



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



In the matter of:)	
)	
)	ISCR Case No. 23-01292
)	
Applicant for Security Clearance)	

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel
For Applicant: Carl Marrone, Esq.

06/06/2025

Decision

GARCIA, Candace Le'i, Administrative Judge:

Applicant mitigated the foreign influence security concerns, but she did not mitigate all the security concerns involving psychological conditions. Eligibility for access to classified information is denied.

Statement of the Case

On July 11, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline I (Psychological Conditions) and Guideline B (Foreign Influence). The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by DOD on June 8, 2017.

Applicant responded to the SOR (Answer) on November 6, 2023, and requested a hearing before an administrative judge. The case was assigned to me on May 3, 2024. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on June 26, 2024, scheduling a video teleconference hearing for August 6, 2024. On July 30, 2024, I granted Applicant's request for a continuance of her hearing. DOHA issued another notice of hearing on August 2, 2024, rescheduling the hearing for October 29, 2024. I convened the hearing as rescheduled.

I marked Department Counsel's discovery letter and exhibit list as Hearing Exhibits (HE) I and II. Department Counsel requested that I take administrative notice of information pertaining to the Islamic Republic of Iran (Iran). I marked the request and accompanying source documents as HE III. Over Applicant's objection, I took administrative notice of the facts about Iran contained in HE III. I marked Applicant's exhibit and witness lists as HE IV. Government Exhibits (GE) 1-3 and 5 were admitted in evidence without objection. I sustained Applicant's objection to GE 4, which is an unauthenticated May 2021 report of investigation (ROI) compiled by the authorized DOD investigator who conducted Applicant's background interview, and GE 4 was not admitted in evidence. Applicant's Exhibits (AE) A-L were included in her Answer and AE M-N were admitted in evidence without objection.

Applicant testified and called three witnesses. At Applicant's request, I kept the record open until December 2, 2024, to allow her the opportunity to submit additional documentation. By that date, she submitted documentation that I marked as AE O-P and admitted in evidence without objection. DOHA received the hearing transcript (Tr.) on November 6, 2024.

Administrative Notice

I have taken administrative notice of facts about Iran contained in HE III, which are summarized below.

Iran is an authoritarian theocratic republic with a Shia Islamic political system based on *velayat-e faqih* (guardianship of the jurist). Shia clergy, most notably the *rahbar* (supreme leader), and political leaders vetted by the clergy dominate key power structures. The supreme leader is the head of state and holds constitutional authority over the judiciary, government-run media, and other key institutions. Ayatollah Ali Khamenei has held the position since 1989. Neither the 2021 presidential elections nor the 2020 parliamentary elections were considered free and fair.

The U.S. Department of State has issued a Level 4 travel advisory for Iran, advising U.S. nationals not to travel to Iran due to the risk of kidnapping and the arbitrary arrest and detention of U.S. citizens. U.S. travelers are further advised to exercise increased caution due to wrongful detentions. U.S. citizens visiting or residing in Iran have been kidnapped, arrested, and detained on spurious charges. Iranian authorities continue to

unjustly detain and imprison U.S. nationals, particularly dual national U.S.-Iranian nationals, including students, journalists, business travelers, and academics, on charges including espionage and posing a threat to national security. Iranian authorities routinely delay consular access to detained U.S. nationals and consistently deny consular access to dual U.S.-Iranian nationals. The U.S. Government does not have diplomatic or consular relations with Iran and is unable to provide emergency services to U.S. citizens in Iran.

According to the U.S. Department of State 2021 Country Reports on Terrorism, Iran continued to be the leading state sponsor of terrorism, facilitating a wide range of terrorist and other illicit activities around the world. Designated as a State Sponsor of Terrorism in 1984, Iran continued its support for terrorist-related activity in 2021, including support for Hizballah, Palestinian terrorist groups in Gaza, and various terrorist and militant groups in Iraq, Syria, Bahrain, and elsewhere throughout the Middle East. Iran used the Islamic Revolutionary Guard Corps-Qods Force (IRGC-QF) to provide support to terrorist organizations, provide cover for associated covert operations, and create instability in the region. In 2019, the Secretary of State designated the IRGC, including the IRGC-QF, as a Foreign Terrorist Organization.

When acquired by nation-state adversaries, advanced technologies can be used in new or novel ways to enhance their military capabilities or support mass surveillance programs that enable human rights abuses. Although they can have important commercial uses, technologies in these fields can threaten U.S. national security when used by adversaries for disruptive purposes. A recent example of Iranian export control issues occurred in October 2023, when the U.S. Departments of Justice, Commerce, State, and Treasury issued an advisory to alert the international community, private sector, and the public to the threat posed by Iran's ballistic missile procurement activities. The advisory informed private industry of deceptive practices used by Iranian ballistic missile procurement networks, Iran's ballistic missile-related activities, key goods sought by Iran's missile program, and relevant U.S. sanctions and export control authorities.

Significant human rights issues in Iran included credible reports of unlawful or arbitrary killings by the Iranian government and its agents; forced disappearance attributed to the government and its agents; torture or other cruel, inhuman, or degrading treatment or punishment by the government and its agents; arbitrary arrest or detention; harsh and life-threatening prison conditions; political prisoners and detainees; transnational repression against individuals in another country; serious problems with the independence of the judiciary; arbitrary and unlawful interference with privacy; punishment of family members for offenses allegedly committed by an individual; serious abuses in a conflict; severe restrictions on freedom of expression; serious restrictions on internet freedom; substance interference with the freedom of peaceful assembly and freedom of association; severe restrictions on religious freedom; inability of citizens to change their government peacefully through free and fair elections; serious and unreasonable restrictions on political participation; serious government corruption; serious government restrictions on or harassment of domestic or international human

rights organizations; lack of meaningful investigation of and accountability for gender-based violence; violence against ethnic minorities; crimes, violence, or threats of violence motivated by antisemitism; trafficking in persons; crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, and intersex persons; criminalization of consensual same-sex sexual conduct between adults and enforcement of such laws; significant restrictions on workers' freedom of association; and the worst forms of child labor.

Findings of Fact

In her Answer, Applicant admitted all the SOR allegations but denied that SOR ¶¶ 1.a-1.d constitute an appropriate basis to revoke her clearance. She is 35 years old. She graduated from high school in 2008 and attended college in 2013 and 2015 but did not earn a degree. She has earned various certifications. (GE 1-3; AE G-H)

Applicant resided in state A from May 2013 to November 2017. She then moved to state B and resided in city 1 until January 2021 and then in city 2 until May 2024. She then moved back to state A where she lives with her family pending the outcome of her security clearance application. (GE 1-3; Tr. 20, 27, 75, 77-78; AE G-H)

Applicant married in 2009, divorced in 2014, and remarried in March 2020. Her spouse moved to state C in August 2023. They are not legally separated, but she intends to petition for divorce, as further discussed below. She does not have any children. (GE 1-3; Tr. 20-22, 24, 27, 39, 78-80, 126-128, 130; AE A-C, M-N)

Applicant served honorably in the U.S. military on active duty from May 2008 to April 2013 and in the Reserve from April 2013 to March 2016. She deployed twice to Afghanistan, in 2009 and 2012. She has worked primarily for various defense contractors since approximately May 2013, except for two periods of unemployment from March 2017 to July 2017 and December 2020 to February 2021. She has worked for her current employer, a defense contractor, since approximately April 2022. She was first granted a clearance in 2008 and she held one as of the date of the hearing. (GE 1-3, 5; Tr. 5-6, 42-44, 49-55, 58, 77, 131; AE H)

Guideline I, Psychological Conditions

In approximately 2008 while serving in the U.S. military, Applicant was a victim of sexual assault. (Tr. 44-49, 74-75) She declined to prosecute when the U.S. military's investigation concluded because, "[I]t was just very overwhelming, and I just, I felt guilty for putting myself in that situation, and I just didn't want the person to get in trouble, so I just dropped it." (Tr. 46-47) She further stated, "[G]etting raped is very, it's bad, and it's just something that you just don't want to deal with. So I think I just blocked that out from my mind, like ever since. And, obviously, to this day, I haven't truly, like, dealt with it." (Tr. 48)

In 2009, Applicant attempted suicide when she took over-the-counter Tylenol pills after an argument with her then-boyfriend who later became her first spouse. He stopped her. She testified she did not know her intent, but she did not want to die and she was unsure whether she was trying to scare him. (Tr. 47-49, 72, 84, 121, 130-131; AE P, pp. 483-493, 578-592, 702)

During Applicant's first deployment, her best friend at the time who was also deployed, reported her fear for Applicant's safety to the unit chaplain. Applicant's roommate was consequently assigned to her for one week as a battle buddy, to ensure Applicant was not alone. Nothing further ensued. (Tr. 51-54) Medical records excerpts reflect, "[w]hile deployed in 2010 [Applicant] had plan of suicide by gun but never had actions." (AE P, p. 702) During both deployments, Applicant went to behavioral health because stress from her relationships and work were affecting her mental and physical health. She was not hospitalized as an inpatient while serving in the U.S. military. (Tr. 51-52, 54-55, 83-87, 105-107, 108-109)

Applicant was diagnosed by the U.S. Department of Veterans Affairs (VA) with Military Sexual Trauma (MST) in approximately 2013. (Tr. 57-59) She stated, "I've only ever gotten care for my mental health through the VA system." (Tr. 58) She tries to suppress the memory of her sexual assault and described her MST symptoms as depression, in that she feels "sad." (Tr. 58-59, 88) In 2016, she received a VA disability rating of 90%, of which 70% is for Post-Traumatic Stress Disorder (PTSD) with depression. (Tr. 87-88, 105-109)

In 2017, when Applicant was suffering from depression, she took Family and Medical Leave Act (FMLA) leave from her then-employment for approximately 90 days. Although she could not recall the specific date in which she was diagnosed with depression, she had been receiving treatment for depression since approximately December 2016. She attributed her depressive symptoms to her MST and her transition in 2013 to civilian life from the U.S. military. While on FMLA leave, she did not have to report to work. At the conclusion of her FMLA leave, not only was she not ready to return to work but also her primary care provider recommended she extend her FMLA leave. Her then-employer refused to hold her position past the required FMLA leave time limit, and her contract ended. She did not recall being written up or being terminated for cause. (SOR ¶ 1.a; Answer; Tr. 55-62, 75, 88-93, 105-109, 121-122)

Applicant admits she was diagnosed with Borderline Personality Disorder (BPD) and believes she has BPD. (Tr. 62-63, 92-98, 122) In "Section 21 - Psychological and Emotional Health" of her March 2021 and June 2022 security clearance applications (SCAs), she disclosed she was diagnosed with BPD in August 2020. (SOR ¶ 1.b; Tr. 70; GE 2-3) She stated she was under the care of a health care professional at a Veterans Affairs Medical Center (VAMC) in state B, city 1. (GE 2-3)

Applicant also marked “Yes” in Section 21 of her 2022 SCA to the question titled “Altered Treatment.” It inquired, “In the last seven years, have there been any occasions when you did not consult with a medical professional before altering or discontinuing, or failing to start a prescribed course of treatment for any of the listed diagnoses?” She stated, “I ran out of medication after I moved to [city A] last year, and I have been off the medication for close to a year now.” (SOR ¶¶ 1.b, 1.c; GE 2-3) She acknowledged having stopped seeing her various mental health providers and taking her prescribed medications at various periods of time, which she attributed to not having a good connection with certain medical providers over the years. (Tr. 63-67, 92-105)

Excerpts of medical records Applicant provided reflect she received treatment from the VAMC in state B, city 1, from approximately June 2020 to February 2021. She then received treatment from the VAMC in city A from approximately February 2021 to May 2023. (Tr. 88-105, 107-108, 124-126; AE P) At the VAMC in state B, city 1, she was under the care of several medical professionals, to include the individual she listed in her 2021 and 2022 SCAs. On June 2, 2020, a clinical psychologist (PSYCH 1) conducted psychological testing and diagnosed her as follows:

DIAGNOSIS (per [Diagnostic and Statistical Manual of Mental Disorder, Fifth Edition] (DSM-5) criteria, per history):

[BPD]

Dependent Personality Disorder

Major Depressive Disorder [MDD], moderate, recurrent, with current episode, without psychotic features, with anxiety

Other Trauma-Related Disorder, unspecified

Other Eating Disorder, unspecified

Alcohol Use Disorder, mild (AE P, pp. 727-731)

Medical records from a June 2, 2020 psychological assessment reflect Applicant reported having had suicidal thoughts without a plan two to three weeks prior, and her last such thought with a plan was in 2017 when she considered shooting herself without intent. (AE P, p. 730) Records further disclose the following BPD factors were noted for Applicant in a June 16, 2020 mental health consult: pervasive pattern of instability in relationships, self-image, and affect; marked impulsivity beginning by early adulthood; frantic efforts to avoid real or imagined abandonment – may say to husband “what is the point of living” if he brings up divorce; unstable and intense relationships, fluctuating between idealization and devaluation; marked and persistent unstable self-image or sense of self; at least two self-damaging impulsive behaviors – purges without bingeing, has had a series of impulsive sexual encounters, and alcohol abuse; recurrent suicidal behavior, gestures, or threats of self-mutilating behavior; affective instability due to reactivity to mood (intense episodic dysphoria, irritability, anxiety); chronic feelings of emptiness; and inappropriate, intense anger or difficulty controlling anger. (AE P, pp. 698-708)

On June 19, 2020, Applicant reported she experienced benefits from psychotropic medications for BPD and wanted to continue them. (Tr. 92-105; AE P) She opted to be referred for Dialectical Behavior Therapy (DBT) and was placed on the DBT waitlist at the VAMC in state B, city 1. She was also informed that because she had specific DBT treatment assignment preferences, a delay in DBT treatment initiation might occur and “If the [Applicant] is choosing these preferences, he/she has declined the next available appointment.” (AE P, p. 697)

Although Applicant reported compliance with her psychotropic medications on July 28, 2020, by October 8, 2020, her treating licensed clinical social worker noted that after Applicant moved to city 2 in state B, she needed to establish care with a new VAMC as soon as possible. (AE P, pp. 602, 640-644) That individual stated “[Applicant] would benefit from DBT the most. Unfortunately, she has [a] long standing history of poor compliance with medications so ‘loosing [sic] track of her medication last month’ is not something new and [Applicant’s] usual pattern.” (AE P, p. 602)

On April 31, 2021, at the VAMC in city A, Applicant was notified she did not meet the eligibility criteria for comprehensive DBT service. She was informed she had not engaged in life threatening behaviors in ten years and she also did not yet have a provider who could manage her care, both of which were required for a DBT consult. She was given two DBT options: “1) Consult to Trauma Services Program for DBT Skills Only Group or STAIR group 2) CITC consult for comprehensive DBT.” (AE P, p. 477) She declined them both. (AE P, pp. 47, 364-516, 566, 601-602, 626, 637-638, 642, 658-659, 664, 666, 668-670, 688, 701-702, 707-708, 729)

On August 31, 2022, Applicant was assessed to not be on psychotropic medications for BPD. (Tr. 92-105; AE P, pp. 88-94) Although she was on psychotropic medications for BPD on October 20, 2022, she was no longer on such medications by April 3, 2023. (AE P, pp. 63-67) Her last documented psychiatric outpatient visit with the VAMC in city A occurred on May 11, 2023, wherein she was noted to be on medications but struggled to take them consistently. (Tr. 92-105; AE P, pp. 58-62) Her psychiatric diagnoses were assessed as PTSD, chronic; MDD, recurrent, mild; and “BPD currently on no psychotropic meds.” (AE P, pp. 59, 61)

Medical records excerpts also reflect that in June 2020, Applicant was compliant with taking her other prescribed medications. (AE P) On July 2, 2020, however, she was told to continue her medications after she reported she was “off medications for the 2 weeks” (AE P, p. 663) By October 8, 2020, she reported she had lost track of her medications when she moved from city 1 to city 2 in state B and had not yet established care at a VAMC closest to her. (AE P, pp. 599-602) She resumed compliance with taking her prescribed medications by November 18, 2020, but she also reported in December 2020 that her compliance with her medications was suboptimal. (AE P, pp. 565-592) On May 19, 2021, she reported she had stopped taking her prescribed medications three weeks prior. (AE P, pp. 465-466) Although she subsequently resumed taking her

prescribed medications, by August 31, 2022, she reported she had stopped taking her medications “cold turkey.” (AE P, p. 92)

Applicant maintained in her Answer that before her move from city 1 to city 2 within state B in January 2021 and consequent transfer to the VAMC in city A, she was on the DBT wait list at the VAMC in state B, city 1. She stated the psychiatrist who evaluated her at the VAMC in city A determined she did not meet the criteria for DBT and subsequently changed her medications, with which she complied. She also stated the only pause in her treatment occurred during her move. (Tr. 92-105, 124-126)

In March 2023, the Defense Counterintelligence and Security Agency, Adjudications (DCSA ADJ), referred Applicant for evaluation by a licensed psychologist (PSYCH 2) because of her reported history of depression, alcohol use disorder, PTSD, and BPD. (SOR ¶ 1.d; Tr. 68-75, 97-98, 125-126; GE 5) PSYCH 2 conducted her evaluation of Applicant on March 22, 2023, and PSYCH 2 reported her findings on April 24, 2023. PSYCH 2 stated that her evaluation included a review of Applicant’s March 25, 2021, and June 10, 2022, Questionnaires for National Security Positions, Standard Form 86s (SF 86s), and GE 4 (the unauthenticated May 2021 ROI that was not admitted in evidence). (GE 5)

PSYCH 2 also stated Applicant provided a signed release of information form that permitted PSYCH 2 to contact Applicant’s then-current psychiatrist at the VAMC in city A. However, PSYCH 2 reported she was unsuccessful in reaching Applicant’s assigned physician at the VAMC in city A to discuss Applicant’s treatment plan and compliance. While PSYCH 2 encouraged Applicant to provide her signed release of information to her provider and request that the provider contact PSYCH 2, no such contact was made as of the date of PSYCH 2’s report. PSYCH 2 also stated Applicant completed a standardized psychological inventory, the Personality Assessment Inventory (PAI). (Tr. 97-98, 125-126; GE 5)

PSYCH 2 diagnosed Applicant with BPD and stated she could not confirm diagnoses of PTSD, major depression, or alcohol use disorder. PSYCH 2 stated:

Psychological test results did identify symptoms of [BPD], including impulsivity, sensation-seeking behavior, and moodiness. This is consistent with the applicant’s described history of rash and inappropriate behaviors, promiscuity, and suicide attempt in reaction to conflict with a prior boyfriend. Her positive affect when discussing rather serious matters is also a common symptom in individuals with [BPD] traits, as the attention received from the discussion is pleasing to the individual. (GE 5)

PSYCH 2 concluded:

[Applicant] possesses at least one mental health condition ([BPD]) that could impede her judgement, stability, trustworthiness, and reliability. She is at risk for ongoing maladaptive, impulsive, or aggressive behaviors without proper intervention for [BPD]. Medication alone is not empirically supported for treatment of this condition.

Treatment for [BPD] requires extensive counseling (often more than one year of weekly sessions), and sometimes hospitalization for stabilization. It does not appear that [Applicant] has undergone appropriate intervention for [BPD], based on her own report of intermittent treatment and her limited ability to describe the condition. Her judgment and insight appear limited.

Also of concern, the applicant's PAI profile indicates minimal interest in treatment. She admitted to noncompliance in the past, but stated that she is not *[sic]* compliant because she likes her provider. While it is good that she is now reportedly compliant in treatment, I cannot confirm this. Moreover, it begs the question of whether she will remain compliant with treatment recommendations if her provider at the VA is changed in the future. The prognosis for this applicant is guarded. (GE 5)

Applicant maintained she was open about her BPD diagnosis with PSYCH 2. She denied making light of her sexual assault while in the U.S. military and the reference in PSYCH 2's report that she was promiscuous. She also maintained that contrary to PSYCH 2's conclusion, her VA psychologist determined she is not a candidate for DBT treatment for BPD. (Tr. 68-75, 92-105, 122-126; AE P)

Applicant also stated that two individuals, from whom she recently received treatment, provided her with a positive prognosis. (Tr. 92-105; AE D-E, M) The first individual, a licensed clinical social worker (LCSW), stated in a September 27, 2023, letter that Applicant was in therapy with LCSW and kept six therapy appointments beginning in July 2023. (Tr. 92-105, 108-117; AE D) LCSW stated Applicant's depression has lifted and recommended that Applicant keep her clearance. (AE D) Applicant believed she did not see LCSW again after her sixth appointment because the LCSW felt Applicant was fine and needed no further treatment. (Tr. 92-105, 108-117) The LCSW's letter makes no mention of Applicant's BPD diagnosis or of her 70% VA disability rating for PTSD with depression, and Applicant was unsure whether she notified LCSW of the diagnosis and rating. (Tr. 92-105, 108-117, 119-120)

Applicant saw the second individual, a Board Certified Psychiatric Mental Health Nurse Practitioner (PMHNP-BC), beginning in approximately September 2023. She stopped seeing PMHNP-BC sometime after her move to state A in May 2024. (Tr. 92-105; AE E) PMHNP-BC stated in an October 2, 2023, letter that Applicant was a patient

under her care. (AE E) PMHNP-BC also stated Applicant “is compliant with her medications and actively engaged in her mental health care plan with the city A VAMC.” (AE E) PMHNP-BC further stated she and Applicant had one outpatient appointment in September 2023 for an initial psychiatric evaluation and a follow-up appointment was scheduled. The PMHNP-BC’s letter also makes no mention of Applicant’s BPD diagnosis.

PMHNP-BC wrote:

[Applicant] has been taking the same medication for 9 months, remains stable on that medication, and is an excellent advocate for herself. She is engaged *[sic]* in psychotherapy, with a therapist weekly, through the VA Community Health Program. In my experience in managing patients and their mental health[,] [Applicant] is extremely high functioning and proactively managing any mild symptoms appropriate with lifestyle changes, weekly therapy sessions, and medication management. Her symptoms are well managed and she has a good support system in place. (AE E)

Applicant provided an undated letter from a licensed clinical psychologist (PSYCH 3), from whom she received treatment through the VAMC in state A. (AE O) She testified that PSYCH 3 is her current psychologist, whom she had only seen once as of the date of the hearing. (Tr. 88-105, 117-119, 123-124; AE O) PSYCH 3 stated Applicant presented with a history of varied diagnoses such as BPD, PTSD, and Depressive Disorder. PSYCH 3 had been treating Applicant “for the past month” and met with her for outpatient counseling sessions weekly. (AE O) PSYCH 3 had not yet conducted a comprehensive psychological evaluation of Applicant but his treatment plan for her included DBT, which he described as “the Gold Standard in the treatment of [BPD].” (AE O) PSYCH 3 stated he did not prescribe her medications since he was not a psychiatrist. PSYCH 3 also stated her prognosis “is considered to be good given her level of motivation for change. She is very active in treatment and is very diligent in completing her homework activities.” PSYCH 3 further stated, “Unless otherwise indicated, she has not had any issues with her overall job performance to date despite presenting with a history of BPD.” (AE O)

Applicant testified she stopped taking all her prescribed medications in approximately August 2024, and she was not taking any medications as of the date of the hearing. (Tr. 100-102, 110-121) She stated PSYCH 3 could not prescribe her medication but referred her to a psychiatrist who could. (Tr. 88-105; AE O) She was optimistic about her current mental health provider. (Tr. 65-67, 107-108) She testified, “I do not think [BPD] is affecting me right now, or I am not letting it” (Tr. 63) She acknowledged BPD remained a current diagnosis. (Tr. 107-108, 115-120, 122-126; AE M) She relies on her family and best friend as her support system. She enjoys her job and gets along with her co-workers. (Tr. 75, 121)

Applicant's 2009 suicide attempt, 2010 suicide plan without action, 2013 MST diagnosis, 2016 PTSD with depression diagnosis, 2017 suicidal thought with a plan, 2020 suicidal thoughts without a plan, and failure to take her prescribed medication for conditions other than BPD, to include depression, were not specifically alleged in the SOR. As such, this information may not be an independent basis for revoking Applicant's clearance. However, I may consider it in evaluating her credibility; her evidence of extenuation, mitigation, or changed circumstances; to decide whether a particular provision of the Adjudicative Guidelines is applicable; or to provide evidence for the whole-person analysis. I have considered this unalleged information for these limited purposes.

Guideline B, Foreign Influence

Applicant met her spouse on a dating app in 2019, when they were both living in state B. He is a 34-year-old native-born citizen of Iran. He attended high school and college, receiving his bachelor's and master's degrees, in Iran. In 2017, he immigrated to the United States on an F-1 student visa to study aerospace engineering at a college in state B, from which he obtained a doctorate degree in 2021. He sought to further his education in the United States and he did not want to perform compulsory military service in Iran. As of the date of the hearing, Applicant's spouse held a green card since approximately 2021 and he intends to apply to become a naturalized U.S. citizen. (Tr. 20-27, 81-83, 126-128)

Applicant's spouse has been unable to find employment in the United States in his aerospace engineering field of study. Since moving to state C in August 2023, he has worked as a self-employed ride-sharing service driver. (Tr. 24-28, 39, 126-128)

As previously stated, Applicant and her spouse are not legally separated, but he moved to state C in August 2023. That month, Applicant's attorney provided him with a marital settlement agreement for signature. Her attorney intended to file the signed agreement with a state B court upon completion of a six-month separation. However, her spouse refused to sign the agreement. Applicant intends to petition for divorce once she has met the residency requirements to do so in state A, where she now resides. (Tr. 24, 27-31, 39, 78-80, 126-128, 130; AE N)

Applicant stated she no longer loves her spouse. She maintains daily contact with him primarily through telephone calls and text messages. (Tr. 29, 31-33, 82-83, 126-128, 131-132) She stated, "He's here alone, and I just didn't feel right just cutting him off completely because he has no support system here essentially." (Tr. 29) She stated he is aware she has a security clearance and works for the U.S. Government. (Tr. 29, 35-36, 80)

In her Answer, Applicant stated her spouse is not loyal to Iran, he has not returned to Iran since immigrating to the United States, and neither of them have any assets in

Iran. (SOR ¶ 1.a; Tr. 33-35, 128-129; GE 2; AE N) She listed on her 2021 SCA that her spouse opened a bank account in Iran in 2010 and then closed it in 2017, when he moved to the United States to pursue his doctorate degree. (GE 2) They continue to maintain shared assets in the United States, to include two cars in both of their names and a joint bank account, but she stated she does not financially support him. (Tr. 33)

Applicant's Iranian father-in-law is deceased. Her mother-in-law is a native-born citizen and resident of Iran. (SOR ¶ 1.b; Tr. 36-42, 80-81, 128-130; GE 2) She is a 61-year-old retired hospital worker. Applicant has no knowledge about whether her mother-in-law has any affiliation with the Iranian government but stated she has never expressed any views unfavorable toward the United States. (Tr. 41, 129-130) Applicant listed on her 2021 SCA that she maintained monthly electronic contact with her mother-in-law. She stated, "I attempt to speak with her every once in a while when she video chats with my husband. She does not speak very good English and I do not know Farsi." (GE 2) She stated in her Answer she has never met her mother-in-law in person and her brief interactions with her mother-in-law over video calls is not meaningful since her mother-in-law does not speak English. She testified that since her spouse stopped communicating with his mother in August 2023, she has maintained monthly contact with her mother-in-law through a messaging app to update her on how he is doing. She also stated that to her knowledge, her mother-in-law is unaware that she works for the U.S. Government or holds a security clearance. (Tr. 36-42, 129)

While deployed to Afghanistan, Applicant received a battlefield promotion in recognition of her exceptional performance and dedication in combat situations. She received a Combat Action Badge in 2012. She also received numerous certificates and medals, to include an Army Achievement Award and an Army Commendation Medal. (Answer; Tr. 50-51; AE H) She received a favorable annual performance review while working as a contractor for another U.S. Government agency from March 2022 to March 2023. (AE F)

Applicant provided letters from three references, to include her U.S. military supervisor from approximately 2010 to September 2012, a former coworker from approximately 2021 to 2023, and a former supervisor from approximately March 2022 through September 2023 who favorably rated her performance as previously discussed. (AE I-K) She stated she gets "praises and accolades from the people that I work with and people I work for." (Tr. 75) Three witnesses testified on Applicant's behalf, to include a former coworker and friend, a supervisor since approximately 2022, and an individual who served as her direct supervisor from approximately April 2022 to 2023, when he became her second-level supervisor. All vouched for her judgment, reliability, and trustworthiness. (Tr. 132-146)

Policies

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 to be used 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, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching 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."

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 the 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information. Section 7 of Exec. Or. 10865 provides that adverse 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* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline I, Psychological Conditions

The security concern under this guideline is set out in AG ¶ 27:

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

AG ¶ 28 describes conditions that could raise a security concern and may be disqualifying. I considered the following relevant:

- (a) behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;
- (b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness; and
- (d) failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions.

Applicant's depression in 2017 necessitated she take FMLA leave from her then-employment and not return when her FMLA leave concluded. However, her use of FMLA leave when she suffered from depression in 2017, as well as her August 2020 BPD diagnosis, in and of themselves, do not raise current security concerns under AG ¶ 28. As such, I find SOR ¶¶ 1.a and 1.b for Applicant.

Since Applicant's 2020 BPD diagnosis, she has a significant history of non-compliance with her prescribed BPD medication and treatment recommendations, to include DBT. In March 2023, PSYCH 2 affirmed Applicant's BPD diagnosis and

concluded that her condition casts doubt on her judgment, reliability, and trustworthiness. AG ¶¶ 28(a), 28(b), and 28(d) are established for SOR ¶¶ 1.c and 1.d.

The following mitigating conditions under AG ¶ 29 are potentially relevant:

(a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;

(b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

(c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;

(d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; and

(e) there is no indication of a current problem.

Not only does Applicant have a history of non-compliance with her prescribed BPD medication since her 2020 diagnosis, but she also acknowledged at the hearing she had not taken any medication to treat it since approximately August 2024. As of the hearing date, she had yet to see the psychiatrist to whom she was referred by her current treating psychologist, PSYCH 3, to obtain her prescription medication.

Further, when Applicant was placed on the waitlist for the recommended DBT treatment for BPD in June 2020, she declined the next available appointment due to her specific treatment assignment preferences. She also declined both DBT options she was given in April 2021, when she was informed she did not meet the eligibility criteria for comprehensive DBT service. Despite her claim that BPD is not currently affecting her, she agreed it remained a current diagnosis. She provided no documentation to show otherwise and the 2023 letters from LCSW and PMHNP-BC made no mention of Applicant's BPD diagnosis. In fact, PSYCH 3's treatment plan for Applicant included DBT for her BPD, but she had only seen PSYCH 3 once as of the date of the hearing. None of the mitigating conditions under AG ¶ 29 are established for SOR ¶¶ 1.c and 1.d.

Guideline B, Foreign Influence

The security concern for foreign influence is set out 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 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 7. The following are potentially applicable in this case:

- (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;
- (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; and
- (e) shared living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion.

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable 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 upon the government, or the country is known to conduct intelligence operations against the United States. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue. *See generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided). AG ¶ 7(a) requires

substantial evidence of a “heightened risk.” The “heightened risk” required to raise one of these disqualifying conditions is a relatively low standard. “Heightened risk” denotes a risk greater than the normal risk inherent in having a family member living under a foreign government.

Applicant’s spouse, an Iranian citizen, is a green card holder and U.S. resident. Although they are not legally separated, they have been living separately since he moved to state C in August 2023. Applicant’s mother-in-law is also a citizen and resident of Iran, a country long hostile to the United States. AG ¶¶ 7(a) and 7(b) apply, but 7(e) does not apply.

The following mitigating conditions under AG ¶ 8 are potentially relevant:

(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; and

(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.

Applicant and her spouse have been living separately since he moved to state C in August 2023. While she maintains daily contact with him and they continue to maintain shared assets in the United States, she no longer loves him and does not financially support him. She started the divorce process in 2020, but he refused to sign the marital settlement agreement and then she moved back to state A in 2024. She plans to petition for divorce upon meeting the residency requirements in state A.

Applicant has never met her mother-in-law. While she is a native-born citizen and resident of Iran, she is elderly and retired. Although Applicant maintains monthly contact with her mother-in-law through a messaging app, the contact is limited, since her mother-in-law does not speak English. Her spouse stopped communicating with his mother in August 2023. AG ¶¶ 8(a), 8(b), and 8(c) are established.

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 the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline I and Guideline B in my whole-person analysis. I considered Applicant's honorable military service, to include her two deployments, numerous certificates and medals, and her favorable character references. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the foreign influence security concerns, but she failed to mitigate all the security concerns involving psychological conditions.

Applicant requested in her Answer that I consider granting her a waiver or granting her eligibility with the imposition of appropriate conditions, in accordance with Security Executive Agent Directive (SEAD 4), Appendix C. (Answer; AE L) The adjudicative guidelines give me the authority to approve a waiver "despite the presence of substantial issue information that would normally preclude eligibility," with the provision that a waiver may be approved "only when the benefit of initial or continued eligibility clearly outweighs any security concerns," and that a waiver "may also require conditions for eligibility." The guidelines also give me the authority to grant or continue eligibility "despite the presence of issue information that can be partially but not completely mitigated, with the provision that additional security measures shall be required to mitigate the issue(s)." It provides that such measures "include, but are not limited to, additional security monitoring, access restrictions, submission of periodic financial statements, or attendance at counseling sessions." I have not done so as I have concluded neither are warranted in this case.

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 I:	AGAINST APPLICANT
Subparagraphs 1.a-1.b:	For Applicant
Subparagraphs 1.c-1.d:	Against Applicant
Paragraph 2, Guideline B:	FOR APPLICANT
Subparagraphs 2.a-2.b:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Candace Le'i Garcia
Administrative Judge