



**DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 25-01093

Appearances

For Government: William H. Miller, Esq., Department Counsel

For Applicant: Sean D. Rogers, Esq.

07/02/2026

Decision

HARVEY, Mark, Administrative Judge:

Guideline B (foreign influence) security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On December 14, 2024, Applicant submitted a security clearance application (SCA). (Government Exhibit (GE) 1) On October 20, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and Security Executive Agent Directive 4, establishing in Appendix A, the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 1)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline B. (HE 1) On January 8, 2026,

Applicant provided his response to the SOR. (HE 2) On January 22, 2026, Department Counsel was ready to proceed. On May 12, 2026, the case was assigned to me.

On April 1, 2026, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing on May 5, 2026. (HE 3) The hearing was held as scheduled, using the Microsoft Teams video teleconference system. Department Counsel's exhibit list and discovery letter are attached to the record. (HE 4; HE 5)

During the hearing, Department Counsel offered four exhibits into evidence, Applicant offered 15 exhibits into evidence; there were no objections; and all proffered documents were admitted into evidence. (Tr. 21-24; GE 1-GE 4; Applicant Exhibit (AE) A-AE O) On May 14, 2026, DOHA received a copy of the transcript. The record was not held open after the hearing. (Tr. 117-118)

Administrative Notice

Department Counsel requested administrative notice (AN) concerning certain facts about the People's Republic of China (China or PRC), about the United States' relations with that country and supporting documents. (Tr. 23; HE 6) Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 16-02522 at 2-3 (App. Bd. July 12, 2017); ISCR Case No. 05-11292 at 4 n. 1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004) and *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n. 4 (3d Cir. 1986)). Usually, administrative notice at ISCR proceedings is accorded to facts that are either well known or from government reports. See Stein, *Administrative Law*, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice).

I have quoted most of Department Counsel's AN request without quotation marks and footnotes. I have made some other punctuation changes and not included the discussion of criminal acts by individuals in China and the United States. I have also not listed numerous human rights violations in China, and Chinese efforts to coerce the citizens of Hong Kong. There is no evidence that Applicant, his family members, or friends are involved in or victims of crime or human rights violations by the Chinese Government. They do not reside in Hong Kong.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted to the accuracy of SOR ¶¶ 1.a, 1.b, 1.c, and 1.d; however, he denied that these statements of residency and citizenship in China served "as a basis for denying him access to classified information." (HE 3) He clarified

that his mother-in-law and father-in-law are U.S. permanent residents. (HE 3; AE C) His admissions are accepted as findings of fact. Additional findings follow.

Applicant is 44 years old. (Tr. 42) In 2006, Applicant moved to the United States as a student. (Tr. 28) In 2010, he emigrated from China to the United States when he was 24 years old. (Tr. 26, 28) The Chinese Government has never employed him. (Tr. 26) He received bachelor's and master's degrees in China in material science and mechanical engineering areas. (Tr. 26-27, 42) He emigrated to the United States because he liked the political and scientific environment in the United States. (Tr. 27) He wanted to travel and see the world. (Tr. 27) He is "fond of the U.S./American culture, movies, [and] music." (Tr. 27) He also entered the United States to obtain a Ph.D., which he received in mechanical engineering from a U.S. university in 2010. (Tr. 28, 43; AE G) In 2009, he married, and he has three children, who are ages 6, 11, and 15. (Tr. 28, 31; HE 2 at 7) His resume provides additional information about his background and professional accomplishments. (AE K)

Foreign Influence

In 2020, Applicant's spouse became a U.S. citizen, and in 2022, Applicant became a U.S. citizen. (Tr. 29, 49) She is 39 or 40 years old. (Tr. 50-51) She received a master's degree in chemical engineering, and a private U.S. company employs her. (Tr. 49) They both renounced their Chinese citizenships. (Tr. 30, 75) Chinese citizenship is automatically revoked when a person becomes a citizen of another country. (Tr. 101) Her brother is about 37 years old, and he is a citizen and resident of China. (Tr. 50-52) She communicates with him once or twice a year. (Tr. 52) Her brother has not visited her in the United States. (Tr. 53) Applicant's three daughters are U.S. citizens, and they reside in the United States. (Tr. 32) Applicant's spouse lives in a different state from Applicant, and he visits her about every two weeks. (Tr. 54)

SOR ¶¶ 1.a through 1.d allege Applicant's mother, father, mother-in-law, and father-in-law are citizens and residents of China, respectively. (HE 2)

Applicant's father-in-law and mother-in-law moved to the United States in 2025 and 2024, respectively, and they are U.S. permanent residents. (Tr. 32-33, 67-70) They have not returned to China since they came to the United States. (Tr. 67) They reside with Applicant's spouse and three daughters in Applicant and his spouse's home in the United States. (Tr. 32) His parents-in-law were farmers in China, and they are not employed outside of their residence in the United States. (Tr. 32, 67-68) Applicant's daughters are exceptional students. (Tr. 41, 103) They are fully engaged in their communities in the United States.

Applicant's parents continue to reside in China, and he maintains communications with them. (Tr. 34, 58-59) They communicate using texts and telephone calls about once or twice a week. (Tr. 34, 60, 65-66) They discuss health, food, and other family-related issues. (Tr. 34, 37) They do not discuss politics or what he does for his employment. (Tr.

35) Applicant's mother came to the United States five times, and his father came to the United States four times. (Tr. 35, 61) He said his personality is different from his mother's personality, and this limits their closeness. (Tr. 61) Applicant has an aunt and uncle who live in China. (Tr. 63, 66) He has not had any contact with his uncle for eight or nine years, and he denied contacts with his aunt "for like a decade now." (Tr. 63-66)

Applicant said that his mother "sort of worked for the government." (Tr. 36) She was "a front desk clerk for the hospital, the local hospital, and she retired from [her] hospital" employment. (Tr. 36, 59) His father worked as a clerk for a Chinese Government agency, and he retired due to disability in 2007. (Tr. 36, 64-65) His father had a stroke, and he is in poor physical condition. (Tr. 37, 65)

Applicant does not own any property in China. (Tr. 38) He expects to inherit an apartment in China from his parents, which he values at about \$100,000 to \$150,000, and if he does, he intends to sell the property. (Tr. 72) He does not have a bank account in China. (Tr. 38) He does not receive any payments from any source in China. (Tr. 38) He has a 401(k) account in the United States, which his employer supplements. (Tr. 38-39) Applicant and his spouse own a home in the United States. (Tr. 39)

Applicant, his spouse, and his children traveled to China in 2018, 2019, 2023, and 2024 to visit his parents and parents-in-law. (Tr. 73-74) The visit in 2024 was to bring his mother-in-law to the United States. (Tr. 74)

Applicant would like to contribute to the U.S. national defense by helping to develop new technologies. (Tr. 40) He wants his daughters to have access to the educational opportunities, which are available in the United States. (Tr. 40-41) He said:

I want to let you know that I [appreciated] my current employment opportunities to serve the country and to advance my career and also develop my skills and knowledge in the science and technology field, which I love, and I enjoy work[ing] in my current work positions. I hope I can contribute more to this field. Also, I like U.S. culture, I want to pursue my dream here and with my family here. I have no plan to do any contact with China, to move back to China, to anything else. (Tr. 76)

Character Evidence

Applicant's colleagues from work, church, and university; friends; his manager where he is currently employed; and his spouse positively described Applicant's character. (Tr. 9-16, 80-90, 92-97, 100-107; HE 3 at 6-8; AE J; AE K; AE L) The general sense of their statements is that Applicant is diligent, trustworthy, professional, friendly, and honest. He is a top employee who received "stellar" evaluations. (Tr. 81-83) His extraordinary scientific background and work performance are indications that he is a great asset to the United States. (Tr. 43-45, 56-58) Some foreign nations would have an interest in his exceptionally technical research. (Tr 46-48)

Applicant's spouse said:

[Applicant] has [a] passion for research in materials science and engineering. [He] is a hard-working person. He doesn't care how much time he needs to spend, or how much money he gets paid, he is dedicated to his work. Since I knew him as a student, he has worked overtime, reading thousands of papers and drafts and publishing tens of them too. Even during those years as a home dad, he works as a non-paid reviewer for multiple journals [names of journals omitted]. (HE 3 at 8)

A coworker said:

[Applicant] is a talented and knowledgeable scientist who brings value to our work, improving the quality and productivity that we as a team are able to achieve. In addition, in all of my interactions with [him], I have found him to be hardworking, forthright, dependable, and considerate. In short, it has been a pleasure to work with [him] over these past two years. (HE 3 at 8)

Applicant's supervisor at his current employment said:

[Applicant] was hired in June 2024 as a Mechanical Engineer. Since that time, he has been one of [his employer's] top employees. His team reported to me that [Applicant] delivers high quality work and that he contributes great ideas. He is also a dedicated teammate and works well with everyone. He investigates larger scientific questions and is a great critical thinker. His technical point of contact also reported to me that he is doing an exceptional job, has contributed to his team's overall success, and is a valuable asset to the team and organization. Because of this excellent performance, [Applicant] received one of our highest salary increases. (HE 3 at 7; AE J)

China or PRC

President Xi Jinping and the PRC want to achieve "the great rejuvenation of the Chinese nation" by 2049. The PRC will seek to increase its power and influence to shape world events to create an environment favorable to PRC interests, obtain greater U.S. deference to China's interests, and fend off challenges to its reputation, legitimacy, and capabilities at home and abroad.

The PRC will likely continue posturing to be in a position of advantage in a potential conflict with the United States. The PRC will continue trying to press Taiwan on unification and will continue conducting wide-ranging cyber operations against U.S. targets for both espionage and strategic advantage. China will likely struggle to sufficiently constrain the activities of PRC companies and criminal elements that enable the supply and trafficking of fentanyl precursors and synthetic opioids to the United States, absent greater law enforcement actions.

China presents the most comprehensive and robust military threat to U.S. national security. The People's Liberation Army (PLA) is fielding a joint force that is capable of full spectrum warfare to challenge intervention by the United States in a regional contingency, projecting power globally and securing what Beijing claims is its sovereign territory. A major portion of China's military modernization efforts is focused on developing counter-intervention capabilities tailored against all aspects of U.S. and allied military operations in the Pacific.

Beijing will focus on meeting key modernization milestones by 2027 and 2035, aimed at making the PLA a world-class military by 2049. China is using complex, whole-of-government campaigns featuring coercive military, economic, and influence operations short of war to assert its positions and strength against others, reserving more destructive tools for full-scale conflict. Beijing will likely expand these campaigns to advance unification with Taiwan, project power in East Asia, and reverse perceived U.S. hegemony.

The PRC remains the most active and persistent cyber threat to U.S. government, private sector, and critical infrastructure networks. The PRC's campaign to preposition access on critical infrastructure for attacks during crisis or conflict, tracked publicly as Volt Typhoon, and its more recently identified compromise of U.S. telecommunications infrastructure, also referred to as Salt Typhoon, demonstrates the growing breadth and depth of the PRC's capabilities to compromise U.S. infrastructure.

China is using an aggressive, whole-of-government approach, combined with state direction of the private sector, to become a global science and technology (S&T) superpower, surpass the United States, promote self-reliance, and achieve further economic, political, and military gain. Beijing has prioritized technology sectors such as advanced power and energy, AI, biotechnology, quantum information science, and semiconductors, further challenging U.S. efforts to protect critical technologies by tailoring restrictions narrowly to address national security concerns. China is accelerating its S&T progress through a range of licit and illicit means, to include investments, intellectual property acquisition and theft, cyber operations, talent recruitment, international collaborations, and sanctions evasion.

China almost certainly has multifaceted, national-level strategy designed to displace the United States as the world's most influential AI power by 2030. China has stolen hundreds of gigabytes of intellectual property from companies in Asia, Europe, and North America to leapfrog over technological hurdles, with as much as 80 percent of U.S. economic espionage cases as of 2021 involving PRC entities.

Beijing will continue to expand its coercive and subversive malign influence activities to weaken the United States internally and globally, as well as counter what Beijing sees as a U.S.-led campaign to tarnish China's global relations and overthrow the CCP. Through these efforts, the PRC seeks to suppress critical views and critics of China within the United States and worldwide, and sow doubts in U.S. leadership and strength.

Beijing is likely to feel emboldened to use malign influence more regularly in coming years, particularly as it fields AI to improve its capabilities and avoid detection.

On December 27, 2024, the Justice Department issued a comprehensive final rule carrying out Executive Order (E.O.) 14117 “Preventing Access to Americans’ Bulk Sensitive Personal Data and United States Government-Related Data by Countries of Concern.” The E.O. charged the Justice Department with establishing and implementing a new regulatory program to address the urgent and extraordinary national security threat posed by the continuing efforts of countries of concern (and covered persons that they can leverage) to access and exploit Americans’ bulk sensitive personal data and certain U.S. Government-related data...Countries of concern and covered persons can use their access to this data to engage in malicious cyber enabled activities and malign foreign influence activities, bolster their military capabilities, and track and build profiles on U.S. persons (including members of the military and U.S. Intelligence Community, as well as other Federal employees and contractors) for illicit purposes such as blackmail, coercion, and espionage, and to bolster their military capabilities.

The development of AI, high-performance computing, big-data analytics, and other advanced technological capabilities by countries of concern amplifies the threat posed by these countries’ access to government-related data or Americans’ bulk U.S. sensitive personal data. For instance, the U.S. National Intelligence Council assessed in 2020 that “access to personal data of other countries’ citizens, along with AI-driven analytics, will enable the PRC to automate the identification of individuals and groups beyond China’s borders to target with propaganda or censorship.”

On June 5, 2024, the Office of the Director of National Intelligence’s National Counterintelligence and Security Center (NCSC), joined partners from Australia, Canada, New Zealand, and the United Kingdom in warning about continued efforts by the PRC to recruit current and former Western military personnel to train the PRC military.

On February 4, 2023, a U.S. Air Force fighter shot down a Chinese high-altitude surveillance balloon off the coast of South Carolina. The balloon was a PRC surveillance balloon that purposely traversed the United States and Canada seeking to monitor sensitive military sites. Chinese balloons briefly transited the continental United States at least three times during the prior administration.

There have been multiple U.S. criminal indictments since 2015 involving espionage by PRC nationals, U.S. lawful permanent residents from the PRC, and U.S. citizens, specifically U.S. service members. These incidents include procuring and exporting controlled items to the PRC and economic espionage, according to a U.S. Department of Justice summary of major U.S. export enforcement. The PRC’s efforts to acquire sensitive, dual-use, or military-grade equipment included aviation technologies, radiation-hardened power amplifiers and supervisory circuits, radiation-hardened integrated circuits, monolithic microwave integrated circuits, accelerometers, gyroscopes, naval and marine technologies, signals decoders, syntactic foam trade secrets, space

communications, military communication jamming equipment, and dynamic random access memory.

The PRC presents a sophisticated, persistent cyber-enabled espionage and attack threat to military and critical infrastructure systems through its efforts to develop, acquire, or gain access to information and advanced technologies. Detected PRC cyberspace operations have targeted telecommunications firms, managed service providers, and software developers. Key U.S. targets include proprietary commercial and military technology companies and research institutions associated with defense, energy, and other sectors.

About 80 percent of all economic espionage prosecutions brought by DOJ allege conduct that would benefit the Chinese state, and there is at least some nexus to China in around 60 percent of all trade secret theft cases.

The U.S. Department of State reported that significant human rights issues in China included credible reports of numerous human rights issues. The State Department has issued a Level 2 Travel Advisory and has advised to exercise increased caution traveling to Mainland China due to arbitrary enforcement of local laws, including in relation to exit bans and Hong Kong due to the arbitrary enforcement of local laws. Macau remains at Level 3 - Reconsider travel to Macau due to a limited ability to provide emergency consular services. The PRC government arbitrarily enforces local laws, including exit bans on U.S. citizens and citizens of other countries, without fair and transparent process under the law.

The PRC's counterterrorism efforts continued to target ethnic Uyghurs and other Muslims in Xinjiang as so-called extremists for engaging in standard practices of Islam. Beijing considers the East Turkistan Islamic Movement (ETIM) the primary source of terrorism in Xinjiang. However, there is no credible evidence that ETIM is an extant organization, and the United States instead assesses that it is a broad label the PRC uses to inaccurately paint a variety of Uyghur actors, including non-violent activists and advocates for human rights, as terrorist threats. The PRC government's counterterrorism measures have included sprawling detention facilities, known officially as "vocational education and training centers," in which more than one million people are believed to have been detained since 2017. Since 1999 the PRC has been designated a Country of Particular Concern (CPC) under the International Religious Freedom Act of 1998. It was redesignated a CPC in 2023.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual

is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The government reposes a high degree of trust and confidence in people with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about an applicant’s allegiance, loyalty, or patriotism. It is merely an indication an applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the government. See ISCR Case No. 02-

31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Foreign Influence

AG ¶ 6 explains the security concern about “foreign contacts and interests” stating:

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.

AG ¶ 7 lists conditions that could raise a foreign influence security concern and may be disqualifying 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.

AG ¶¶ 7(a) and 7(b) are established. Additional discussion is in the foreign influence mitigation section, *infra*.

AG ¶ 8 lists conditions that could mitigate foreign influence security concerns 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;

(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;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the agency head or designee;

(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; and

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board concisely explained an applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an [applicant's] security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the [applicant] to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2, [App. A] ¶ 2(b).

The mere possession of close ties with people living in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if an applicant has such a relationship with even one person living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise

of classified information. See ISCR Case No. 08-02864 at 4-5 (App. Bd. Dec. 29, 2009) (discussing problematic visits of that applicant's father to Iran).

There is a rebuttable presumption that a person has ties of affection for, or obligation to, their immediate family members. See *generally* ISCR Case No. 01-03120, 2002 DOHA LEXIS 94 at *8 (App. Bd. Feb. 20, 2002). Applicant has ties of affection and obligation to his spouse, and she has ties of affection to her parents. “[A]s a matter of common sense and human experience, there is a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person’s spouse.” ISCR Case No. 07-17673 at 3 (App. Bd. Apr. 2, 2009) (citing ISCR Case No. 01-03120 at 4 (App. Bd. Feb. 20, 2002)).

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 living under a foreign government. In ISCR Case No. 19-00831 at 4 (App. Bd. July 29, 2020), the Appeal Board reversed the grant of a security clearance to an applicant with relatives in Russia, and succinctly explained the security concern as follows:

In Foreign Influence cases, the nature of the foreign government involved, the presence of terrorist activity, and the intelligence gathering history of that government are important considerations that provide context for the other record evidence and must be brought to bear on the Judge’s ultimate conclusions in the case. The country’s human rights record is also an important consideration. See, e.g., ISCR Case No. 17-04208 at 4 (App. Bd. Aug. 7, 2019); ISCR Case No. 15-00528 at 3 (App. Bd. Mar. 13, 2017). There is a rational connection between an applicant’s family ties in a hostile country and the risk that the applicant might fail to protect and safeguard classified information. Whether or not actively hostile actions, such as military conflict, have broken out or are imminent, any country whose policies consistently threaten U.S. national security may be viewed as hostile for purpose of DOHA adjudications. See, e.g., ISCR Case No. 17-04208 at 5. The Supreme Court has explicitly cited family members in a hostile country as a reason to deny an applicant a security clearance. *Egan, supra*, at 529. Accordingly, we have long held that such applicants have a “very heavy burden” of persuasion to show that connections in a hostile country do not pose a threat to U.S. security. See, e.g., ISCR Case No. 17-04208 at 5; ISCR Case No. 09-08099 at 2 (App. Bd. Sep. 14, 2012); and ISCR Case No. 10-09986 at 3 (App. Bd. Dec. 15, 2011).

SOR ¶¶ 1.a through 1.d allege Applicant’s mother, father, mother-in-law, and father-in-law are citizens and residents of China, respectively. Applicant’s mother and father are citizens and residents of China. His parents-in-law are citizens of China; however, they are U.S. permanent residents, and they reside with Applicant’s wife in the United States. AG ¶¶ 1.c and 1.d are mitigated and will not be further discussed in this decision.

Applicant has frequent contact with his parents, and his relationships with them result in a “risk of foreign inducement, manipulation, pressure, or coercion.” His frequent contacts with his parents are manifestations of his care and concern for them.

Applicant, his spouse, and his children traveled to China in 2018, 2019, 2023, and 2024 to visit his parents and parents-in-law. The SOR does not allege his and his family’s visits to China raise a security concern, and those visits will not be considered for disqualification purposes; however, they will be considered as part of the mitigation and whole-person assessments.

The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, the government ignores the rule of law including widely accepted civil liberties, a family member is associated with or dependent upon the government, the government is engaged in a counterinsurgency, terrorism causes a substantial amount of death or property damage, or the country is known to conduct intelligence collection operations against the United States. The situation in China places a heavy burden of persuasion on Applicant to demonstrate that his relationships with anyone living in that country does not pose a security risk. He should not be placed into a position where he might be forced to choose between the protection of classified information and concerns about assisting someone living in China.

The issue under Guideline B is whether Applicant’s relationship with his family residing in China creates a security vulnerability. Specifically, whether the Chinese Government could exploit these personal ties to coerce or influence Applicant and gain unauthorized access to U.S. classified information that he has by virtue of a security clearance. His parents live in China, and his relationships with them “could be a means through which Applicant comes to the attention of those who seek U.S. information or technology and who would attempt to exert coercion upon him.” ADP Case No. 14-01655 at 3 (App. Bd. Dec. 9, 2015) (citing ISCR Case No. 14-02950 at 3 (App. Bd. May 14, 2015)).

Applicant may be vulnerable to influence or pressure exerted on, or through his parents in China. For example, if they receive pension-type payments or some other benefits or services from the Chinese Government, those benefits could be stopped to put pressure on Applicant. His relationships with his parents, create “a heightened risk of foreign inducement, manipulation, pressure, or coercion” under AG ¶ 7. The record contains substantial evidence of Applicant’s relationships with family living in China and of violence, intelligence activity, competition using illegal methods towards the United States, and human-rights violations in China. Assessment of the applicability of mitigating conditions is required.

AG ¶ 8(a) is not established. The situation in China involving the Chinese Government’s ongoing aggressive activity in the pursuit of intelligence information, opposition towards U.S. interests, and violations of human rights make it more likely that Applicant’s parents, with whom he frequently communicates, might be placed into a

position where Applicant might be forced to choose between the protection of classified information and concerns about assisting them.

A key factor in the AG ¶ 8(b) analysis is Applicant's "deep and longstanding relationships and loyalties in the U.S." His relationship with the United States must be weighed against the potential conflict of interest created by his connections to China.

Applicant is 44 years old. In 2010, he emigrated from China to the United States when he was 24 years old. The Chinese Government has never employed him. He received bachelor's and master's degrees in China. He emigrated to the United States because he liked the political and scientific environment in the United States. He wanted to travel and see the world. He is "fond of the U.S./American culture, movies, [and] music." (Tr. 27) He also entered the United States to obtain a Ph.D., which he received in mechanical engineering from a U.S. university in 2010. In 2009, he married, and he has three children, who are ages 6, 11, and 15. Applicant, his spouse, and their children are U.S. citizens, and all five of them reside in the United States. In 2020, Applicant's spouse became a U.S. citizen, and in 2022, Applicant became a U.S. citizen. She received a master's degree in chemical engineering, and a private U.S. company employs her. They both renounced their Chinese citizenships when they became U.S. citizens. He has strong financial and professional ties to the United States. A U.S. government contractor employs him.

In ISCR Case No. 17-04208 at 5-6 (App. Bd. Aug. 7, 2019) (internal citations omitted) the Appeal Board assessed the security implications of an applicant's connections to relatives in Hong Kong, reversed the administrative judge's grant of a security clearance, and stated:

We are persuaded by Department Counsel's argument that the Judge's analysis of the PRC seems to have underestimated the geopolitical threat posed to the U.S. by that country. Whether or not actively hostile actions, such as military conflict, have broken out or are imminent, any country whose policies consistently threaten U.S. national security may be viewed as hostile for purposes of national security adjudications, such as DOHA proceedings. Viewed in that light, we note that an applicant having relatives in a country hostile of the U.S. is one reason explicitly cited by the Supreme Court for denying a clearance. Following this, we have regularly held that there is a rational connection between an applicant's family ties in a country whose interests are adverse to the U.S. and the risk that the applicant might fail to protect classified information. An applicant who has relatives in a hostile country has a "very heavy burden" of persuasion as to mitigation. We note the Judge's findings that Hong Kong was for many years a British colony. The security significance of a given locale must be evaluated in light of current geopolitical circumstances rather than those that existed in years past.

Given the totality of the evidence described above, as well as the Judge's own finding that Applicant's circumstances raise security concerns, we conclude that his favorable mitigation analysis is not sustainable. Contrary to the Judge's analysis, it is foreseeable that Applicant's family could be a means through which Applicant comes to the attention of those in the PRC who are devoted to acquiring U.S. protected information, especially in light of her regular contact with her mother. This is in no way an assertion that Applicant is disloyal or is lacking in character. We note the Judge's findings that Applicant has not engaged in illegal activity nor evidenced disloyalty to the U.S. We are not holding these findings to be erroneous. Neither are we asserting that Applicant's family members are untrustworthy. Rather, we conclude that these matters are beside the point, under the facts of this case. Even a person of the highest character can experience circumstances under which he or she could be tempted to place the well-being of foreign relatives over the interests of the U.S. Our decision in this case is simply a conclusion that Applicant's evidence is not sufficient to meet her "very heavy burden" of persuasion as to mitigation. Accordingly, the Judge's favorable decision runs contrary to the weight of the record evidence and fails to consider important aspects of the case.

See *also* ISCR Case No. 19-00831 at 5 (App. Bd. July 29, 2020) (reversing grant of security clearance for an applicant with connections to Russia and citing very heavy burden of persuasion in such cases).

The Appeal Board's discussion of AG ¶ 8(b) in ISCR Case No. 19-00831 at 5 (App. Bd. July 29, 2020) (reversing grant of security clearance for applicant with connections to Russia) is equally applicable to Applicant's case. See ISCR Case No. 25-00963 at 3-6 (App. Bd. June 16, 2026) (discussing applicability of the disqualifying and mitigating conditions in a case involving connections to Russia and affirming denial of security clearance). AG ¶ 8(b) is not established.

AG ¶ 8(c) indicates potential mitigation when, "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." The Appeal Board has concluded that contact every two months or three months constitutes "frequent contact" under AG ¶¶ 7 and 8. ISCR Case No. 14-05986 at 3-4 (App. Bd. Oct. 14, 2016). See *also* ISCR Case No. 04-09541 at 2-3 (App. Bd. Sept. 26, 2006) (finding contacts with applicant's siblings once every four or five months not casual and infrequent and stating, "The frequency with which [applicant] speaks to his family members in Iran does not diminish the strength of his family ties."). "The concern in Foreign Influence cases arises from the nature of an applicant's foreign ties, which is not evinced by the current state of communications in a vacuum." ISCR Case No. 24-02470 at 5 (App. Bd. (Feb. 18, 2026) (quoting ISCR Case No. 22-00364, 2023 WL 11945240 at *3 (App. Bd. Jun. 22, 2023)). "While the frequency of an individual's contact with foreign family is a factor to be considered in evaluating the concern, it alone is not dispositive." *Id.*

Applicant has contacts with his parents once or twice a week, which is frequent. In ISCR Case No. 24-02470 at 5 (App. Bd. Feb. 18, 2026), the Appeal Board addressed a situation where the frequency of contacts with family in a foreign nation was reduced during the security clearance process. The Appeal Board said:

It is well-established, however, that an individual's actions prior to the initiation of the national security adjudication process are illuminating of his or her unmotivated conduct and should be given weighty consideration. The record here reflects that [applicant's] wife reduced her frequency of communication with her parents, not because the relationship itself changed, but to improve [applicant's] chances of obtaining a security clearance, which undermines any mitigative weight afforded to that reduction. The Judge should have considered the wife's pre-adjudication contact, the reason for the reduction, and the overall nature of her parental relationship.

Applicant receives some mitigative credit under AG ¶ 8(c) because his contacts with his parents is mostly about family and health issues. However, such contacts are not "casual." In a case involving connections to Russia, the Appeal Board said, "The Judge's application of 8(c) is simply not consonant with the fact that [applicant's] Russian contacts are family, including three members of his immediate family. Simply put they are not casual contacts." ISCR Case No. 19-00831 at 5 (App. Bd. July 29, 2020) (disagreeing with the administrative judge's conclusion that an applicant's contacts with immediate family members in Russia were casual and reversing grant of security clearance).

Applicant's connections to China and the behavior of Chinese Government entities are balanced against his good character evidence and connections to the United States. His access to classified information could add risk to his parents living in China. There is no allegation that he would choose to help the Chinese Government against the interests of the United States. A Guideline B adjudication is not a judgment on an applicant's character or loyalty to the United States. It is a determination as to whether an applicant's circumstances foreseeably present a security risk. See ISCR Case No. 19-00831 at 5 (App. Bd. July 29, 2020). The concern here pertains to the risk to his parents, who are living in China, and how that risk could be used to coerce Applicant. It does not relate to his loyalty or patriotism to the United States.

Applicant's parents are retired, and they may not be known by Chinese authorities. The Appeal Board said:

The Board has consistently held that factors such as an applicant's relatives' obscurity does not provide a meaningful measure of whether an applicant's circumstances pose a security risk. Rather, it is the nature of the foreign ties themselves that give rise to a security concern. The close nature of Applicant's relationship with his parents is reflected in his regular communication with them and his in-person visits.

In ISCR Case No. 22-02603 at 5 (App. Bd. Feb. 9, 2026) (citation omitted) (reversing grant of security clearance for an applicant with connections to Taiwan).

Applicant has not rebutted the concern arising from his relationship with his parents, who are citizens and residents of China. His connections to the United States, taken together, are strong; however, they are insufficient to overcome the foreign influence security concerns under Guideline B relating to China.

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 his conduct and all the 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), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guideline B are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline but some warrant additional comment.

Applicant is 44 years old. He received bachelor's and master's degrees in China in material science and mechanical engineering areas. He received a Ph.D. in mechanical engineering from a U.S. university in 2010. In 2009, he married, and he has three children, who are ages 6, 11, and 15. Applicant, his spouse, and their three children are all citizens and residents of the United States. He and his spouse are well educated and successful professionals. They have strong academic and professional credentials. He and his family have strong connections to the United States.

Applicant's colleagues from work, church, and university; friends; his manager where he is currently employed; and his spouse positively described Applicant's character. The general sense of their statements is that Applicant is diligent, trustworthy, professional, friendly, and honest. He is a top employee who received "stellar" evaluations. His extraordinary scientific background and work performance are indications that he is a great asset to the United States.

The reasons for denying Applicant's security clearance are persuasive. A Guideline B decision concerning China must take into consideration the geopolitical situation and dangers in that country. See ISCR Case No. 04-02630 at 3 (App. Bd. May 23, 2007) (remanding because of insufficient discussion of geopolitical situation and suggesting expansion of whole-person discussion); ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing grant of security clearance because of terrorist activity in the West Bank).

Applicant has frequent contacts with his parents, who are citizens and residents of China. The Chinese Government's intelligence activities, violations of human rights, and efforts to compete with the United States result in Applicant having a heavy burden to mitigate his relationships with family living in China. Additional discussion is in the analysis section, *supra*.

Applicant did not meet his very heavy burden of showing that his relationship with his parents were unlikely to come to the attention of those interested in acquiring U.S. classified information. "Application of the guidelines is not a comment on an applicant's patriotism but merely an acknowledgment that [he] may act in unpredictable ways when faced with choices that could be important" to his parents in China. See *Generally* ISCR Case No. 17-01979 at 5 (App. Bd. July 31, 2019).

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant failed to mitigate foreign influence security concerns.

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
Subparagraphs 1.a and 1.b:	Against Applicant
Subparagraphs 1.c and 1.d:	For Applicant

Conclusion

Considering all the circumstances in this case, 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.

Mark Harvey
Administrative Judge