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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: April 30, 2024 ) Case No.: PSH-24-0116  
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Issued: September 4, 2024

**Administrative Judge Decision**

Katie Quintana, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as “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, entitled “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 be restored.

**I. Background**

The Individual is employed by a DOE contractor in a position that requires her to hold a security clearance. In November 2023, the Individual was arrested and charged with Aggravated Driving While Under the Influence of Intoxicating Liquor or Drugs - Refused Testing (DWI). Exhibit (Ex.) 9 at 48.<sup>2</sup> After the Local Security Office (LSO) became aware of the arrest, the Individual completed a Letter of Interrogatory (LOI) at the behest of the LSO, in which she responded to questions regarding her alcohol consumption. Ex. 8. In the LOI, the Individual explained that approximately “every other weekend,” she and her friends enjoy dinners at local restaurants where she consumes “a drink or two” with her meal. *Id.* at 35. She additionally indicated that she drives after engaging in these happy hour events. *Id.* In January 2024, the Individual was evaluated by a DOE-consultant psychologist (DOE Psychologist) who issued a report (Report) of his findings following a clinical interview (CI). Ex. 10. The DOE Psychologist found that the Individual met sufficient diagnostic criteria for a diagnosis of Unspecified Alcohol-Related Disorder pursuant to

<sup>1</sup> Access authorization is defined 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). Such authorization will be referred to variously in this Decision as access authorization or security clearance.

<sup>2</sup> The exhibits submitted by DOE 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 DOE.

the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR)*, and she had not established adequate evidence of rehabilitation or reformation. *Id.* at 60.

Due to security concerns related to the Individual's alcohol use, the LSO informed the Individual in a Notification Letter that it possessed reliable information that created substantial doubt regarding her eligibility to hold a security clearance. In the Summary of Security Concerns, attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline G (Alcohol Consumption) of the Adjudicative Guidelines. Ex. 1.

Upon receipt of the Notification Letter, the Individual exercised her right under the Part 710 regulations by requesting an administrative review hearing. Ex. 2. 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 twelve numbered exhibits (Ex. 1–12) into the record and presented the testimony of the DOE Psychologist. The Individual introduced six lettered exhibits (Ex. A–F)<sup>3</sup> into the record and presented her own testimony as well as that of three witnesses. 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 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).

An individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). An individual is afforded a full opportunity to present evidence supporting 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.* § 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 Summary of Security Concerns, which set forth the derogatory information that raised concerns about the Individual's eligibility

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<sup>3</sup> The Individual's Exhibit A is a PDF portfolio with individual PDFs labeled Exhibits A-1 through A-10.

for access authorization. The information in the letter specifically cites Guideline G of the Adjudicative Guidelines. Ex. 1. “Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21.

In citing Guideline G, the LSO relied upon the Individual’s November 2023 DWI, her acknowledgment of “previous episodes of driving after consuming alcohol approximately every other weekend,” and the DOE Psychologist’s finding that the Individual met sufficient *DSM-5-TR* criteria for Unspecified Alcohol-Related Disorder and had not established adequate evidence of rehabilitation or reformation. Ex. 1.

#### **IV. Findings of Fact**

As stated above, the Individual underwent a CI with the DOE Psychologist in January 2024. Ex. 10. During the CI, the Individual explained that on the day of the DWI, she and a friend (Friend) took a train to a neighboring city and brought approximately six ounces of wine in a water bottle on board to consume during the ride.<sup>4</sup> *Id.* at 55–56. Once the Individual and the Friend arrived at their destination, they walked to a café where they shared appetizers and a carafe of sangria. *Id.* at 56. The Individual estimated that she consumed two eight-ounce glasses of sangria. *Id.* The friends then walked to a wine bar where they again ordered appetizers and the Friend ordered a glass of wine.<sup>5</sup> *Id.* The friends then walked back to the train station, rode the train back to their home city, and the Individual drove the Friend home. *Id.* On the drive to her own home, the Individual was pulled over by law enforcement and refused a breathalyzer because she was “terrified.” *Id.* The Individual stated that she believed that she had read that she should not consent to a breathalyzer test. *Id.* The Individual opined that her blood alcohol content “was higher than expected because she did not eat much due to an upset stomach from taking a course of” antibiotics. *Id.*

The Individual reported during the CI that prior to the DWI, she would typically consume one to two alcoholic beverages during happy hour events with her friends. *Id.* at 56. According to the Report, the Individual told the DOE Psychologist that she will often call her daughter on her way home after she has been out with friends. *Id.* at 56–57. The DOE Psychologist wrote, “[o]n multiple occasions, her daughter has expressed concern that she has been drinking too much to drive.” *Id.* at 57. The Individual reported that she had not consumed alcohol since her arrest. *Id.* As part of the DOE Psychologist’s evaluation, the Individual underwent a Phosphatidyl Ethanol (PEth) test,<sup>6</sup> which was negative. *Id.* at 58–59. The DOE Psychologist noted that the Individual’s negative PEth test results were consistent with her self-report of abstinence since the DWI. *Id.* at 59.

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<sup>4</sup> The DOE Psychologist noted that the consumption of alcohol onboard the train was a prohibited activity pursuant to train rules. Ex. 10 at 55. He also noted that the Individual did not disclose her consumption of wine during the train ride on her LOI. *Id.* at 56.

<sup>5</sup> The DOE Psychologist noted that on the LOI, the Individual reported that the Friend asked her to try the wine, and during the CI, the Individual “acknowledged the likelihood that she drank some of her friend’s wine.” Ex. 10 at 56. Specifically, the Individual stated that she “may have taken a drink.” *Id.*

<sup>6</sup> According to the Report, PEth “is a molecule made only when ingested alcohol reaches the surface of the red blood cell and reacts with a compound in the red blood cell membrane. Because nothing but ethyl alcohol can make PEth in the red blood cell, the PEth test is 100% specific for alcohol consumption.” Ex. 10 at 58.

The Individual stated that through her employer's Employee Assistance Program (EAP), she met with a psychologist (EAP Psychologist) following the DWI. *Id.* at 57. The DOE Psychologist contacted the EAP Psychologist to inquire about his meeting with the Individual, and the EAP Psychologist reported that he "did not see a pattern of problematic alcohol use prior to the DWI." *Id.* He also stated that it was "his impression that [the DWI] was a single incident in which [the Individual] made some judgement errors on that particular day."<sup>7</sup> *Id.* Although the EAP Psychologist suggested abstinence to the Individual, he did not believe that she needed alcohol treatment. *Id.*

Ultimately, the DOE Psychologist determined that the Individual had "a history of alcohol use that includes a pattern of drinking to the point of impaired judgment and driving which indicates a willingness to place herself and others at physical risk and indicates a pattern of poor judgment." *Id.* at 59. He noted that her decision to bring wine on the train, where it is prohibited, called into question her reliability and trustworthiness, and he felt that she was "untruthful by underreporting her alcohol intake" on the day of the DWI. *Id.* As such, he opined that she met sufficient diagnostic criteria for Unspecified Alcohol-Related Disorder<sup>8</sup> and had not yet established adequate evidence of rehabilitation or reformation. *Id.* at 60. The DOE Psychologist noted that the Individual had "begun rehabilitation by choosing to abstain from alcohol for at least 28 days (60 by her self-report)." *Id.* He noted that the Individual "could show rehabilitation by enrolling in and completing an intensive outpatient treatment program (IOP), consistently engaging in aftercare support for six months, and submitting monthly PEth test results" for a period of six months to demonstrate abstinence from alcohol. *Id.* at 60.

At the hearing, the Individual's counselor (Counselor) testified on the Individual's behalf. She stated that she is a licensed mental health counselor as well as a licensed addiction counselor. Tr. at 13. The Counselor testified that she first met the Individual in April 2024 for an intake interview, after which she diagnosed the Individual with Alcohol Use Disorder, Moderate. *Id.* at 14. She stated that such a diagnosis requires that the Individual satisfy at least four criteria in the "DSM,"<sup>9</sup> and in the Individual's case, she found that three of the satisfied criteria were: alcohol had caused the Individual problems with her job, and it "cause[d] problems with her getting a DUI, and also with family." *Id.* at 15. The Counselor stated that she could not remember the fourth criterion that the Individual satisfied. *Id.* Upon further questioning, the Counselor clarified that the only problem the

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<sup>7</sup> The DOE Psychologist noted that the Individual did not report the wine she consumed on the train or the taste of wine at the wine bar to the EAP Psychologist. Ex. 10 at 57.

<sup>8</sup> Appended to the Report was the *DSM-5-TR* criteria for Unspecified Alcohol-Related Disorder, which states:

This category applies to presentations in which symptoms characteristic of an alcohol-related disorder that cause clinically significant distress or impairment in social, occupational, or other important areas of functioning predominate but do not meet the full criteria for any specific alcohol-related disorder or any of the disorders in the substance related and addictive disorders diagnostic class.

Ex. 10 at 62.

<sup>9</sup> The Counselor did not indicate which version of the *Diagnostic and Statistical Manual of Mental Disorders* she relied upon in making the diagnosis. See Tr. at 15.

Individual encountered in her job was the loss of her clearance, and she went on to say that she did not think that the problems in her family “had much to do with . . . the alcohol.” *Id.* at 24.

The Counselor testified that the Individual enrolled in a twelve-week program at Counselor’s place of business that consisted of four group meetings and one individual counseling session per week.<sup>10</sup> *Id.* at 16. She testified that the Individual attended the meetings and sessions, was “[v]ery engaged,” and she “succeeded.” *Id.* at 16, 19. The Counselor testified that the Individual opted to remain enrolled for six months in the program’s aftercare, which consists of bi-weekly individual counseling sessions.<sup>11</sup> *Id.* at 18. She stated that the Individual realizes that she “cause[d] herself harm, and she . . . beats herself up for it.” *Id.* at 19. The Counselor testified that the Individual has indicated that “she does not ever want to partake again in any kind of drinking, at all.” *Id.* at 18.

The Individual’s daughter (Daughter) testified. She stated that she lives with the Individual, sees her every day, and was aware that she had been arrested for a DWI. *Id.* at 27–28. The Daughter testified that she was never concerned with the degree of the Individual’s alcohol consumption, but she would be “annoyed” with the Individual after she had consumed two drinks as the Individual would be “tipsy . . . a little happy.”<sup>12</sup> *Id.* at 29–30. However, she stated that, aside from her general discomfort with alcohol, the Individual’s alcohol consumption never impacted their relationship. *Id.* at 35. She testified that the only time she ever expressed concern to the Individual about her alcohol consumption while the Individual was driving was the night of the DWI. *Id.* at 30. The Daughter stated that she asked the Individual if she was “okay to drive” because the Individual “sounded a little tipsy” and “just a little giggly.” *Id.*

The Daughter testified that based on her observations, prior to the DWI, the Individual’s pattern of alcohol consumption typically consisted of one to two drinks on Friday nights during happy hour events with her friends, and the Individual last consumed alcohol on the date of the DWI. *Id.* at 28, 30. The Daughter stated that, regarding the Individual’s future intentions towards alcohol, she believes that the Individual “plans [not] to really drink at all.” *Id.* at 32. She testified that the DWI was “really very uncharacteristic of [the Individual’s] behavior,” and she feels that the Individual is “very trustworthy and reliable.”<sup>13</sup> *Id.* at 33–34.

The Friend also testified on the Individual’s behalf. The Friend testified that she has known the Individual for “many, many years” after they met in college. *Id.* at 38. She stated that she is part of the dinner group that would get together on Fridays for happy hour, and she was the friend who was with the Individual on the day of her DWI. *Id.* at 39, 43. The Friend testified that she now sees the Individual approximately once every three weeks. *Id.* She noted that she used to see the Individual “a lot more,” but as a result of the DWI, the Individual “kind of stepped back in her

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<sup>10</sup> The Counselor clarified that the twelve-week program was not an IOP. *Id.* According to the Individual’s Certification of Completion, the program was a “Substance Abuse Program,” and the Individual completed it in July 2024. Ex. B.

<sup>11</sup> The Counselor indicated that the Individual was also still engaging in the group meetings, as recommended; however, the Counselor did not provide any information as to the frequency with which these groups meet. Tr. at 18.

<sup>12</sup> The Daughter stated that she grew up with “an alcoholic dad” and indicated that, “in general,” she was not comfortable with alcohol consumption, which she stated is her “own issue.” Tr. at 32.

<sup>13</sup> The Individual submitted letters of support from her friends and family in which this sentiment was shared. Ex. A-7, A-8, A-9, A-10.

socializing with . . . friends.” *Id.* She stated that the DWI was “earth-shattering” and “life changing” for the Individual. *Id.* at 49.

The Friend stated that at the Friday night dinners, the Individual would typically consume one glass of wine, and “occasionally,” she would partake in a second glass. *Id.* at 40. The Friend testified that she never had any concerns regarding the Individual’s alcohol consumption, and there was only one occasion other than the day of the Individual’s arrest for DWI on which she could recall the Individual having consumed greater quantities of alcohol. *Id.* at 40–41. On that occasion, in which the Individual was consuming alcohol at the Friend’s house, the Individual consumed more than two drinks and opted to stay at the Friend’s house instead of driving home. *Id.*

The Friend testified that on the day of the DWI, she and the Individual had “probably” a glass of wine on the train, drank sangria at the café, and then went to a restaurant for dinner where she does not recall the Individual consuming alcohol. *Id.* at 44–46. The Friend testified she was not concerned about the Individual driving home “because [she] didn’t think [the Individual] had too much to drink at all,” and they chose to take the train to ensure that there would be “plenty of time in between” the Individual consuming alcohol and driving.<sup>14</sup> *Id.* at 43. She stated that had she been concerned about the Individual driving, she would have urged her to stay at the Friend’s house. *Id.* at 46. The Friend testified that since the DWI, the Individual “doesn’t touch” alcohol. *Id.* at 41. The Friend stated that the Individual “is one of the most honest, loyal people” she knows. *Id.* at 47.

The Individual testified and provided the story of the day of the DWI, consistent with the retelling she provided in the CI. *Id.* at 51–52. The Individual testified that she tends to abide by a “two drink limit” due to the Daughter’s anxiety surrounding alcohol. *Id.* at 54. She recognized that now that she is more aware and educated regarding the effects of alcohol, she realizes that the two sangrias were likely equivalent to four drinks as sangria contains both wine and hard liquor. *Id.* at 55–56. The Individual testified that the date of the DWI was the last occasion on which she consumed alcohol. *Id.* at 81.

Regarding the Report’s notation that “on multiple occasions,” the Individual’s “daughter has expressed concern that [the Individual] has been drinking too much to drive,” the Individual testified that this was a frequent warning from her daughter as opposed to a concern of her state of mind after she had been drinking. *See id.* at 79. She stated that her second daughter often told her, “[i]f you’re going to drink, Mom, you need to stay where you’re at until you’re sober enough, or we can come get you.”<sup>15</sup> *Id.* at 58. The Individual testified that she recognized that her alcohol use could be problematic on the “rare occasion” where she would consume more than her two-drink limit but stated that this did not occur “on a consistent basis,” and she abided by her daughter’s advice not to drive. *Id.* at 58, 72. Regarding her report that she drove after consuming alcohol, the Individual clarified that this referred to her Friday night dinner group wherein she limited herself to two drinks before driving home. *Id.* at 78–79.

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<sup>14</sup> The Friend testified that the train ride was an hour and a half in duration. Tr. at 46.

<sup>15</sup> The Individual’s second daughter submitted a letter on the Individual’s behalf. Ex. A-7. It stated that prior to the DWI, the Individual “was always conscientious about her drinking habits. She emphasized mindfulness and moderation.” *Id.* The second daughter stated, “I can confidently affirm that my mother’s commitment to sobriety is unwavering.” *Id.*

The Individual testified that after she received the Report, she reached out to the EAP Psychologist, and he suggested that she contact the Counselor. *Id.* at 60–61. She stated that the Counselor recommended a “substance abuse program” over the IOP as it was better suited to her alcohol intake, and the EAP Psychologist concurred with the Counselor’s recommendation.<sup>16</sup> *Id.* at 61. The Individual testified that she was fully engaged in the program, and through her participation, she learned to rely on her support group and “not take everything for granted.” *Id.* at 64. She stated that in watching others, she was very grateful that she was able to successfully become and remain abstinent as that choice was not as easy for others in her group. *Id.* The Individual stated that “going forward,” she has made the choice to abstain from alcohol. *Id.* at 71.

After hearing the testimony presented, the DOE Psychologist testified that he “had trouble” with the Counselor’s diagnosis of Alcohol Use Disorder, Moderate, as “[t]he three [criteria the Counselor] identified . . . some of them fit in the same diagnostic criteria, so it didn’t sound . . . like [the Individual] hit all three.” *Id.* at 82. He stated that he diagnosed the Individual with Unspecified Alcohol-Related Disorder because the Individual “ha[d] the drinking and driving and her report to [the DOE Psychologist] that she . . . drank and drove on more than one occasion.”<sup>17</sup> *Id.* at 82. He stated that he was also “troubled by” the Individual’s choice to bring alcohol on to the train, where it is prohibited. *Id.* Lastly, the DOE Psychologist stated that the Individual provided discrepant reports of her alcohol usage on the day of the DWI between the LOI and the CI.<sup>18</sup> *Id.* When asked to elaborate on what particular events in the Individual’s life led the DOE Psychologist to find that alcohol created “[c]linically significant distress or impairment in social, occupational, or other important areas,” the DOE Psychologist could solely cite the DWI and “the impact that it’s had on her employment, and her . . . challenged part of her relationship with her daughter, where her drinking causes her daughter distress.” *Id.* at 89. The DOE Psychologist clarified that it was “the one event – the D[W]I” that led to the diagnosis. *Id.*

Regarding rehabilitation and reformation, the DOE Psychologist stated that the Individual’s twelve-week program was “substantially equivalent to what an IOP would be” and he was “comfortable” with the Individual’s engagement in aftercare. *Id.* at 84. Regarding the Individual’s PEth testing, he stated that based upon the tests that she submitted, he “can accept that” the

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<sup>16</sup> The Individual submitted a July 8, 2024, letter from the EAP Psychologist that indicates that the Individual entered into a Recovery/Abstinence Agreement through EAP on April 2, 2024, and she has been “highly compliant with all aspects of the agreement.” Ex. A-2. The DOE Psychologist indicated that the agreement consists of PEth testing every four to five weeks, random monthly breath alcohol tests, an IOP with the Counselor, and monthly monitoring visits with the EAP Psychologist. *Id.* The letter indicates that the Individual underwent PEth tests in early April 2024, late April 2024, May 2024, and June 2024, all of which were negative. *Id.*; see Ex. F (negative results for the April 4, 2024, April 29, 2024, May 22, 2024, and June 20, 2024, PEth tests). The EAP Psychologist also stated that all breath tests have been negative. Ex. A-2. Regarding the reference to the IOP, this appears to be a typographical error or perhaps a misnomer for the Individual’s twelve-week program as the EAP Psychologist correctly identifies the Counselor’s facility, the date of the Individual’s intake interview, and the duration of the program. *Id.*

<sup>17</sup> The DOE Psychologist stated that, contrary to the Daughter’s testimony, he understood, “based on [the Individual’s] statements to [him]” that the Daughter had express concerns on “multiple occasions” that the Individual was driving while “tipsy.” Tr. at 89. It should be noted that none of the Individual’s statements to the DOE Psychologist, upon which he relied in making the diagnosis, are included in the Report.

<sup>18</sup> In the Report, the DOE Psychologist noted that the Individual did not report on the LOI that she brought wine on the train, and she did not report that she had a drink of the Friend’s wine at the wine bar. Ex. 10 at 56.

Individual has been abstinent for six months. *Id.* Ultimately, he stated that the Individual had shown adequate evidence of rehabilitation and reformation from the Unspecified Alcohol-Related Disorder and opined that she had a “good” prognosis. *Id.* at 86.

## V. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses 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 mitigated the security concerns cited by the LSO under Guideline G of the Adjudicative Guidelines. Therefore, I find that the Individual’s access authorization should be restored. The specific findings that I make in support of this decision are discussed below.

### A. Guideline G

Conditions that may mitigate a Guideline G security concern include:

- a) So much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or judgment;
- b) The individual acknowledges her maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified alcohol consumption or abstinence in accordance with treatment recommendations;
- c) The individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and
- d) The individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23.

In this case, the Individual has a diagnosis of Alcohol Use Disorder, Moderate, from the Counselor and a diagnosis of Unspecified Alcohol-Related Disorder from the DOE Psychologist. Like the DOE Psychologist, I cannot find that there is sufficient support for the Counselor’s diagnosis. The Counselor testified that one must meet four criteria in order to qualify for the diagnosis, yet she could only cite the DWI and the impact that it had on the Individual’s employment. I find this inadequate to support a diagnosis of Alcohol Use Disorder.



Assuming that I accept the DOE Psychologist's diagnosis,<sup>19</sup> the Individual acknowledged that her alcohol use could be problematic on the rare occasions on which she consumed more than two drinks. Additionally, she successfully completed a twelve-week Substance Abuse Program and is actively participating in the aftercare program. Furthermore, per her self-report, she has been abstinent from alcohol for approximately nine months, a claim that is supported by both the PEth test she underwent as part of the psychological evaluation and by the PEth tests she submitted into the record. Finally, the DOE Psychologist opined that the Individual had established adequate evidence of rehabilitation and reformation. As such, I find that the Individual has successfully mitigated factors (b) and (c).<sup>20</sup> *Id.* at ¶ 23(b)–(c).

Turning to the DWI and the allegation that the Individual has driven under the intoxicating influence of alcohol in the past,<sup>21</sup> I recognize that one year has not yet elapsed since the Individual became abstinent from alcohol; however, I am convinced that the arrest occurred under circumstances that were unusual for the Individual. The Friend testified that the DWI was “earth shattering” for the Individual, an observation that appears to be accurate given the Individual's choice to become immediately abstinent from alcohol following the DWI as well as the Individual's prompt efforts to undergo alcohol treatment, despite the fact that alcohol had never previously caused problems in her life. Given the Individual's successful completion of the alcohol treatment program, along with her continued abstinence, I find that the DWI or any concerns related to the Individual's consumption of alcohol prior to driving are unlikely to recur. *Id.* at ¶ 23(b)–(c). Thus, like the EAP Psychologist, I find that the DWI was a one-time instance of poor judgment that is unlikely to recur and does not cast doubt on the Individual's current reliability, trustworthiness, or good judgment. *Id.* at ¶ 23(a).

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

## VI. Conclusion

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<sup>19</sup> I have some doubts about the accuracy of the DOE Psychologist's diagnosis as well, to the extent it depends upon certain unsupported facts. The only event that the DOE Psychologist could cite to as support for his diagnosis was the DWI and the impact that it had upon her life. To the extent that the DOE Psychologist relied on the Individual's alleged reports to him that she previously drove while impaired, I cannot find that there is sufficient support in the record for this finding. The Individual and the Friend consistently stated that the Individual would not drive if she had consumed more than two glasses of wine, and the Daughter stated that she only expressed concern about the Individual driving while “tipsy” on the night of the DWI. It appears the concerns that the daughters expressed to the Individual were presented as warnings or reminders to refrain from drinking and driving, and I am not convinced that this was accurately communicated by the Individual or correctly interpreted by the DOE Psychologist during the CI. Nonetheless, because I find that the Individual has resolved any concerns related to her Unspecified Alcohol-Related Disorder, as described *infra*, I need not determine whether the diagnosis was proper.

<sup>20</sup> As the Individual has not yet completed her six months of aftercare, mitigating factor (d) is not applicable here. Adjudicative Guidelines at ¶ 23(d).

<sup>21</sup> To the extent that the LSO is raising as a security concern that the Individual admitted to consuming any amount of alcohol prior to driving, I cannot find that this allegation is properly raised as a security concern. The Adjudicative Guidelines state that “alcohol-related incidents away from work, such as driving while under the influence” may give rise to a security concern that could disqualify a person from holding a security clearance. *Id.* at ¶ 22(a). I cannot find that the term “driving while under the influence” was intended to include the act of driving after consuming any amount of alcohol. Such a strict interpretation is unreasonable. Rather, this is a term of art intended to encompass the criminal act of driving when one has had too much alcohol to safely operate a vehicle.

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 G. Accordingly, the Individual has demonstrated that restoring her security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, I have determined that the Individual's access authorization should be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Katie Quintana  
Administrative Judge  
Office of Hearings and Appeals