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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: June 27, 2024) Case No.: PSH-24-0144
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Issued: September 30, 2024

Administrative Judge Decision

Kristin L. Martin, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (hereinafter referred to as “the Individual”) for access authorization under the 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.”¹ For the reasons set forth below, I conclude that the Individual’s security clearance should be granted.

I. BACKGROUND

The Individual is employed by a DOE Contractor in a position that requires her to hold a security clearance. Derogatory information was discovered regarding the Individual’s drug use, lack of candor, and criminal activity. The Local Security Office (LSO) began the present administrative review proceeding by issuing a Notification Letter to the Individual informing her that she was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding her eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing, and the LSO forwarded the Individual’s request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e) and (g), the Individual presented the testimony of five witnesses—her supervisor from her college laboratory job, a college roommate, a college sport teammate, a local friend, and her current boyfriend. *See* Transcript of Hearing, OHA Case No. PSH-24-0144 (hereinafter cited as “Tr.”). The LSO submitted five exhibits, marked as Exhibits 1 through 5 (hereinafter cited as “Ex.”). The Individual submitted one exhibit, marked as Exhibit A.

¹ Under the regulations, “[a]ccess authorization’ means 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 also be referred to in this Decision as a security clearance.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning her eligibility for a security clearance. That information pertains to Guidelines E, H, and J of the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, effective June 8, 2017 (Adjudicative Guidelines). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. 10 C.F.R. § 710.7.

Guideline E states 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. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” Adjudicative Guidelines at ¶ 15. Concerns that could raise a Guideline E 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;
- (c) Credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information;
- (d) Credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:
 - (1) Untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;

- (2) Any disruptive, violent, or other inappropriate behavior;
- (3) A pattern of dishonesty or rule violations; and
- (4) Evidence of significant misuse of Government or other employer's time or resources;
- (e) Personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:
 - (1) Engaging in activities which, if known, could affect the person's personal, professional, or community standing;
 - (2) While in another country, engaging in any activity that is illegal in that country;
 - (3) While in another country, engaging in any activity that, while legal there, is illegal in the United States;
- (f) Violation of a written or recorded commitment made by the individual to the employer as a condition of employment; and
- (g) Association with persons involved in criminal activity.

Id. at ¶ 16.

Guideline H states that the illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose 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 Guideline H security concern include:

- (h) Any substance misuse (see definition listed in paragraph 24);
- (i) Testing positive for an illegal drug;
- (j) Illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia;
- (k) Diagnosis by a duly qualified medical or mental health professional (*e.g.*, physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of substance use disorder;
- (l) Failure to successfully complete a drug treatment program prescribed by a duly qualified medical or mental health professional;
- (m) Any illegal drug use while granted access to classified information or holding a sensitive position; and
- (n) Expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.

Id. at ¶ 25.

Guideline J states that criminal activity creates doubt about a person’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations. Adjudicative Guidelines at ¶ 30. Conditions that could raise a Guideline J security concern include:

- (a) A pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual’s judgment, reliability, or trustworthiness;
- (b) Evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted;
- (c) Individual is currently on parole or probation;
- (d) Violation or revocation of parole or probation, or failure to complete a court-mandated rehabilitation program; and
- (e) Discharge or dismissal from the Armed Forces for reasons less than “Honorable.”

Id. at ¶ 31.

The LSO alleges the following regarding the Individual:

1. The Individual reported on her Questionnaire for National Security Positions (QNSP) that she used marijuana from April 2015 to September 2022 but later revealed that she last used marijuana in February 2023 and that she concealed the information because she was afraid she would not be hired. (Guidelines E, H, J)
2. The Individual reported on her QNSP that she used a hallucinogenic drug (mushrooms) on three occasions from July 2021 to January 2023 and that she used cocaine on four separate occasions from July 2020 to September 2022. However, she later stated that she did not remember the last time she used mushrooms and that she had used cocaine on five separate occasions. (Guidelines E, H, J)
3. In November 2014, the Individual received a citation for Minor in Possession of Alcohol while in high school. She was fined, did community service, and took a course on underage drinking. (Guideline E, J)

Ex. 1 at 1–4. Accordingly, the LSO’s security concerns under Guidelines E, H, and J are justified.

III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all 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 entire process is a conscientious scrutiny of a number of variables known as the “whole person concept.” Adjudicative Guidelines ¶ 2(a). The protection of the national security is the paramount consideration. 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 her eligibility for an access authorization. The Part 710 regulations are drafted so as 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.

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 tried marijuana for the first time in 2015 when she was in high school. Tr. at 93. She was at a social event and a friend offered her the marijuana to try. *Id.* A few months later, her then-boyfriend had purchased some marijuana and asked her if she wanted to try it with him. *Id.* at 93–94. For the remainder of high school, she used marijuana “at the most, . . . one to two times monthly.” *Id.* at 94. Once she turned 18, but while still in high school, her aunt would give her marijuana. *Id.* at 95. The Individual consumed alcohol twice in high school—in January and June of 2015—after two friends died by suicide. *Id.* at 102.

The Individual graduated from high school in 2017 and went directly to college. Tr. at 103. From matriculation through the middle of her sophomore year, she used marijuana socially one or two times per month. *Id.* The Individual began using marijuana daily in late 2018 when she moved in with her then-boyfriend, who used marijuana daily. *Id.* When she left that relationship and house in 2020, her marijuana use decreased. *Id.* at 108, 115. She used marijuana with her new roommates two to three times per month. *Id.* During the COVID-19 pandemic, the Individual briefly moved in with her parents and stopped using marijuana completely. *Id.* at 109. When she returned to living with her roommates, she resumed occasional social use until September 2022, when she decided to abstain from marijuana permanently. *Id.* at 96, 111.

Between May 2020 and October 2022, the Individual used cocaine on five separate occasions. Tr. at 114–15. The first two occasions occurred after long-term peer pressure with a friend from her college sport team.² *Id.* at 115 (describing how the friend repeatedly offered cocaine to the Individual). The remaining occasions occurred when she attended social events with her roommate and his friends. *Id.* In July 2021, the Individual tried a small amount of mushrooms when offered them by a coworker while camping. *Id.* at 112–13. She used a small amount twice more with the same coworker on two occasions, the last of which was in January 2023. *Id.* In February 2023, the

² This is a different team member than the one who testified at the hearing.

Individual ingested a small amount of edible marijuana with a friend who was visiting her. *Id.* at 96.

The Individual submitted her QNSP on May 5, 2023. Tr. at 121. In that document, she omitted her October 2022 cocaine use and her February 2023 marijuana use in the relevant section. *Id.*; Ex. 4 at 52. An enhanced subject interview was triggered because she had listed her prior drug use. Ex. 4 at 52, 65. At the interview, conducted on June 20, 2023, the Individual volunteered the information that she had last used marijuana in February 2023. *Id.* at 65. She also volunteered that she had used cocaine five times, rather than the four times listed on her QNSP. *Id.* She told the interviewer that she did not currently use drugs, that she did not intend to use them in the future, and that she enjoyed sobriety and sober friends. *Id.* at 66. In October 2023, the Individual moved across the country to start working at the DOE facility. *Id.* at 37.

The Individual's college lab supervisor met the Individual in August 2020. Tr. at 15. She testified that the Individual was reliable and honest. *Id.* at 13. She testified that the Individual had reported mistakes with lab procedures proactively and would rectify them without being asked. *Id.* at 13–14. She saw the Individual almost daily until the Individual began a different job in the spring of 2022. *Id.* at 16. She had never observed the Individual appearing impaired or acting erratically. *Id.* at 18. She had never had occasion to question the Individual's reliability with regard to handling sensitive or proprietary information. *Id.* at 20–21.

The Individual's former roommate lived with her for over a year in 2020 and 2021 while they were in college. Tr. at 23. They saw each other a few times per year by the time of the hearing, and they were in frequent contact on social media. *Id.* at 26. She described the Individual as honest and a rule follower. *Id.* at 24. She testified that the Individual rarely used marijuana while they lived together and did not use any other illegal substances during that time, but also stated that because she (the witness) had not used marijuana, she could not say definitively what the Individual did. *Id.* at 27. She further testified that, based on her knowledge of the Individual's personality, the Individual would never do something that she believed would endanger her employment, such as breaking government rules. *Id.* at 28. She felt that she could rely upon the Individual for important things in her life. *Id.* at 30.

The Individual's former college sport teammate had known the Individual for seven years and she considered the Individual one of her closest friends. Tr. at 33. Prior to the Individual moving for the job at the DOE site, they had seen each other multiple times per week. *Id.* at 37. After the Individual moved, they interacted multiple times per week by phone or text message. *Id.* She testified that the Individual had come to her for advice when she realized she had forgotten to disclose an instance of marijuana use and that the Individual had decided to proactively disclose that use to DOE. *Id.* at 33–34. She reported underage use of alcohol by the Individual with other teammates during college but testified that it was typically less than others and that she had never seen the Individual lie about alcohol use, even when other teammates did. *Id.* at 35–36, 41. She testified that the Individual's substance use had fallen within the normal range of use for their friend group, and she had never seen the Individual impaired in a situation where impairment would have been against her best interests. *Id.* at 41, 43. She testified that the Individual used marijuana once or twice per week in her sophomore year and used it about once per month after college. *Id.*

The former teammate testified that the Individual was committed to abstaining from illegal drugs. Tr. at 39. Specifically, the Individual had committed to abstaining from marijuana when she accepted the position at the DOE site, acknowledging that abstinence was “part of the deal” when a person worked for the government. *Id.* at 40. She testified that it had been years since the Individual used any other drug and she was committed to abstaining from those substances as well. *Id.* She described the Individual as very trustworthy, honest, and reliable. *Id.* at 34.

The former teammate testified that the Individual had grown the most of any of her friends in recent years. Tr. at 48. She testified that “when she started college, she seemed a little bit lost. You know, she was still kind of finding her place. And as the years went by, I think she’s gotten much more comfortable with herself and . . . what she wants to be doing with her life.” *Id.* at 48–49. She testified that the Individual had become more responsible and had been making choices that bettered herself. *Id.* at 49.

The former teammate testified that the Individual had never gone out of her way to find cocaine or mushrooms and had never purchased either drug. Tr. at 53. She testified that the Individual had only used them when offered and described peer pressure being involved in her accepting the offers. *Id.* She further testified that the Individual no longer associated with the people with whom she had used drugs, including those with whom she had used marijuana. *Id.* at 54.

The former teammate testified that the Individual had been influenced by an ex-boyfriend—who was a daily marijuana user—that she lived with in 2018 and 2019. Tr. at 56–57. She testified that the ex-boyfriend was older than the Individual and she cared quite a bit about his opinion when she was younger and wanted to be included in his friend group. *Id.* at 56, 58. The Individual was about 20 or 21 years old at the time she lived with the ex-boyfriend. *Id.* The former teammate testified that as the Individual became more confident and left the relationship, her drug use had tapered off. *Id.* at 50–51, 56. She further testified that the Individual had grown significantly in the intervening years and had a “really positive self-image that allows her to make her own decisions” in group situations. *Id.* at 58. She testified that the Individual did not have contact with the ex-boyfriend anymore. *Id.* at 56.

The Individual’s local friend had known the Individual for about a year. Tr. at 60. She testified that, while she was deployed with a branch of the U.S. military, her son stayed with the Individual. *Id.* at 63–64. During a recent deployment, her son stayed with the Individual for a month. *Id.* at 64. The local friend trusted the Individual with her child and found her to be very responsible. *Id.* She testified that the Individual was a mature person with good judgment and whenever she needed advice on an important life decision, the Individual was the first person she would ask. *Id.* at 67. She testified that on the single occasion they discussed drugs, the Individual stated that she had used drugs in the past but was not interested in them anymore. *Id.* at 66. The local friend added that she is a security clearance holder and therefore does not associate with drug users. *Id.* at 68.

The Individual’s boyfriend had known her for about ten months. Tr. at 70. They had been neighbors who enjoyed going for a run together and eventually their relationship became romantic and they moved in together. *Id.* at 70, 73. He found the Individual trustworthy and honest. *Id.* at 71. He testified that the Individual would hold herself accountable when she was wrong. *Id.* at 72.

He testified that the Individual had never expressed a desire to use or be around illegal drugs during the time he had known her. *Id.* He described the Individual as mature and testified that he has entrusted the Individual with the care of his three children at times. *Id.* at 76.

The boyfriend testified that the Individual, being new to the area, had pursued her own friend group rather than trying to become a part of his. Tr. at 78–79. He also testified that the Individual had strong rules for herself and followed them and that the Individual was very clear about enforcing her boundaries. *Id.* at 79–80. He and the Individual had talked about her past drug use and he testified that the person the Individual was in those stories was “not even remotely close to the [Individual] of today.” *Id.* at 83. He testified that the Individual had a clear vision of herself and her direction in life. *Id.* at 90.

The boyfriend testified that the Individual does not drink alcohol at home and alcohol was not a big part of her social life. Tr. at 84–85, 87. He testified that the only substances the Individual consumed that could be mood altering were over-the-counter vitamin supplements that he also gave to his children. *Id.* at 85. He testified that the Individual used exercise to help process emotions and that when she was feeling stressed, she would run, hike, or go to a climbing wall. *Id.* at 85–86.

The Individual testified that her underage drinking began after two friends died by suicide. Tr. at 102–03. She consumed alcohol two times in 2015 because she “wanted to fit in, wanted to have friends, and it was a bad event.” *Id.* at 103. After that, she did not drink alcohol again until college. *Id.* She acknowledged that she should not have consumed alcohol as a minor and regretted her decision to do so. *Id.*

The Individual testified that she first tried marijuana when she was 16 years old. Tr. at 93; Ex. 5 at 1. She testified that while out with friends, one of them asked if she wanted to try it with them and she acquiesced. Tr. at 93. Several months after that, her high school boyfriend also asked her if she wanted to try marijuana with him. *Id.* at 93–94. For the remainder of high school, her marijuana use fluctuated depending on what social group she was spending time with and the time of year. *Id.* at 94. She estimated that, at most, she used marijuana once or twice per month during that time. *Id.* The Individual’s aunt began giving her marijuana occasionally during her senior year of high school once she turned 18. *Id.* at 95. The Individual graduated from high school in 2017 and went directly to college. Tr. at 103. She associated with “straight edge people” who did not use alcohol. *Id.* at 105. Her initial college boyfriend and some of her friends used marijuana occasionally and she used marijuana with them one or two times per month. *Id.*

The Individual testified that she began using marijuana daily due to a confluence of difficult situations. Tr. at 105. She suffered an injury and could no longer run—which had been an integral part of her college sport—she began dating a heavy marijuana user, and she continued to suffer from the emotional effects of her high school friends’ deaths. *Id.* She testified that when she got injured, her partner’s use made it easy to turn to marijuana to cope with everything going on in her life. *Id.* at 105–06. She testified that the ubiquity of marijuana use in the house was the primary driver of her use. *Id.* at 106. The Individual testified that due to the rental market and her owning a dog, she had difficulty finding new housing when the relationship ended but was eventually able to rent a room in a group house and leave her ex-boyfriend. *Id.* at 108. Her new roommates used

marijuana frequently, but the Individual's use decreased to only two to three times per month. *Id.* The Individual moved back to her parents' home in 2020. The Individual stopped using marijuana completely because she was no longer around marijuana and had healed enough from her injury to begin running again. *Id.* at 109. She testified that she realized her lifestyle was unhealthy and that drug use had become normalized for her because of how often people in her life used them. *Id.* at 110. During that time, she also read books and listened to podcasts about healthier ways to cope with stress. *Id.* at 108. The Individual began doing yoga and practicing meditation for stress management and did not feel the need to cope using marijuana. *Id.* at 110. She testified that she no longer associated with the aunt who provided her with marijuana. *Id.* at 107. When she returned to her house with roommates, the Individual resumed social marijuana use on occasion and believed it to be legal because her state had legalized marijuana use, first medical use and then recreational use. *Id.* at 111. She testified that she continued using marijuana socially because she wanted to fit in with her social group. *Id.* at 112.

The Individual testified that in September 2022 she had decided to stop using marijuana because she had moved out of a house with frequent marijuana users whose behaviors she considered "unhealthy and toxic." Tr. at 96. She also wanted to be able to get a job with employers who had anti-drug policies. *Id.* at 118–19. While living in her previous house, she had used marijuana two or three times per month and had purchased a marijuana cigarette one or two times from a dispensary. Tr. at 97; Ex. 5 at 1. At the time, her employer did not have anti-drug policies in place. Tr. at 97. She testified that it was common for her colleagues to smoke marijuana together after work, but she never joined them. *Id.* at 98.

The Individual testified that she tried mushrooms for the first time in July 2021, when she went camping with a coworker. Tr. at 112–13. Though she listed January 2023 in the QNSP as her last use, she had stated consistently in her investigation documents that she did not remember the exact month and that her last use happened in the winter of 2022 to 2023. Ex. 1 at 3; Ex. 5 at 2. She testified that the coworker offered them and she initially declined, but eventually, the coworker and the coworker's friends "talked me into having just a very small quantity. . . . [I]t was definitely what someone would consider a micro dose." Tr. at 113. Over a period of eighteen months, the Individual used a small amount of mushrooms with the same coworker two more times while out in nature. *Id.* at 112–13. She testified that she experienced slightly heightened senses and that she felt happier than normal for a short time after using mushrooms but stated that "it's not something that I care to do again. It was just kind of an experimental thing that one of my friends at the time was really about." *Id.* at 113. She testified that she now enjoyed nature without impairment and did not like to be unable to drive. *Id.* at 114. Regarding the use of mushrooms, she stated that she had "no interest in it It's just not worth it. And it was cool, but it's not something that I care to do again or that I think anyone needs to do to have a full life." *Id.* She testified that she was no longer friends with the coworker. *Id.* at 112.

The Individual testified that each time she had used cocaine, she had been pressured by those around her to do so. Tr. at 115–16. She testified that when she left her ex-boyfriend, she was very vulnerable and was trying to "navigate life post breakup." *Id.* She testified that the first time she used cocaine was with a friend from her college sports team. *Id.* at 115. She testified that she declined many offers from the friend to use cocaine and that the friend and the friend's associates used the drug frequently. *Id.* She testified that "[o]ne day I just caved and tried it with them." *Id.*

She testified that the second time she used cocaine was at the same friend's bachelorette party and that she used it because the bride wanted to do it with her. *Id.* The Individual testified that since she had already tried it once, it did not seem like a big deal anymore at the time. *Id.* The remaining three instances occurred with roommates who used drugs frequently. *Id.* at 115–16. She testified that she would go to a social event with her roommate and his friends would “talk me into it.” *Id.* at 116. Eventually she stopped socializing with the roommate because she did not like his drug use and she wanted her life to be different. *Id.* The Individual testified that cocaine made her feel “awful,” that she did not enjoy using it, and that “[i]t’s not a substance that I think anyone needs to do.” *Id.* at 117. She testified that she is no longer in contact with anyone who uses “hard drug[s].” *Id.* at 117.

She testified that in late 2022 she largely stopped using drugs. Tr. at 96, 117–19. When people pressured her to use drugs, she told them that she did not use drugs anymore because of a job search. Tr. at 119. She testified she simply did not want to do it anymore and that stopping was easy because she “didn’t care that much about any of it in the first place.” *Id.* at 118–19. Around that time, she learned that her employer was moving to a different state and that she would need to find a new job. *Id.* at 118–19. She also was beginning to see how toxic her behaviors had become after her relationship with the daily marijuana user. *I’d.* She committed to focusing on “bigger and better things.” *Id.* at 119.

The Individual testified that the last time she used marijuana was in February 2023 while a friend was visiting her. Tr. at 96. Each day, the friend pressured the Individual to consume edible marijuana with her and each day the Individual declined. *Id.* The Individual testified that she finally relented on the last night of her friend’s stay and ate a very small amount of the edible marijuana. *Id.* She testified that she did not feel any intoxication and that they stayed home and went to bed after watching a movie. *Id.* When completing her QNSP in May 2023, she testified, she omitted the February 2023 drug use for two reasons. *Id.* at 121. One reason was that she was embarrassed and feared that such a recent use would negatively affect her chances of being hired. *Id.* The other reason was that, at the time, she rationalized the omission by telling herself that it “didn’t count” because she had not sought the drug out and had not felt its effects. *Id.* In the six weeks between submitting the form and attending her enhanced subject interview, the Individual admitted to herself that “it counted,” regardless of how she felt, and that even though the odds of being caught were very low, she did not feel comfortable being dishonest. *Id.* at 121–22. At the interview, the interviewer went through the QNSP line by line and when asked when she had last used marijuana, the Individual informed the interviewer of the February 2023 incident. *Id.* at 124. She was not confronted with the information. *Id.* at 124–25. When the interviewer asked why she had omitted the information, she told him that she had been anxious because the drug use was so recent. *Id.* at 125. She testified that she had not properly listed the dates and amounts of cocaine and mushroom use because she genuinely could not remember them well. *Id.* at 131. She asserted that she had tried to be honest with the dates of her mushroom and cocaine use to the best of her ability and apologized for the discrepancies. *Id.* at 131–32. The Individual testified that at the time she decided to tell the truth about her marijuana use, she believed the interview was the first opportunity she would have to correct the record. *Id.* at 123.

The Individual testified that she is happier living a substance free life and that she did not want to return to drug use of any kind. Tr. at 117–18. She stated that she intends to abstain from all drug

use indefinitely. *Id.* at 126. She also entered into evidence a signed document stating that she intends to abstain from all unlawful substance use indefinitely and acknowledges that future substance use will result in termination of her security clearance. Ex. A. She testified that she had grown as a person and drug use was not consistent with who she had become. Tr. at 126. She felt happy that she had come forward about the February 2023 drug use but noted that consuming marijuana was not aligned with who she currently was. *Id.* at 127. She testified that she has “drawn a line between who [the Individual] used to be when she used drugs socially and used them to cope with different things versus who she is now, which is someone who doesn’t use those things and has other methods of coping.” *Id.* She testified that she is more selective about who she allows to be a part of her life and that she avoids drug users. *Id.* at 128. She also testified that she looks for friends at her current job, the gym, and her running group, which she felt were better places to find friends who do not use drugs. *Id.* She testified that if she finds out someone uses drugs, she will distance herself from them. *Id.* at 128–29. She testified that she used to be shy but now does not struggle to make friends. *Id.* at 129. She further testified that she has “built a good network of outdoorsy, fun people here who generally live a very substance free life.” *Id.* She testified that she started coaching high school sports in the fall of 2022 and, after moving to her current state, she started running ultra-marathons and volunteering with the local animal rescue. *Id.* at 131.

V. ANALYSIS

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government places a high degree of trust and confidence in individuals to whom it grants access authorization. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

The issue before me is whether the Individual, at the time of the hearing, presents an unacceptable risk to national security and the common defense. I must consider all the evidence, both favorable and unfavorable, in a commonsense manner. “Any doubt concerning personnel being considered for access for national security eligibility will be resolved in favor of the national security.” Adjudicative Guidelines ¶ 2(b). In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Because of the strong presumption against granting or restoring security clearances, I must deny access authorization if I am not convinced that the LSO’s security concerns have been mitigated such that granting the Individual’s clearance is not an unacceptable risk to national security.

A. Guideline H

Conditions that could mitigate Guideline H security concerns include:

- (a) The behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment;

- (b) The individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:
 - (1) Disassociation from drug-using associates and contacts;
 - (2) Changing or avoiding the environment where drugs were used; and
 - (3) Providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility;
- (c) Abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and
- (d) Satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Adjudicative Guidelines at ¶ 26. Condition (b) applies.

The Individual has admitted that her drug use was not only illegal, but harmful and “toxic” to her life. She expressed a sincere desire to leave that behavior in the past, so she can create a positive future for herself. The Individual was forthcoming about her February 2023 drug use and the reasons for her omission. She was also forthcoming about her most recent cocaine use, which, though not as recent, is arguably a more serious matter. Multiple witnesses who know her well credibly testified that the Individual does not use drugs of any kind. The Individual also testified about her triggers—stress and peer pressure—and the ways she handles them now—exercise, mindfulness, and being selective about the company she keeps. While she did use marijuana once in February 2023 after deciding to abstain, she has since remained abstinent for eighteen months, by far her longest stretch of abstinence since she began using drugs as a minor. It is also, due to the Individual’s young age, nearly a quarter of her adult life. Considering the whole of the Individual’s person as presented in the evidence and hearing testimony, I find her testimony that she has not used marijuana since February 2023 credible and find that she has established a pattern of abstinence.

The Individual has not only matured but has examined the behavior that led her to use drugs. She identified stress relief and a desire to fit in as triggers. She has successfully replaced marijuana with a variety of activities, including yoga, meditation, and running, to relieve her stress. Most importantly, she has chosen to avoid associating with people who use drugs. She has also committed to ending relationships with people if she discovers drug use about which she had been unaware. The Individual has become more outgoing and comfortable with who she is as a sober person and, based on her testimony and that of her boyfriend and the local friend, appears to make friends easily in healthy settings. The Individual has identified several such healthy settings where she is likely to make sober friends and also engages with her community in roles where drug use is not acceptable. I find that she has demonstrated that she has taken concrete steps to overcome her pattern of drug use.

Furthermore, Individual has provided a signed statement of intent to abstain from all drug involvement and substance misuse. Her statement acknowledged that future drug use will result in revocation of her security clearance. The Individual also no longer spends time with drug users and has distanced herself from family and former friends who use drugs.

For the foregoing reasons, I find that the Individual has mitigated the Guideline H concerns under condition (b).

B. Guideline J

Conditions that could mitigate Guideline J security concerns include:

- (a) So much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (b) The individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) No reliable evidence to support that the individual committed the offense; and
- (d) There is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Adjudicative Guidelines at ¶ 32. Conditions (a), (b), and (d) apply.

Regarding condition (a), the Individual has acknowledged that the behavior that led to her underage drinking ticket was wrong. She presented testimony from her boyfriend showing that she does not drink to excess. Moreover, it has been nearly ten years since her only alcohol related police interaction and, due to her age, she can no longer be cited for Minor In Possession. Her likelihood of using other substances is discussed in the analysis of other mitigating conditions, but as for alcohol use, I find that her underage drinking does not cast doubt on her present reliability, trustworthiness, and good judgment.

Regarding condition (b), as previously discussed, the Individual had great difficulty withstanding peer pressure when she was younger. This played a key role in her decisions to use drugs. The Individual has identified the desire to fit in as a trigger for drug use and has disassociated herself from those in her life who use drugs. She has also committed to spending time with sober friends. She has identified places where she is likely to meet such people and credibly testified to enjoying the sober activities she does with them. Furthermore, she has a strong support network of close friends who support her sobriety, as evidenced by the testimony of her witnesses. Accordingly, I find that the pressures that led the Individual to a large portion of her criminal drug use are no longer present in her life and, due to the steps she has taken, are unlikely to return in the future.

Regarding condition (d), the Individual has gone eighteen months without using any drugs. The Individual has committed to abstaining from criminal drug use in the future and has identified the steps she needs to take to avoid drug use. She has been involved in her community through

organized volunteer work and through strong relationships with her friends. As previously discussed, I find that the Individual has established a pattern of abstinence and is unlikely to use drugs in the future. Based on the evidence presented, I find that the Individual is rehabilitated from her tendency toward criminal drug use.

C. Guideline E

Conditions that could mitigate Guideline E concerns include:

- (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. Conditions (a) and (c) apply.

Regarding condition (a), the Individual corrected the omissions in her QNSP without being confronted with the information and did so at what she believed was her first chance to do so. Given the private nature of her February 2023 drug use, about which even her teammate who she remained close with did not know, I find credible her testimony that she believed there was a very low chance that her recent drug activity would be discovered, and indeed, the interviewer had not discovered it. While she initially deceived the investigators intentionally, she demonstrated a commitment to honesty by coming forward with the omitted information. Given the length of time since her last cocaine use, and the fact that she also disclosed that information without being confronted, I find credible her testimony that she did not remember all the details of her use of hard drugs. In addition to her forthrightness at the interview, the Individual has continued to grow and mature since her omission. Each of the Individual's witnesses testified to the Individual's honesty and trustworthiness. These statements are supported by their additional testimony that the

Individual is someone they come to when wrestling with a big decision and with whom they feel comfortable leaving their children. Based on the evidence presented, I find that the Individual promptly corrected her omissions before being confronted with the facts and that the Individual is unlikely to engage in intentional dishonesty in the future.

Regarding condition (c), the Individual received her underage drinking ticket nearly ten years before the hearing. She does not drink to excess, and there is no indication that alcohol has been a problem for her in the past. The Individual can no longer receive a Minor In Possession charge and has not had any other alcohol related charges. She has committed to abstaining from illegal substance use. Accordingly, I find that her criminal alcohol use has ceased for long enough that it no longer casts doubt upon the Individual's reliability, trustworthiness, judgment, and willingness to comply with rules and regulations.

VI. CONCLUSION

Upon consideration of the entire record in this case, I find that there was evidence that raised concerns regarding the Individual's eligibility for access authorization under Guidelines E, H, and J of the Adjudicative Guidelines. I further find that the Individual has succeeded in fully resolving those concerns. Therefore, I conclude that granting DOE access authorization to the Individual "will not endanger the common defense and security and is clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Accordingly, I find that the DOE should grant access authorization to the Individual.

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

Kristin L. Martin
Administrative Judge
Office of Hearings and Appeals