Paragraph 17(b) is inapplicable because the Individual did not indicate that her conduct was caused or contributed to by advice of legal counsel or any other person.

As for ¶ 17(c), I conclude that the severity of the Individual's behavior, the passage of time since it occurred, and the frequency of the behavior and the circumstances surrounding it do not indicate that it is unlikely to recur.

The Individual's repeated failure to disclose her illegal drug use despite the several opportunities outlined above, combined with her contradictory statements in the record regarding her hospitalization, demonstrates that her conduct is not minor or infrequent. My finding is based in part on my skepticism regarding her explanations for her repeated failure to disclose the drug use. I have considered her testimony that the stress involved with her child starting school and hospitalization impacted her ability to report her unintentional marijuana use at the time she learned about it from her brother; however, she also failed to report it after her discharge from the

hospital. Unintentionally ingesting an illegal drug and a receiving a positive drug test are significant events for a cleared individual. Consequently, her testimony that she simply forgot to report it on her QNSP because she “flew by” the section that specifically asks about drug use and does not consider herself a “drug user” is not very persuasive.

Furthermore, the record contains examples of the Individual providing inconsistent information regarding her mental state at the time of her hospitalization, which causes me to question her credibility and willingness to provide accurate and complete information. There is substantial evidence in the record that the Individual made statements to the admitting staff at the hospital, her therapist, and her psychiatrist from which these parties concluded she experienced suicidal thoughts and acted on those thoughts by consuming medication. There is also substantial evidence in the record that she told the LSO, an investigator, and the Psychologist the opposite: that she did not experience suicidal thoughts at the time of her hospitalization and that she instead accidentally consumed too much medication. The record establishes that the Individual minimized her conduct when describing it to the LSO, the investigator, and the Psychologist.

Additionally, she told the Psychologist during the evaluation that she had never experienced suicidal thoughts in the past. At the hearing, however, she stated the opposite: she testified that she experienced suicidal thoughts in the distant past, which she told her therapist, and the therapist mistakenly told the Psychologist that she experienced suicidal thoughts at the time of her hospitalization. Even if this new information is true, it fails to explain why she did not disclose these past suicidal thoughts to the Psychologist during the evaluation and instead claimed to have never experienced suicidal ideation. This hearing testimony also contradicts her statement to the hospital admission staff that she had no prior history of suicidal thoughts. And it does nothing to explain why the admitting hospital staff and her psychiatrist concluded that she intentionally consumed additional medication with suicidal intention. Simply put, her testimony to address one inconsistency created another and failed to dispel any.

Given the record in this case, I am skeptical of her present willingness to disclose full, frank, and truthful information if she considers it detrimental to her eligibility to possess a security clearance. Therefore, I find that none of the factors articulated in ¶ 17(c) apply to demonstrate that her conduct is unlikely to recur, and the record does not resolve my doubt concerning her reliability, trustworthiness, or good judgment.

Based on my above findings, I conclude that ¶ 17(d) also does not apply to resolve the concerns. I remain concerned that the Individual has not yet fully acknowledged her behavior. Consequently, I do not find that she has addressed the stressors, circumstances, or factors that contributed to her untrustworthy and unreliable behavior.

The remaining conditions do not apply to resolve the Guideline E concerns for the following reasons. Paragraph 17(e) is inapplicable because there is no allegation in the SSC that the Individual’s conduct created a security concern due to her particular vulnerability to exploitation, manipulation, or duress. Paragraph 17(f) is inapplicable because there is no evidence in the record to indicate that the information cited in the SSC is unreliable. Lastly, ¶ 17(g) is inapplicable because the Individual’s association with persons involved in criminal activities is not at issue. Accordingly, I find that the Individual has not resolved the Guideline E concerns.

### **C. Guideline H Considerations**

Conditions that can mitigate security concerns based on drug involvement and substance misuse include that “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 . . .” Adjudicative Guidelines at ¶ 26(a).

In this case, I find that ¶ 26(a) applies to resolve the Guideline H concerns because the admitted drug use happened under such circumstances that it is unlikely to recur. The record demonstrates that the Individual unintentionally ingested marijuana on a single occasion. There is no information in the record to contradict her testimony on this fact, and her statements regarding her unintentional use have been consistent. Over a year has passed since her she ingested marijuana, and she provide two drug tests that support her testimony that she does not use marijuana. Additionally, the Individual provided uncontradicted testimony that she takes caution to avoid unintentionally consuming marijuana by refraining from consuming food prepared by unknown individuals. I therefore conclude that her past marijuana use is unlikely to recur and does not cast doubt on her current reliability, trustworthiness, or good judgment. Accordingly, I find that the Individual has resolved the Guideline H security concerns.

### **D. Guideline I Considerations**

Under Guideline I, the following relevant conditions could mitigate security concerns associated with a psychological condition:

- (a) The identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
- (b) The individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

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Adjudicative Guidelines at ¶ 29.

I find that the above two conditions apply to resolve the Guideline I concerns. Since I rely upon much of the same evidence in analyzing each of these mitigating conditions, the following analysis addresses them together. The record demonstrates that the psychological conditions that the Individual has been diagnosed with are readily controllable with treatment. The Psychologist testified unequivocally to this fact. Additionally, the record demonstrates that the Individual has been receiving treatment from both her psychiatrist and therapist for over a year, starting in August 2022, and there is no evidence in the record to indicate that her treatment is anything but voluntary. Finally, the record is clear that the Psychologist, therapist, and psychiatrist all agreed that the Individual has made significant progress in her treatment and that she has a good prognosis if she continues with her treatment. I find persuasive the evidence that the Individual has continued with

her treatment faithfully and been compliant with the recommendations of her providers; that she has the ability to manage her symptoms; and that the condition is currently under control. Thus, I conclude that the Individual has put forth sufficient evidence to resolve the Guideline I security concerns.

## **VI. CONCLUSION**

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under the Bond Amendment and Guidelines E, H, and I of the Adjudicative Guidelines. After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I find that the Individual has brought forth sufficient evidence to demonstrate that the Bond Amendment does not apply to these circumstances and to resolve the Guideline H and I security concerns. However, I conclude that the Individual has not put forth sufficient evidence to resolve the Guideline E concerns set forth in the SSC. 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.

James P. Thompson III  
Administrative Judge  
Office of Hearings and Appeals