



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 22-02603

Appearances

For Government: Andrew Henderson, Esquire, Department Counsel

For Applicant: Grant Couch, Esquire

12/02/2025

Decision

CEFOLA, Richard A., Administrative Judge:

Statement of the Case

On March 28, 2023, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guideline B. The SOR further informed Applicant that, based on information available to the government, DoD adjudicators could not make the preliminary affirmative finding it is clearly consistent with the national interest to grant or continue Applicant's security clearance.

Applicant answered the SOR on April 21, 2023, and requested a hearing before an administrative judge. (Answer.) The case was previously assigned to another administrative judge, and subsequently assigned to me on July 21, 2025. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on July 22, 2025, scheduling the hearing for September 17, 2025. The hearing was convened as scheduled. The Government offered Exhibits (GX) 1 and 2, which were admitted without objection, and Hearing Exhibits (HX) I and II for Administrative Notice. Applicant testified on his own behalf. Applicant offered 19 documents, which I marked Applicant's Exhibits (AppXs) A through S, and were admitted without objection. DOHA received the transcript of the hearing (TR) on September 29, 2025. This Decision was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a Federal Government shutdown due to a lapse in Federal funding.

Procedural Rulings

At the hearing, the Government requested I take administrative notice of certain facts relating to Taiwan and to China. Department Counsel provided a 13-page summary of the facts as to Taiwan, and a 7-page summary of the facts as to China, supported by 21 Government documents pertaining to Taiwan, and eight documents pertaining to China, identified as HEs I and II, respectively. The documents provide elaboration and context for the summary. I take administrative notice of the facts included in the U.S. Government reports. They are limited to matters of general knowledge, not subject to reasonable dispute. They are set out in the Findings of Fact.

Findings of Fact

Applicant admitted to the allegations in SOR ¶¶ 1.a, and 1.b. He denied SOR allegation ¶ 1.c. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 25-year-old, native-born American, employee of a defense contractor. He has been employed with the defense contractor since May of 2022. Applicant is not married, and has no children. (TR at page 14 line 20 to page 16 line 8, a GX 1 at pages 5, 6~7, 16 and 24, and AppX B.)

Guideline B - Foreign Influence

1.a. Applicant admits that his mother and father are citizens and residents of Taiwan. Both of his parents are retired, and have no connections with any foreign government. Applicant's father worked for an electronics company, and his mother has been "a housewife for her entire life." He speaks with his mother once a week, and his father once a month. (TR at page 16 line 14 to page 18 line 3, and at page 26 line 5 to pages 27 line 14.)

1.b. Applicant admits that his sister is a native-born American, but also a dual national with Taiwan. He denies that she resides in Taiwan. His sister moved back to the United States in 2023, and is a "Product Designer," living in New York City. He contacts his sister "once or twice a week." (TR at page 23 line 14 to page 24 line 23, at page 34 lines 9~20, and AppX Q.)

1.c. Applicant denies that his parents create a potential conflict of interest between his obligation to protect sensitive information and his desire to help them. He avers that this was the investigator's opinion; during his unsworn subject interview, and Applicant did not "know if . . . [he had] the right to fix the Investigator's opinion." (TR at page 18 line 4 to page 19 line 13, and at page 32 line 1 to page 33 line 1.)

Applicant has submitted seven letters of recommendation on his behalf. (AppXs G, and M~P.)

Notice

I take administrative notice of the following facts: As to Taiwan, the United States has a long-standing one-China policy: the United States does not support Taiwan independence, but expects their differences to be resolved by peaceful means. There have been multiple cases involving illegal export, or attempted illegal export, of U.S. restricted, dual-use, or military technology to Taiwan by Taiwanese nationals or companies.

As to the People's Republic of China (PRC), the PRC will likely continue posturing to be in a position of advantage in a potential conflict with the United States. China presents the most comprehensive and robust military threat to U.S. national security. The PRC remains the most active and persistent cyber threat to the U.S. government, private sector, and critical infrastructure networks.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 AG ¶ 2 describing 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." 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 the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person who applies for access to classified information seeks to enter 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 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.

Section 7 of Executive Order (EO) 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 *a/so* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B - Foreign Influence

¶ 6: The security concern relating to the guideline for Foreign Influence is set out in AG

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. Two 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; 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.

Applicant's parents are citizens of and reside in Taiwan, and his sister is a dual national with Taiwan. The evidence is sufficient to raise these disqualifying conditions.

AG ¶ 8 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 8 including:

(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's parents are both retired. Neither parent have, nor had any connection with the Taiwanese government. His contacts with them are casual and infrequent. Foreign Influence is found for Applicant.

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 facts and circumstances surrounding this case. I have incorporated my comments under Guideline B in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment. Applicant has a distinguished history of working in the defense industry and is respected by those who know him in his community and in the workplace. (AppXs G~K, M~P, and R.) He is a native-born American, living and working in the United States. He can be expected to resolve any conflict of interest in favor of the United States.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant mitigated the Foreign Influence security concern.

Formal Findings

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

Paragraph 1, Guideline B:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant national security eligibility and a security clearance. Eligibility for access to classified information is granted.

Richard A. Cefola
Administrative Judge