



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 24-02063
)
Applicant for Security Clearance)

Appearances

For Government:
Aubrey De Angelis, Esquire, Department Counsel

For Applicant:
Carl Marrone, Esquire, Applicant's Counsel

01/29/2026

Decision

CEFOLA, Richard A., Administrative Judge:

Statement of the Case

On March 27, 2025, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense 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 25, 2025, and requested a hearing before an administrative judge. (Answer.) The case was assigned to me on July 21, 2025. The

Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on July 24, 2025, scheduling an in-person hearing for August 28, 2025. However, Applicant later retained counsel; and as such, the hearing was rescheduled for September 30, 2025. The in-person hearing was convened as scheduled. The Government offered Exhibits (GX) 1 through 3, which were admitted without objection, and Hearing Exhibit (HX) 1 for Administrative Notice. Applicant testified on his own behalf. Applicant offered eight documents, which I marked Applicant's Exhibits (AppXs) A through H, and admitted without objection. DOHA received the transcript of the hearing (TR1) on October 15, 2025. At the September 30, 2025, in-person hearing, Applicant's Counsel asked for a second TEAMS hearing for the purpose of calling remote witnesses to testify. The TEAMS hearing was scheduled for October 23, 2025; but when all Administrative Judges were furloughed from October 1 through November 12, 2025, the TEAMS hearing was rescheduled for January 12, 2026. At the TEAMS hearing, four witnesses testified, and AppXs I and J were admitted without objection. The TEAMS transcript (TR2) was received on January 23, 2026.

Procedural Rulings

At the hearing, the Government requested I take administrative notice of certain facts relating to Israel. Department Counsel provided a seven-page summary of the facts, supported by ten Government documents pertaining to Israel, identified as HE I. 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, 1.b, and 1.c. At the end of the in-person hearing, SOR allegation ¶ 1.c. was withdrawn by Department Counsel. (TR1 at page 44 lines 1~8.) After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 35-year-old employee of a defense contractor. He has been employed with the defense contractor since August 2022. He is married to a U.S. citizen, and has no children. Applicant's parents fled to the United States from the holocaust. His father "served in Patton's Army . . . [and his] mother's father was a Seabee in the Pacific." (TR1 at page 17 line 3 to page 19 line 17, GX 1 at pages 5~6, 13~14, 25~26, and AppXs D and F.)

Guideline B - Foreign Influence

1.a. Applicant's sister, who testified at Applicant's hearing, is a dual national of Israel and of the United States. She is a native-born American, who went to Israel at the age of 18 for religious reasons. His sister served in the IDF (Israeli Defense Force) as a Sergeant (E-5). She served in its Intelligence service, looking for underground tunnels. Her active duty ended in 2019, more than six years ago. As a reservist, her likelihood of being called to more active duty is minimal as she was not "called up" for the current conflict. She now works for "a small startup company . . . [focusing] on . . . [their] Research and Analytics Department." Her company has no interaction with the Israeli Government. When asked if there were a conflict between the U.S. and Israel, where her allegiance lies, his sister answered with "the United States," without any hesitation. Her communications with Applicant are mostly through his wife by way of "group chats." (TR1 at page 20 line 16 to page 23 line 18, and at page 38 line 23 to page 40 line 23, and TR2 at page 6 line 24 to page 22 line 7, and at page 31 line 10 to page 43 line 7.)

1.b. Applicant's sister is married to a dual national of Israel and Australia. They are in the process of getting her spouse "a Green Card," and they plan to return to the U.S. to live. He "manages the Online Amazon Marketplace for a Pharmacy in Israel." Applicant's brother-in-law knows little about Applicant's duties, other than that he is "a Software Engineer." He was a Corporal in the IDF, but was discharged as the result of an "injury [that] prevents him ever serving again." (TR1 at page 23 line 19 to page 30 line 1, and at page 41 line 20 to page 42 line 8, and TR2 at page 22 line 8 to page 27 line 23.)

Three individuals testified on behalf of Applicant: one is a friend and coworker, the other two are close friends. (TR2 at page 45 line 4 to page 49 line 22, at page 51 line 13 to page 57 line 6, and at page 58 line 12 to page 63 line 18.)

I also take administrative notice of the fact that since 2023, the Israeli government has taken credible steps to identify and punish officials who have committed human rights abuses. (HX I at page 6.)

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 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 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. 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 sister and brother-in-law are dual nationals with Isreal. Both served in the IDF, with his sister serving in its intelligence service. 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 contacts with his sister and her husband are casual, dealing with family matters, and do not focus on Applicant's work. Soon, their relationship will not be foreign, as his sister is in the process of returning to the U.S. with her spouse. Her return is a matter of right as a U.S. citizen, and husband's return as a Green Card holder. 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 colleagues. He performs well at his job. (TR2 at page 45 line 4 to page 49 line 22, and AppXs C and G.) 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**

Subparagraphs 1.a. and 1.b: **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