



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)	
)	
REDACTED)	ISCR Case No. 21-01136
)	
Applicant for Security Clearance)	

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel
For Applicant: *Pro se*

06/06/2022

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant has applied for some of her family members to immigrate to the United States from Iran, but it is not enough to fully mitigate the foreign influence security concerns. Clearance eligibility is denied.

Statement of the Case

On October 19, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline B, foreign influence. The SOR explained why the DCSA CAF was unable to find it clearly consistent with the interests of national security to grant or continue security clearance eligibility for her. The DCSA CAF took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG) effective within the DOD on June 8, 2017.

Applicant responded to the SOR on October 28, 2021, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On February 8, 2022, Department Counsel indicated the Government was ready to proceed to a hearing. On February 24, 2022, the case was assigned to me to determine whether it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant. I received the case file and assignment on March 1, 2022.

After some coordination with the parties, on April 8, 2022, I scheduled a video teleconference hearing to be held via Microsoft Teams on May 10, 2022. At the hearing, two Government exhibits (GE 1-2) and two Applicant exhibits (AE A-B) were admitted in evidence without any objections. Applicant testified, as reflected in a hearing transcript (Tr.) received on May 19, 2022.

The Government submitted a February 8, 2022 request for administrative notice concerning the Islamic Republic of Iran (Iran), which I marked as a hearing exhibit. (HE 1). The request for administrative notice was based on seven publications or issuances from the U.S. State Department; an April 9, 2021 threat assessment from the Office of the Director of National Intelligence; a March 5, 2021 White House briefing; a November 5, 2018 press release from the U.S. Treasury Department; three reports from the U.S. Justice Department of criminal activity aiding Iran; Executive Order 13846, dated August 6, 2018; and laws and issuances from the U.S. Homeland Security Department and the U.S. Customs and Border Patrol regarding the U.S. Visa Waiver Program. Applicant confirmed that she received the Government's request for administrative notice with extracts of the source documents, and she had no objection to any of the facts proposed for administrative notice. She declined an opportunity to propose administrative facts of her own concerning Iran and its relationship with the United States.

Pursuant to my obligation to take administrative notice of the most current political conditions in evaluating Guideline B concerns (see ISCR Case No. 05-11292 at (App. Bd. Apr. 12, 2007)), I informed the parties of my intention to take administrative notice of the facts requested by the Government with respect to Iran, subject to the reliability of the source documentation and the relevance and materiality of the facts proposed. Additionally, I informed the parties of my intention to review for administrative notice purposes the U.S. State Department's 2021 Country Reports on Human Rights Practices: Iran, which was issued on April 12, 2022. The most salient facts administratively noticed are set forth in the factual findings below.

Findings of Fact

The SOR alleges that Applicant's parents and her siblings (three sisters and three brothers) are resident citizens of Iran (SOR ¶ 1.a) and that her three brothers had served in the Iranian Army (SOR ¶ 1.b). Applicant admitted the allegations, but explained that her brothers were conscripted into mandatory military service in Iran some 18, 15, and 10 years ago, respectively. After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 41-year-old dual citizen of her native Iran and of the United States since her naturalization in September 2017. She renewed her Iranian passport in June 2017 for another five years. In September 2017, she obtained her U.S. passport. She has never married and has no children. She has been in a cohabitant relationship with an Iranian citizen since July 2016. Her cohabitant, who has U.S. permanent residency status valid to July 2028, plans on applying for U.S. citizenship when he is eligible in 2023. (GE 1; Tr. 39-40.)

Applicant earned her bachelor's degree in Iran in July 2002. After two years of study at an Iranian university of science and technology, she earned her master's degree in December 2004. (GE 1.) Applicant did not have to pay for her education. Top-tier Iranian universities are free to individuals who meet the academic entry standards tested by examination. (Tr. 29-30.)

Applicant applied to pursue a doctorate degree in Canada and the United States. She received an offer of admission from a university in Canada first, but funding for her doctorate was delayed a semester. Applicant accepted an offer of admission, which included funding, to a doctorate program at a private university in the United States. After traveling to Cyprus in the summer of 2006 for a visa, she came to the United States in September 2006. She obtained her academic documentation from the Iranian university, which she needed for her student visa for the United States. To her knowledge, she had no obligation to inform the Iranian government of her intention to study in the United States, and she did not do so. (Tr. 30-32.) At the time, she intended to earn her doctorate degree, "explore the world and see, maybe get back to [her] family." (Tr. 49.) After a couple of years, with the situation in Iran worsening, she decided to remain in the United States and bring her family to the United States. (Tr. 49.)

In September 2010, Applicant earned her doctorate degree in the field of electromagnetics. (GE 1.) After about three months as a post-doctorate research fellow, Applicant volunteered with her research team at the U.S. university from December 2010 to April 2011. She then worked as a senior systems engineer for a U.S. company from June 2011 to June 2013, when she was laid off. After several months of unemployment, she relocated in February 2014 for a job as a principal scientist with a large U.S. energy company. In June 2016, she resigned from that employment and returned to her previous locale for a new job as a system engineer in the U.S. office of a French company. In June 2019, she commenced her present employment as a senior member of the technical staff for a laboratory that contracts with the DOD. (GE 1.) The laboratory hired Applicant knowing that she holds dual citizenship. (Tr. 33.)

Seeking her first DOD security clearance, Applicant completed and certified as accurate a Questionnaire for National Security Positions (SF 86) on May 28, 2019. She disclosed her dual citizenship; her possession of U.S. and Iranian passports; her use of her Iranian passport to enter Iran to see family members annually from 2012 to 2017; her cohabitation with an Iranian citizen; her foreign travel, including that she had an upcoming trip to Iran in June 2019 to see her family before starting her new job; her bank accounts in Iran, which she closed in 2008; and her voting in Iran's 2017 presidential election before

her U.S. naturalization. She listed her parents' and siblings' Iranian residency and citizenship; her siblings' employers in Iran; and the frequency of her contacts with her family members in Iran. In response to an SF 86 inquiry concerning any sponsorship of a foreign national in the last seven years, she commented that she wanted to sponsor her parents and siblings for U.S. permanent residency in the future. (GE 1.)

On July 10, 2019, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant indicated that she was willing to renounce her Iranian citizenship if required, but that she did not think it possible because "once born in Iran you are always a citizen of Iran." Applicant's current U.S. passport (valid to September 28, 2029), current Iranian passport (valid to June 26, 2022), and two previous Iranian passports were reviewed. Her current Iranian passport reflected trips to Iran from March 31, 2018 to April 18, 2018; December 14, 2018 to January 1, 2019, which was with her cohabitant (Tr. 37-38); and June 3, 2019 to June 20, 2019. Applicant explained that she had to renew her Iranian passport to travel to Iran to see her family, and so she intends to continue renewing her Iranian passport. About her relatives in Iran, Applicant clarified that her three brothers had served 18 months of mandatory service in Iran's Army but are no longer affiliated with a foreign government, military, security, defense, or intelligence service. She had not experienced any requests for information or threats from a foreign entity and had no issues when traveling to Iran. She volunteered that she had voted in an Iranian election in June 2013, which she had forgotten about when she completed her SF 86. (GE 2.)

On August 1, 2019, Applicant was contacted by telephone for additional information, including about the nature of her relationship with her cohabitant; her contacts with her family members in Iran; and her reason for voting in Iran's election in 2017. Applicant described her relations with her foreign cohabitant as a domestic partnership, and she indicated that she had informed her employer of this relationship. She explained that she is very close to her parents and siblings in Iran. She contacted her parents weekly and her siblings monthly to quarterly. She had notified her employer's security department about her foreign contacts. (GE 2.)

Salient details about Applicant's relatives in Iran, as disclosed on her SF 86 (GE 1) and during her hearing (Tr. 25-27, 40-48, 50-55), are reflected in the following table.

Relation	Occupation	Frequency and means of Contact
Father, age 83	Retired; was a teacher in Iran	Weekly by telephone
Mother, age 68	Never worked outside the home	Weekly by telephone
Sister 1, age 52; married; one daughter	Educator, high school principal in Iran; spouse works as manager at a private telecommunications company	Monthly by telephone and electronic means

Sister 2, age 48; single	Professor at a public teacher training university in Iran	Quarterly by telephone and electronic means
Sister 3, age 45; married; one son age 7	Physician at a public Iranian hospital; spouse physician for a couple of hospitals	Quarterly by telephone and electronic means
Brother 1, age 44; married ; two daughters ages 5 and 9	Electrical engineer for a private telecommunications firm in Iran; completed 18 months of mandatory military service for Iran 18 years ago; spouse does not work outside the home	Quarterly by telephone and electronic means
Brother 2, age 39; single	English teacher at a language school in Iran; currently pursuing his master's degree in engineering in Iran; completed 18 months of mandatory military service for Iran 15 years ago	Monthly by telephone and electronic means
Brother 3, age 34; married; no children	Computer engineer at a public medical clinic in Iran; completed 18 months of mandatory military service for Iran 10 years ago; spouse runs a private high school	Quarterly by telephone and electronic means

In 2019, Applicant sponsored her parents and siblings to immigrate to the United States. (Tr. 25.) The U.S. Citizenship and Immigration Service (USCIS) received their petitions on December 28, 2019. (AE A.) On May 11, 2020, the USCIS approved Brother 2's petition. Her father's petition was approved on November 30, 2020. (AE B.) Applicant is awaiting notification from U.S. visa processing authorities as to when she can submit the necessary paperwork for Brother 2's visa. (Tr. 25-26.) The process of review for her relatives was delayed because of COVID-19, but her mother's petition is under active review. (Tr. 26.) If her mother is approved for immigration within the next few months, Applicant plans to apply for visas for her parents to come to the United States together. (Tr. 26, 48.) If she does not obtain approval for her mother's immigration by that time, Applicant plans to apply for a visa for her father to come alone because of his elderly age. (Tr. 49.)

Applicant's cohabitant's immediate family (mother and one brother) are U.S. resident citizens. He has extended family in Iran, and they live in the same city as Sister 2. Applicant went directly to see her parents and had no contact with any of her cohabitant's family when they traveled together to Iran in December 2018. He shared his time between his extended family and her family. (Tr. 40.)

Regarding her brothers' former military service in Iran, Applicant explained that they had to complete that service to work, get married, and obtain a passport in Iran. (Tr. 28.) With the exception of Sister 2, her siblings as well as her parents live in the same city in Iran. (GE 1.) Applicant usually travels annually to her hometown in Iran to see her immediate family, including Sister 2 who comes from her city in Iran so they can all be together. (Tr. 34.) Applicant has not been asked any unusual questions by Iranian officials on her entry, during her stay, or on her exit from Iran. (Tr. 34.) Applicant traveled to Iran in October 2020, when her mother was ill with COVID-19, and most recently in August 2021, when her father was seriously ill with COVID-19. He was hospitalized in an intensive care unit for three weeks. (Tr. 35-36.) Applicant notified her employer of her trips prior to departing and was interviewed about her trips by security personnel at work on her return. She uses her U.S. passport whenever she enters or exits the United States. She uses her Iranian passport to enter and exit Iran. She uses her U.S. passport when traveling to countries other than Iran. (Tr. 35.) As to whether she intends to renew her Iranian passport, which is scheduled to expire in June 2022, Applicant testified at her hearing, "I guess so." She further testified that she could travel to Iran on her U.S. passport but it would not be easy to get a visa. Additionally, she testified that, instead of traveling to Iran, she might meet her family in Turkey. She would not need a visa on her Iranian passport but she would need a visa on her U.S. passport to enter Turkey. (Tr. 55-57.)

Applicant considers herself to be an American. She has no ties to Iran apart from her family. (Tr. 26.) Applicant purchased her first home in the United States in September 2016. (GE 1.) She and her cohabitant purchased their current residence in January 2021. (Tr. 51, 59.) Applicant has a 401K and retirement assets in her employer-sponsored program. (Tr. 51.) Her cohabitant has his own pension plan through his work as an electrical engineer with a U.S. manufacturer of audio equipment. (Tr. 39, 51-52.)

Applicant's manager has been able to find work for Applicant that does not require access to classified information. Applicant has been led to believe she will not be terminated if she is not granted clearance eligibility. However, there have been programs that could have benefitted from her expertise if she had a clearance. (Tr. 33.)

Administrative Notice

Those facts set forth in the Government's requests for Administrative Notice concerning Iran are adopted and incorporated in this decision. In addition, I have considered the salient facts set forth in the U.S. State Department's human rights report for 2021 concerning Iran, which was not included in the Government's request. A short summary of relevant facts for administrative notice follows:

Iran is an authoritarian theocratic republic with a Shia Islamic political system. Shia clergy, most notably the supreme leader Ayatollah Ali Khamenei, and political leaders vetted by the clergy, dominate key power structures in Iran. The supreme leader holds constitutional authority over the judiciary, government-run media, and other key institutions, including all security agencies. The United States has imposed restrictions on activities with Iran since 1979, following the seizure of the U.S. Embassy in Tehran. Iran was designated

by the United States as a state sponsor of terrorism in 1984. In 2019, the United States Secretary of State designated the Islamic Revolutionary Guard Corps (IRGC) as a foreign terrorist organization. Iran uses the IRGC Qods Force to provide support to terrorist organizations, provide cover for covert operations, and create instability in the region. In 2020, Iran supported various Iraqi Shia terrorist groups, including the Kata'ib Hezbollah Harakat al-Nujaba whose March 2020 rocket attack killed three members of Defeat-ISIS Coalition forces, including two U.S. service members. Through financial or residency entitlements, Iran has facilitated and coerced Shia fighters from Afghanistan and Pakistan to participate in the Assad regime's brutal crackdown in Syria. Iran also provided support to Hamas and other designated Palestinian terrorist groups that were behind deadly attacks in Gaza and the West Bank. Iran has continued to provide weapons, support, and training to militant groups in Bahrain and Yemen. In December 2021, the U.S. Navy seized approximately 1,400 AK-47 assault rifles and ammunition from a vessel bound from Iran to the Houthis in Yemen.

As of April 2021, the U.S. intelligence community's assessment was that Iran will present a continuing threat to U.S. and allied interests in the region as it tries to erode U.S. influence and support Shia populations abroad; entrench its influence and project power in neighboring states; deflect international pressure; and minimize threats to regime stability. Despite Iran's deteriorating economy due in part to U.S.-imposed nuclear-related sanctions, the intelligence community expects that Iran will take risks that could escalate tensions and threaten U.S. and allied interests.

Iran's expertise and willingness to conduct aggressive cyber operations make it a significant threat to the security of U.S. and allied networks and data. Iran has the ability to conduct attacks on critical infrastructure and conduct influence and espionage activities. In February 2019, a former U.S. counterintelligence agent was charged with espionage for allegedly disclosing the code name and classified mission of a DOD special access program to representatives of Iran's government. In September 2020, two Iranian nationals with political motivations or acting at the behest of Iran were charged with a coordinated cyber intrusion campaign in the theft of hundreds of terabytes of data which included confidential communications pertaining to national security, foreign policy intelligence, non-military nuclear information, aerospace data, and human rights activist information. In November 2020, the United States seized 27 domain names that Iran's IRGC unlawfully used to further a global covert influence campaign. Iranian cyber actors in December 2020 disseminated misinformation about U.S. election officials in an attempt to undermine confidence in the U.S. election.

Significant human rights issues in Iran in 2020 and 2021 included credible reports of: unlawful or arbitrary killings, including extrajudicial killings by the government and its agents, including executions for crimes not meeting international legal standards for most serious crimes and for crimes committed by juvenile offenders; forced disappearances by the government; torture and cruel, inhuman, and degrading treatment or punishment by the government; harsh and life-threatening prison conditions; arbitrary arrest and detention; politically motivated imprisonment and reprisals; illegal killings, kidnappings, or violence; and lack of judicial independence, particularly in the revolutionary

courts. Iran also abused the rights of its citizens by unlawful interference with privacy; serious restrictions on free expression and media, including violence or threats of violence and unjustified arrests and prosecutions against journalists; censorship and serious restrictions on Internet freedom; substantial interference with the freedom of peaceful assembly and freedom of association; severe restrictions on religious freedom; inability of citizens to change the government through free and fair elections; serious and unreasonable restrictions on political participation; serious government corruption; serious government restrictions on or harassment of human rights organizations; lack of accountability for violence against women; trafficking in persons; unlawful recruitment of child soldiers; and violence against ethnic minorities. The Iranian government took few steps to identify, investigate, prosecute, and punish officials who committed human rights abuses or corruption. Impunity remained pervasive throughout all levels of government and security forces.

The U.S. government does not have diplomatic or consular relations with Iran. In March 2021, U.S. President Biden continued for another year the national emergency declared in March 1995 with respect to Iran as the country continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. The U.S. State Department currently warns against any travel to Iran due to the risk of kidnapping and the arbitrary arrest and detention of U.S. citizens. Iranian authorities continue to unjustly detain and imprison U.S. citizens, particularly dual national Iranian-Americans, including students, journalists, business travelers, and academics, on spurious charges including espionage and posing a threat to national security. Iranian authorities routinely delay consular access to detained U.S. citizens and consistently deny consular access to dual U.S.-Iranian citizens.

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant’s eligibility for access to classified information. 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. The administrative judge’s overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security

eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

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 reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of EO 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B: Foreign Influence

The security concern relating to the guideline for foreign influence is articulated in AG ¶ 6:

Foreign contacts and interests, including but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way that is inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

Applicant’s parents and siblings are Iranian resident citizens. Her three brothers served mandatory military service in Iran’s Army. Review of Applicant’s contacts and connections to these foreign citizens are warranted to determine whether they present a heightened risk under AG ¶ 7(a) or create a potential conflict of interest under AG ¶ 7(b). Those disqualifying conditions provide:

(a) contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology.

Not every foreign contact or tie presents the heightened risk under AG ¶ 7(a). The "heightened risk" denotes a risk greater than the normal risk inherent in having a family member or a spouse's family member living under a foreign government. The nature and strength of the family ties or other foreign interests and the country involved (*i.e.*, the nature of its government, its relationship with the United States, and its human rights record) are relevant in assessing whether there is a likelihood of vulnerability to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government; a family member is associated with, or dependent on, the foreign government; or the country is known to conduct intelligence operations against the United States. In considering the nature of the foreign government, the administrative judge must also take into account any terrorist activity in the country at issue. *See generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006).

There is no evidence that Applicant's family members in Iran have engaged in any activities contrary to U.S. interests or that they have been targeted or pressured. However, Iran and the United States have not had good relations since 1979, when the U.S. Embassy was taken over and several of its staff were taken hostage. The United States has been in a state of national emergency with respect to Iran since March 1995 due to the extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of Iran's government. Iran has been designated by the United States as a state sponsor of terrorism. Iran continues to conduct cyberattacks against U.S. targets and interests to obtain sensitive information and attempt to destabilize the United States through election interference. AG ¶¶ 7(a) and 7(b) apply.

The Appeal Board held in ISCR Case No. 06-18918 at 2 (App. Bd. May 23, 2008), citing ISCR Case No. 07-00029 at 3 (App. Bd. Dec. 7, 2007), that "an applicant with family members living in a country hostile to the U.S. bears a 'heavy burden' in demonstrating that those family members do not pose a security risk." Four mitigating conditions under AG ¶ 8 warrant some discussion in this case. They are:

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest;

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation; and

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country.

Regarding AG ¶ 8(a), there is nothing about the occupations of Applicant's family members in Iran, or their spouses for that matter, that engenders particular concern. While Applicant's three brothers served in Iran's Army, their service did not extend beyond the mandatory 18 months and occurred sufficiently long ago to not raise current security concerns. None of her family members works directly for Iran's government. Brother 1 is an electrical engineer with a private telecommunications company. Brother 2 previously worked as an English language teacher. He is now pursuing his master's degree in Iran in electrical engineering, but he has been vetted positively for immigration by the USCIS. Brother 3 is employed as a computer engineer at a public medical clinic. Applicant's Sister 1 is a high school principal; Sister 2 is a professor at an Iranian public university; and Sister 3 is a physician at a public hospital. Her siblings are educated and accomplished. It is conceivable that pressure or coercion could be placed on them to obtain sensitive or classified information from Applicant. Iran has exhibited little concern for human rights in several significant aspects and sponsors terrorist activity. AG ¶ 8(a) cannot reasonably apply.

Applicant presents some evidence of mitigation under AG ¶ 8(b). There is no evidence that she has any loyalty to her native Iran. Her decisions to live and work in the United States rather than return to Iran after she earned her doctorate degree; to obtain U.S. citizenship; and to apply for U.S. immigration for her parents and siblings are consistent with allegiance to the United States. She has owned a home in the United States since 2016 and has no financial assets in Iran. These actions are objective evidence that lend substantial credibility to her assertion that she has no allegiance to Iran. At the same time, she retains some ties to Iran in her renewal and retention of an Iranian passport so that she can travel to Iran to see her family members. She intends to renew her Iranian passport, which is scheduled to expire in June 2022, to avoid having to obtain a visa if she meets her family in Turkey, or for a future trip to Iran where it might be very difficult to obtain a visa. While her ongoing possession of an Iranian passport is reflective of her admittedly close ties to her family members in Iran and not of a preference for Iran, it is a means by which Iranian authorities could impose pressure or obligations. At a minimum, it alerts Iran of her entry into the country. While in Iran, Applicant's activities

could be tracked without her knowing. Applicant has traveled to Iran annually over the years to see her parents and siblings, including as recently as August 2021, when her father was seriously ill. It is conceivable that pressure could be brought to bear on Applicant either directly on a future trip to Iran or indirectly through her family members in Iran. Applicant testified credibly that she notified her employer of her trips to Iran, but that is not enough to mitigate the risk of undue foreign influence in this case. Such notification of her travel to Iran is evidence of her willingness to comply with reporting requirements under AG ¶ 8(e), but it has no impact on the actions of Iranian authorities. Iran is reported to unjustly detain and imprison U.S. citizens, particularly dual national Iranian-Americans, on spurious charges, and Applicant's area of expertise could be of use to the Iranian government.

AG ¶ 8(c) does not apply. Applicant's contacts and communications with her family members are neither casual nor infrequent. She contacts her parents weekly and her siblings monthly or quarterly. Her close, continuing contacts with her parents and siblings in Iran show her good character, but they also make it more likely that she could be placed in a position of having to choose between them and the interests of the United States. Her ties to the United States, established over only the last 10 to 11 years, are not enough to fully mitigate the risk of undue foreign influence.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of her conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(d). Those factors are as follows:

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

In foreign influence cases it must be acknowledged that people act in unpredictable ways when faced with choices that could be important to a family member. As reiterated by the Appeal Board in ISCR Case No. 19-01688 at 5 (App. Bd. Aug. 10, 2020), "Application of the guidelines is not a comment on an applicant's patriotism but merely an acknowledgment that people may act in unpredictable ways when faced with choices that could be important to a loved-one, such as a family member." Moreover, in evaluating Guideline B concerns, the Appeal Board has held that:

Evidence of good character and personal integrity is relevant and material under the whole person concept. However, a finding that an applicant

possesses good character and integrity does not preclude the government from considering whether the applicant's facts and circumstances still pose a security risk. Stated otherwise, the government need not prove that an applicant is a bad person before it can deny or revoke access to classified information. Even good people can pose a security risk because of facts and circumstances not under their control.

Applicant has acted consistent with U.S. interests in many aspects of life over which she has control. In some cases, such as voting in Iranian elections in 2013 and 2017 while living in the United States, and possessing and using an Iranian passport, she exercised her Iranian citizenship. Applicant is likely to travel to Iran in the future on her Iranian passport to see her family members. The U.S. State Department reports that Iranian authorities continue to unjustly detain and imprison dual nationals who travel to Iran. Moreover, it is conceivable that undue pressure could be placed on one or more of her family members in Iran were Iranian authorities to learn of her work for a U.S. defense contractor, especially if she had classified access.

An unacceptable risk of undue foreign influence persists in light of her close familial relations in Iran. The decision to grant or deny security clearance eligibility is not a one-time assessment. Should Applicant succeed in her efforts to bring her family members to the United States, she may be able to overcome the security concerns at some future date. However, based on the evidence before me, I am unable to conclude that it is clearly consistent to grant Applicant eligibility for a security clearance at this time.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant

Conclusion

In light of all of the circumstances, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge