*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: November 7, 2023	)	Case No.: PSH-24-0014
	)	
	)	

Issued: February 23, 2024

Administrative Judge Decision

Katie Quintana, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXX (hereinafter referred to as "the Individual") to hold an access authorization under the United States Department of Energy's (DOE) regulations, as set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material."[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 should be granted access authorization.

I. Background

The Individual is an employee with a DOE contractor in a position that requires her to hold a security clearance. In November 2022, as part of the security clearance application process, the Individual completed a Questionnaire for National Security Positions (QNSP). Exhibit (Ex.) 7 at 67–138. In response to a question regarding her psychological and emotional health, the Individual reported that she had been diagnosed with Borderline Personality Disorder (BPD) in approximately November 2021. *Id.* at 117–118. The Individual subsequently underwent a psychological evaluation with a DOE-consultant psychologist (DOE Psychologist) who determined that the Individual met the criteria for BPD, which she stated is "a condition that impairs judgment, reliability, and trustworthiness." Ex. 5.

Due to security concerns related to the Individual's psychological condition, the Local Security Office (LSO) informed the Individual, in a Notification Letter, that it possessed reliable

[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.

information that created substantial doubt regarding her eligibility to hold a security clearance. Ex. 1. In the Summary of Security Concerns (SSC) that accompanied the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline I (Psychological Conditions) of the Adjudicative Guidelines. *Id*.

Upon receipt of the Notification Letter, the Individual exercised her right under the Part 710 regulations to request an administrative review hearing. The Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge in the case, and I subsequently conducted an administrative hearing in the matter. At the hearing, the DOE Counsel submitted seven numbered exhibits (Exs. 1–7) into the record and presented the testimony of the DOE Psychologist. The Individual introduced 15 lettered exhibits (Exs. A–O) into the record and presented the testimony of four witnesses, including herself. The hearing transcript in the case will be cited as "Tr." followed by the relevant page number.

II. Regulatory Standard

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 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. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

III. Notification Letter and Associated Security Concerns

As previously mentioned, the Notification Letter included the SSC, which set forth the derogatory information that raised concerns about the Individual's eligibility for access authorization. The SSC specifically cited Guideline I of the Adjudicative Guidelines. Ex. 1. Guideline I indicates that "certain emotional, mental, and personality conditions can impair judgment, reliability, or

trustworthiness." Adjudicative Guidelines at ¶ 27. In support of citing Guideline I, the LSO relied upon the DOE Psychologist's August 2023 determination that the Individual "met the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)* criteria for BPD, which is a condition that impairs her judgment, reliability, stability, and trustworthiness." Ex. 1.

IV. Findings of Fact

As stated above, the Individual underwent a psychological evaluation with the DOE Psychologist in August 2023, after which, the DOE Psychologist prepared a report (Report). Ex. 5. During the clinical interview, the Individual disclosed that she was the victim of two separate childhood sexual assaults. *Id*. at 9. The Individual reported that, as a child, she sought the attention and acceptance of her father because she was often compared to her siblings and was told she was "'too sensitive.'" *Id*. She also stated that she began to struggle with impulse control issues, which continued into her adulthood. *Id*. According to the Individual, she first used marijuana around the age of 16, but in June 2020, her then-husband introduced her to crack cocaine. *Id*. at 8. According to the Report, while the Individual was using crack cocaine, she "spent a lot of money . . . and accumulated a large amount of credit card debt that she was unable to afford." *Id*. at 9. The Individual noted that her daily drug use began to impact her work, specifically her attendance, and she was subsequently terminated from her job in September 2020, at which time she separated from her then-husband and decreased her drug use.[2] *Id*. at 8–9. The Individual noted that her attendance at this job was also impacted as she was caring for her son who was struggling with mental health issues and passed away approximately one month after her termination due to a drug overdose. *Id*. at 9.

Shortly after her son's passing, she sought grief counseling, and the provider subsequently diagnosed her with BPD in 2021. *Id*. at 10–11. In July 2021, the Individual became abstinent from drugs in honor of the nine-month anniversary of her son's passing. *Id*. at 9. She reported that she attended an online program called Smart Recovery, followed its four-step plan, and joined Narcotics Anonymous (NA) for in-person meetings. *Id*. As of the date of the evaluation with the DOE Psychologist, the Individual reported that she remained abstinent from drugs and attended three NA meetings per week. *Id*.

According to the Report, sometime after terminating treatment with her grief counselor, the Individual moved across the country, where she began treatment with a psychiatrist (Psychiatrist) in March 2022. *Id*. at 10. In April 2022, she began treatment with a provider[3] who specialized in

[2] The Individual additionally disclosed that she had been terminated from jobs in 2013 and 2017. Ex. 5 at 7. The Individual explained that in 2013, she was involved in an abusive relationship, which caused her to frequently miss work and ultimately resulted in her being terminated. *Id*. In 2017, the Individual was terminated due to a Health Insurance Portability and Accountability (HIPPA) violation. *Id*. Following the 2020 termination, the Individual reported holding a series of short-term jobs, each lasting approximately one to two months. *Id*. at 8.

[3] The Report noted that this provider, when interviewed by an investigator as part of the Individual's background investigation, indicated that the Individual did "not have a condition that could impair her judgment, reliability, or ability to properly safeguard classified national security information." Ex. 5 at 10.

Dialectic Behavior Therapy (DBT),[4] which consisted of group therapy that met twice per week for two hours. *Id*. at 10. She participated in the DBT group through December of 2022, at which time she was forced to stop as her work schedule with the DOE contractor interfered with the group meeting time. *Id*. The Individual stated that, although she was not in therapy at the time of the clinical interview, she met with the Psychiatrist approximately once every six months and felt that she had learned new ways to cope. *Id*.

In the Report, the DOE Psychologist explained that the "essential feature of BPD is a pervasive pattern of instability of interpersonal relationships, self-image, and affects, and marked impulsivity that begins in early adulthood and is present in a variety of conditions." *Id*. at 11. She noted that BPD is indicated when five or more of the diagnostic criteria set forth in the DSM-5 are met. *Id*. She found that the Individual met the following five criteria:

- Criterion 1: Frantic efforts to avoid real or imagined abandonment.

  The DOE Psychologist supported her finding of this criterion, noting that the Individual "reported a history of being involved in unstable relationships and that she has struggled to gain the acceptance of her family." *Id*. at 11–12.

- Criterion 2: A pattern of unstable and intense personal relationships characterized by alternating between extremes of idealization and devaluation.

  The DOE Psychologist supported her finding of this criterion, noting that the Individual "reported a history of unstable relationships that involved domestic violence and substance abuse." *Id*. at 12.

- Criterion 3: Identity Disturbance, markedly and persistently unstable self-image or sense of self.

  The DOE Psychologist supported her finding of this criterion, noting that the Individual "has struggled with a sense of identity since childhood." *Id*.

- Criterion 4: Impulsivity in at least two areas that are potentially self-damaging.

  The DOE Psychologist supported her finding of this criterion, noting that the Individual has a history of substance abuse and history of "spending too much money." *Id*.

- Criterion 6: Affective instability due to a marked reactivity of mood.

  The DOE Psychologist supported her finding of this criterion, noting that the Individual "reported a history of emotional liability starting in childhood." *Id*.

[4] The Report indicated that DBT is recognized as a treatment for BPD. Ex. 5 at 10.

As she found that the Individual met five of the criteria for BPD, the DOE Psychologist diagnosed the Individual with BPD, which she stated, "is a condition that impairs judgment, reliability, and trustworthiness." *Id*. The DOE Psychologist noted that BPD is "characterized with an impulsivity that can make [the Individual's] commitments unreliable, her judgment too readily influenced by her emotions and her tendency to do what she says untrustworthy." *Id*. She opined that the Individual is "apt to continue to repeat her impulsive and emotionally determined behaviors." *Id*.

V. Hearing Testimony

At the hearing, the Psychiatrist testified on the Individual's behalf. Tr. at 13. He stated that the Individual had been his patient since April 2022 when she first came to see him due to increased symptoms of depression.[5] *Id*. at 13–14. The Psychiatrist testified that, in his initial assessment of the Individual, he learned that the Individual had: "a pretty extensive history of significant trauma, when younger"; a long-term relationship with her first husband, which included "some domestic turmoil"; and a later relationship with a man who was "not a good influence [and] . . . had introduced [the Individual] to cocaine." *Id*. at 15–16. He stated that, at the time of his initial assessment, the Individual had been in recovery from cocaine for approximately nine months, had met the criteria for recurrent episodes of major depression, and had a history of being diagnosed with BPD. *Id*. at 17. The Psychiatrist noted, however, that the BPD "was not her chief complaint." *Id*. He further noted that he had not seen the records of the diagnosing provider, but he "took [the Individual's] word . . . that she had been given that diagnosis." *Id*. at 16.

Addressing the DOE Psychologist's diagnosis of BPD, the Psychiatrist testified that he had read the Report and did not agree with the diagnosis of active BPD because the Individual did not meet the criteria. *Id*. at 20. When asked if a diagnosis of BPD can be based upon meeting different criteria at various stages of life, the Psychiatrist stated, "[t]he DSM is a categorical system. My way of understanding it would be, if I were to make a diagnosis today of [BPD], I would need to see five symptoms today." *Id*. at 19. He testified that, upon his initial evaluation of the Individual, he noted that he identified parts of the Individual's life "as possibly being related to . . . three of the criteria used in the DSM for diagnosing" BPD. He explained:

> [I] understood that she had had intense and unstable relationships with people that probably were not ultimately found to be a good influence upon her mental health and could have been reactivating symptoms of trauma [Criterion 2], that she had had periods of her life when she had some impulsive activities [Criterion 4], and that she's had a history in the past of having affective or emotional instability [Criterion 6].
>
> [I] did not see and [I] have not, through the course of her treatment, had any information that she has shared, collateral information, that has been provided to

[5] Beginning in April 2022, the Individual met with the Psychiatrist monthly for five months, after which the visits were decreased to every six months. Ex. B.

> us, or any appearance in our course of treatment together of [the Individual] having frantic efforts to avoid abandonment [Criterion 1], significant identity disturbance, where she's had extremes of either over or under evaluating people or situations; that the typical, either loving or hating things and kind of fluctuating between those [Criterion 3].[6]

Id. at 17–18.

Turning to the DOE Psychologist's findings regarding Criterion 1, the Psychiatrist noted that although he agreed that the Individual previously had "unstable relationships," he did not believe that the DOE Psychiatrist appropriately utilized this history in Criterion 1 as it more appropriately fit within Criterion 2, a pattern of unstable and intense personal relationships.[7] *Id*. at 22. Furthermore, he stated that, he was "not aware of there being any frantic efforts to avoid abandonment." *Id*. He explained that, although the Individual has made "efforts to maintain relationships with her children, which can sometimes be conflicted, or to disentangle herself from partners that have been a negative influence[,]" he did not qualify these efforts to be "an abandonment fear and desperation quality." *Id*.

In addressing the DOE Psychologist's finding regarding Criterion 3, the Psychiatrist explained that, within the field of psychiatry, "the whole construct of personality disorders is under dispute." *Id*. He elaborated stating that "as young people are growing and developing, they often try on all different identities. You don't necessarily wake up one day at age three or four and now your identity [is] fixed for life . . . there is a great amount of variability in identity development." *Id*. Pursuant to the DSM, he described identity disturbance as "a chaotic approach to your lifestyle development" in which a person is "having a real hard time settling into some sort of consistent normal, ongoing routine, but in a way that is really keeping [the person] from advancing" in life. *Id*. at 25. By way of example, he explained that people with an identity disturbance may switch genders, political affiliations, whether they speak with their siblings, or otherwise engage in behaviors that create "an enduring, frequent pattern" that is "erratic and unpredictable." *Id*. Ultimately, he stated that he did not have "good evidence, based upon what [he had] learned from [the Individual], from any collateral information, or from [the Report] that . . . give[s] us a really good basis of identity disturbance." *Id*. at 24. The Psychiatrist testified that he viewed the Individual "as being consistently stable and level and pretty organized around the themes of" creating a stable relationship with her daughter, working to find a new career path, avoiding prior negative influences and substances, and developing a future based around healthy relationships and a healthy lifestyle. *Id*. at 25–26.

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[6] The Psychiatrist indicated that there were three additional BPD criteria set forth in the DSM-5, which he had not observed. Tr. at 19. As these remaining criteria were not raised by the DOE Psychologist, I omitted any reference to them herein.

[7] The Psychiatrist noted that the unstable and intense relationships "is one of the three criteria that . . . would be still considered to be somewhat active." Tr. at 23.

Regarding the Individual's treatment, the Psychiatrist testified that, at the time the Individual first came to him, she was already participating in DBT in a group unaffiliated with his practice.[8] *Id*. at 28. He was "strongly supportive of" the Individual's engagement in DBT as he explained it was helpful in addressing the three BPD criteria he identified "because it includes specific models to help people with distress tolerance, emotional regulation and how to manage boundaries and reactions." *Id*. The Psychiatrist opined that DBT was "a perfect match" for the Individual.[9] *Id*. He noted that, although the Individual was not able to fully complete the program due to her work schedule with the DOE contractor, there is no absolute requirement that a person complete all the sessions in order to gain value from it. *Id*. at 45. He stated that he believes much of the value of DBT comes in the first part of the program. *Id*.

The Psychiatrist expressed a concern that a diagnosis of a personality disorder, such a BPD, is "often used to stigmatize people in a negative way." *Id*. at 36. He stated: "So my concern about what I've seen so far is I am worried that there may be a situation here where [the Individual] is being treated as a diagnosis and not as a person." *Id*. at 36–37. He further expressed concern about the DOE Psychologist's evaluation. He noted:

> [W]hen . . . evaluating a diagnosis like [BPD], one part of the process is to look at the factors that might support the diagnosis, but the other half of the job is to try to figure out what else can account for these symptoms and refute why that isn't the case. And I don't think I see that in this [R]eport. I see a lot of emphasis on looking at the diagnosis and trying to rule it in, but I don't see a lot of evidence looking at, well, why isn't this just complex trauma from her childhood? Why isn't this part of her substance use disorder? . . . I think a more nuanced evaluation would have gone a little farther . . . It looks like the [DOE Psychologist] took a diagnosis and just said, oh, yeah, she has [BPD], and all people with [BPD] now are untrustworthy and suspect.[10]

Id. at 38.

Ultimately, the Psychiatrist stated that, in preparing for the hearing, he realized how much progress the Individual had made throughout his time with her. *Id*. at 39. He stated that "[i]t is truly amazing to be able to leave a background that she had, to be in a stable situation, to earn a job at [the DOE

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[8] There appears to be a dispute in the record as to whether the Individual began DBT prior to initially meeting with the Psychiatrist or whether she began shortly after. *See* Tr. at 28, Ex. 5 at 10. The exact timing of when the Individual began participating in the program is not germane to the outcome of this Decision.

[9] The Psychiatrist noted that DBT is not exclusively used for treating BPD and stated that it is "applied non-diagnostically to many different conditions, including mood and anxiety disorders." Tr. at 28.

[10] The Psychiatrist also noted that the DOE Psychologist utilized the Minnesota Multiphasic Personality Inventory-3 (MMPI), and she could have used "better psychological measures" that look specifically at BPD, noting that the MMPI "is an old personality instrument that is nonspecific." Tr. at 38; Ex. 5.

site] . . . maintain sobriety and have a positive outlook." *Id.* The Psychiatrist opined that the Individual is "an amazing person." *Id.*

The Individual's coworker (Coworker) testified. She stated that she first met the Individual approximately a year-and-a-half prior to the hearing, and she interacts with her on a daily basis. *Id.* at 52–53. She stated that she has never had any concerns regarding the Individual's behavior or her ability to interact well with others. *Id.* at 53–54. The Coworker described the Individual as reliable, trustworthy, and "always very pleasant [and] very warm." *Id.* at 54–55. She stated that she has never seen the Individual act erratically, and she noted that the Individual always behaves appropriately even when placed in stressful situations. *Id.* at 55, 57.

The Individual's daughter (Daughter) also testified on her behalf. She testified that she and the Individual lived together until approximately six months before the hearing, when the Daughter moved to another state. *Id.* at 60. The Daughter stated that she still maintains daily contact with the Individual. *Id.* She testified that, when she was a child, she had concerns about the Individual's ability to control her impulses, but she has not had those concerns within the prior 10 to 15 years. *Id.* at 61, 69. She testified that she has seen "a lot of different changes" in the Individual over the prior several years, noting that the Individual has become more self-aware and recognizes how her actions have consequences on others. *Id.* at 62. She stated that she has observed the Individual thinking through the long-term consequences of her actions, and she is putting more effort and into her relationships as she understands their value. *Id.* at 62, 64. Overall, she described the Individual as being "more regular and stable" in her lifestyle over the prior few years. *Id.*

The Individual testified that she was diagnosed with BPD around mid-2021 when she sought out therapy for grief counseling. *Id.* at 78. She explained that she was seeing two providers within a particular practice group, and she recalled that the providers "didn't know" if she suffered from BPD or a separate disorder.[11] *Id.* at 79. She recalled that the providers "told [her] to go look it up on Google, read the description of both of them and see which one" she thought best fit her symptoms. *Id.* She stated that she related with the "impulsiveness" described in the BPD diagnosis and it "seem[ed] to fit [her] better that the other one." *Id.* The Individual explained that based on her own assessment, the providers diagnosed her with BPD. *Id.*

The Individual testified that, soon after receiving the diagnosis, she was set to move across the country, so one of the diagnosing providers gave her a list of DBT groups which she could join in her new state. *Id.* She explained that the DBT was a 14-month-long group skills class that met twice per week for two hours.[12] *Id.* at 81, 84. She stated that, beginning in October 2023, she engaged in once weekly individual counseling with a new therapist. *Id.* at 116. The Individual

[11] The Individual was not able to articulate the name of the other diagnostic concern. Tr. at 79.

[12] The Individual noted that she was not able to complete the entire 14 months as the class time interfered with her work schedule once she obtained employment with the DOE contractor. Tr. at 84. The record indicates that the Individual attended the DBT group for at least nine months. Ex. A at 5; Tr. at 28.

stated that through these two therapies, she has been able to develop coping mechanisms, relationship skills, and the ability to better regulate her emotions. *Id*. at 81–82, 100. The Individual stated that the skill that has been the most helpful to her is learning to listen to other people, allowing them to talk, and refraining from being immediately reactive. *Id*. at 82, 100. She noted that she uses a manual called The DBT Skills and Training Handouts and Worksheets as a resource. *Id*. The Individual also added that she relies on her support system, including the Daughter, her NA sponsor, and her therapist to help her when she is feeling emotional. *Id*. at 99.

In addressing concerns related to impulse control, the Individual recognized that she did have impulse control issues in the past. *Id*. at 86. Specifically regarding her finances, the Individual stated that she does not "have a[n impulse] problem anymore." *Id*. at 88. By way of an example, she explained that she recently received a sum of money from a settlement, and "ten, 20 years ago, that money would have been gone." *Id*. at 89. She stated that she would have spent it on "stupid stuff," but she instead used it to pay off her debt.[13] *Id*. The Individual elaborated and explained that during the time that she was using illegal drugs, her "judgment and impulse control was . . . not well controlled." *Id*. She explained that she "just wasn't making good choices"; she felt that her life was unmanageable, and she was impulsive with money. *Id*. The Individual testified that she had been "clean" since July of 2021, and she attends NA meetings three times per week. *Id*. at 87. She indicated that she works with a sponsor and additionally serves as a leader to other women with substance use issues. *Id*.

Regarding her employment record, the Individual acknowledged that she had a series of short terms jobs, which she explained to be the result of not being happy at the job, not being paid enough, or being terminated. *Id*. at 94. She stated that her short-term employment record is "no longer the situation" as starting her job with the DOE contractor in the fall of 2022 "has changed [her] life." *Id*. at 93, 96. She explained that she has been in that position for a little over a year-and-a-half and received a performance evaluation that resulted in her obtaining a raise. *Id*. She stated: "I know that seems really sad for someone my age, but I haven't had that in my life, to get a good performance review where they're not telling you, you missed too many days at work, or . . . whatever. I'm at a job where I'm . . . happy and I'm stable." *Id*.

Turning to her relationship history, the Individual acknowledged that she had a history of unstable relationships, her most recent being with her ex-husband and during a time when she was using illegal drugs. *Id*. at 97–98. She testified that she left that relationship in September 2020. *Id*. at 98. The Individual noted that she recognized, through the help of NA, that she may have been entering into unhealthy relationships due to emotional abuse from her father and trauma from her childhood.[14] *Id*. at 98. She stated, however, that she now realizes that she does not "need men to validate" her. *Id*. at 99. She testified that, at the time of the hearing, she was not in a relationship and had no interest in being in a relationship because she was working on herself with her new therapist. *Id*. at 97.

[13] The Individual submitted documentation supporting this testimony. Ex. M.

[14] The Individual testified that her father often called her "a lot of putdown names, and so [she] was always trying to get his attention and his approval." Tr. at 98.

After hearing the testimony presented, the DOE Psychologist testified that her original diagnosis of BPD remained unchanged; however, she added that she felt that the Individual was "doing very well, which would put her close to a remission." *Id*. at 125. The DOE Psychologist opined that, "when people are in remission . . . I feel that it decreases the overall concerns of . . . impairment in terms of poor judgment, reliability, trustworthiness." *Id*. She explained that she based the Individual's diagnosis on the "prior couple years" preceding the evaluation, but she felt that there were "a couple of ongoing things." *Id*. at 127. She also explained that, in order to establish a diagnosis of BPD, a person would need to meet five of the criteria concurrently, within a "general time period." *Id*. at 129–130. The DOE Psychologist testified that she believed the Individual met the following five criteria: Criterion 1, Criterion 2, Criterion 3, Criterion 4, and Criterion 6. *Id*. at 130.

The DOE Psychologist explained that Criterion 1 is "frantic efforts to avoid real or imagined abandonment[,]" and she felt that the Individual met this criterion because she expressed a childhood need for acceptance from her father due to his verbal and emotional abuse, the desire at the time of the evaluation to have a strong male figure in her life, and the feeling of not being good enough that followed her throughout her life. *Id*. at 131–132. She further explained that she felt this criterion was established because the Individual sought out and stayed involved in unhealthy relationships. *Id*. at 132–133. The DOE Psychologist ultimately acknowledged that she "was kind of on the border" in choosing to include Criterion 1. *Id*. at 138.

Turning to Criterion 2, a pattern of unstable and intense personal relationships, the DOE Psychologist explained that she found this criterion was met "due to the history of relationships that [the Individual] had." *Id*. at 141. Despite understanding that approximately two years had passed since the Individual was engaged in an unhealthy relationship, due to the "history and intensity" of the relationships, she felt that the Individual currently met Criterion 2. *Id*. at 137–138, 142. When asked why she utilized the Individual's unhealthy relationships to establish both Criterion 1 and Criterion 2 when Criterion 2 specifically addresses relationships, she stated:

> I think there can be overlap, and depending on what that looks like. You know, how I'm looking at the avoidance piece is kind of why someone keeps those relationships, why someone seeks those relationships. Whereas . . . if you're referring to the second one, the unstable and intense relationships might have derived from similar stuff, but it might play out differently.

Id. at 134–135.

Turning to Criterion 3, identity disturbance, the DOE Psychologist explained that she believed that the Individual met this criterion because, "starting in childhood, there had been a lot of self-doubt based on the stuff that she had been told by her father, by her family," such that she felt "not good enough." *Id*. at 144. The DOE Psychologist felt that this feeling followed the Individual throughout her life. *Id*. She further added that she felt that the Individual's employment history indicated an

identity disturbance. *Id*. When the DOE Psychologist was presented with the DSM-5's discussion of Criterion 3, which indicated that with an identity disturbance, "[t]here are sudden and dramatic shifts in self-image characterized by shifting goals, values and vocational aspirations [and t]here may be sudden changes in opinions and plans about careers, sexual identity, values, and types of friends[,]" she acknowledged that the Individual had not had any sudden changes or opinions about her sexual identity or in the types of her friends.[15] *Id*. at 152–154.

Regarding Criterion 4, impulsivity, the DOE Psychologist stated that she believed the Individual met this criterion based on her history of substance use, financial problems, and job changes. *Id*. at 157. Turning to Criterion 6, affective instability due to a marked reactivity of mood, the DOE Psychologist explained that, during the evaluation, the Individual discussed her struggle with emotional liability and reactivity. *Id*. at 158. She noted that the Individual has started to get the skills and treatment necessary to help address these concerns. *Id*.

When asked how she differentiated between behaviors that might have resulted from the Individual's experiences with childhood trauma rather than a personality disorder, the DOE Psychologist testified that trauma is "subjective," and because she did not have "evidence of [post-traumatic stress disorder], [she] focused on the other" aspects. *Id*. at 150. The DOE Psychologist testified that BPD is a "controversial diagnosis," and as a clinician, she is "very hesitant to give this diagnosis" as she is "unfamiliar with it," and it can be used to stigmatize someone. *Id*. at 161. She noted that it is "a disorder that's probably most commonly disagreed on between clinicians. There's a lot of subjectivity in there." *Id*. at 162.

VI. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony presented during the hearing. In resolving the question of the Individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c) and the Adjudicative Guidelines. After due deliberation, I have determined that the Individual has sufficiently mitigated the security concerns cited by the LSO under Guideline I of the Adjudicative Guidelines. Therefore, I find that the Individual should be granted access authorization. The specific findings that I make in support of this decision are discussed below.

While it is clear that the Individual previously struggled with impulsivity, a pattern of unstable and intense personal relationships, and emotional instability, as demonstrated by the testimony of both the Psychiatrist and the DOE Psychologist, a diagnosis of BPD cannot be made under the DSM-5 unless five of the listed criteria are found to be present. Notwithstanding that the Individual was previously diagnosed with BPD, the information in the record in insufficient to convince me that this diagnosis was appropriate, either at the time it was made or at any time since. Pursuant to

[15] Although the DOE Psychologist was asked whether she saw any sudden changes in the Individual's opinions or plans regarding her values, she did not answer the question. Tr. at 153–154.

Guideline I, an individual may be able to mitigate a Guideline I security concern if there is no indication of a current problem, and I find that to be the case for the Individual. *Id*. at ¶ 29(e).

At the outset, I note that neither the Psychiatrist nor the DOE Psychologist has been able to review the records of the providers who originally diagnosed the Individual with BPD. I find this concerning based on the Individual's recollection, which I have no reason to disbelieve, that she was essentially asked to self-diagnose. Nonetheless, regarding the present diagnosis, there is a dispute as to its validity between the DOE Psychologist and the Psychiatrist. The Psychiatrist expressed a concern that the DOE Psychologist accepted the original diagnosis as valid without any nuanced consideration and that she may have failed to appropriately consider the Individual's history of childhood trauma and her prior substance abuse. Specifically, he took issue with the DOE Psychologist's findings regarding Criterion 1, frantic efforts to avoid abandonment, and Criterion 3, identity disturbance. I found the Psychiatrist's testimony to be compelling, especially given the nearly two-year long relationship that he has developed with the Individual. Conversely, I found the DOE Psychologist's testimony to be less compelling, especially given her admission that she is not particularly familiar with the BPD diagnosis.

Both the Psychiatrist and the Individual acknowledged that the Individual has a long and complicated history of trauma, abusive relationships, and substance abuse during which she struggled with impulsivity, emotional regulation, and unhealthy relationships. However, the Individual has made significant efforts to change her life. She became abstinent from drugs, addressed her financial irresponsibility, and engaged in therapy, in the form of DBT, individual therapy, and active participation in NA. It is clear both from her testimony and that of her daughter that these efforts have helped her to resolve her impulsive behavior, refrain from entering unhealthy relationships, and properly regulate her emotions. I found the Individual's testimony regarding her work in DBT and in NA to be well informed and compelling.

Regarding the BPD diagnosis, both the Psychiatrist and the DOE Psychologist acknowledged that this is a controversial diagnosis. The DOE Psychologist added that it is the disorder upon which practitioners most commonly disagree. As to Criterion 1, the DOE Psychologist herself admitted that she was "on the border" in finding that the Individual met the criterion, and she further acknowledged that the Individual was doing well, which put her close to remission, and therefore, decreased the concerns related to her judgment, reliability, and trustworthiness. In light of this testimony, together with the Psychiatrist's well-supported opinion that the Individual does not suffer from BPD, I find there is insufficient evidence to establish that the Individual meets the criteria for an active diagnosis of BPD, and I find that there is no indication of a current problem. *Id*.

For the foregoing reasons, I find that the Individual has mitigated the security concerns arising under Guideline I.

VII. Conclusion

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 have found that the Individual has brought forth sufficient evidence to resolve the security concerns associated with Guideline I. Accordingly, I have determined that the Individual should be granted access authorization. This Decision may be appealed in accordance with the procedures set forth in 10 C.F.R. § 710.28.

Katie Quintana
Administrative Judge
Office of Hearings and Appeals