



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



In the matter of:	)	
	)	
	)	ISCR Case No. 10-08875
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: D. Michael Lyles, Esq., Department Counsel  
For Applicant: *Pro se*

March 9, 2011  
\_\_\_\_\_

**Decision**  
\_\_\_\_\_

RICCIARDELLO, Carol G., Administrative Judge:

Applicant mitigated the Government's security concerns under Guideline B, Foreign Influence, and Guideline C, Foreign Preference. Applicant's eligibility for a security clearance is granted.

On November 30, 2010, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline B. On February 24, 2011, Department Counsel amended the SOR to include security concerns under Guideline C. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense on September 1, 2006.

Applicant answered the SOR on December 20, 2010, and requested a hearing before an administrative judge. The case was assigned to me on January 13, 2011.

DOHA issued a Notice of Hearing on February 2, 2011. I convened the hearing as scheduled on February 24, 2011. The Government offered Exhibits (GE) 1 and 2. Applicant did not object and they were admitted into evidence. The Government requested administrative notice be taken of HE I. I granted the request. Applicant testified on his own behalf. He offered exhibits (AE) A through H, which were admitted into evidence without objection. The record was held open until March 2, 2011 to allow Applicant to submit additional documents. They were marked as AE I and J, and admitted into evidence without objection.<sup>1</sup> DOHA received the hearing transcript (Tr.) on March 3, 2011.

### **Procedural Issues**

At the hearing, Department Counsel moved to amend the SOR by adding ¶¶ 2.a and 2.b, security concerns under Guideline C. Applicant did not object. He waived the notice requirement and requested to proceed with the hearing.<sup>2</sup>

### **Findings of Fact**

Applicant admitted all of the allegations in SOR. He admitted the allegations in the amended SOR. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 27 years old. He was born in the Netherlands and immigrated with his parents and three brothers to the United States when he was 12 years old. He became a naturalized citizen of the United States in 2005. His parents continue to live in the United States as permanent residents. He has two brothers who are also naturalized citizens of the United States. Applicant earned a bachelor's degree and a master's degree in the United States. He stated he made a conscious decision that he wanted to devote his career to public service.

Applicant holds dual citizenship with the Netherlands. He has a Dutch passport that expired on March 1, 2005, and he has not renewed it. He last used his Dutch passport on May 6, 2004. He obtained a U.S. passport on February 4, 2005. He is willing to renounce his Dutch citizenship. Once he became a naturalized citizen of the United States, he never used his Dutch passport. He has not received any benefits from his Dutch citizenship since becoming a U.S. citizen. His grandparents live in the Netherlands and he anticipates visiting them in May 2011 to introduce his wife.<sup>3</sup> He provided a statement which said:

I have consistently and repeatedly stated that I am more than willing to surrender my Dutch citizenship and expired passport. I have noted

---

<sup>1</sup> Department Counsel had no objections to AE I and J. His memorandum was marked as HE II.

<sup>2</sup> Tr. 87-89, 132-134.

<sup>3</sup> Tr. 78-87, 89, 122-130.

previously that should my Dutch citizenship impose any obligations, I would not comply. I have in the past attempted to obtain instructions for surrendering my Dutch citizenship, but was unable to locate any useful information online. My Dutch language skills have significantly deteriorated due to disuse. I have long considered myself an American ever since my family emigrated to [State] in 1995 and long before being officially naturalized; I do not participate in the Dutch ex-pat community as I do not believe I share their identity; and I do not personally identify myself as “Dutch-American” or subscribe to any other hyphenated identity.<sup>4</sup>

Applicant married in February 2008. They have no children. His wife is a citizen of Taiwan and resides in the United States with Applicant. They met while attending graduate school in the United States. There were many foreign students who were in the same curriculum as they were. Applicant will sponsor his wife for United States citizenship when she is eligible. She will be eligible after she has been a permanent resident for three years, which is in about nine months. His wife was attending graduate school on a student visa, for about 18 to 20 months before they married. They graduated in May 2008, both earning master’s degrees in public policy. She would have had to return to Taiwan in December 2008, but because they married she was permitted to remain in the United States.<sup>5</sup>

Applicant’s wife has worked since September 2008 for a nongovernment organization (NGO) in the United States, whose purpose is to strengthen democracy around the world through private enterprise. It is funded by a national endowment. As part of her duties, she is required to travel to the People’s Republic of China (PRC) about once every year or two. Her contact with the PRC is with civil organizations that are think tanks, human rights organizations, and other NGOs. Prior to her present job, she was the assistant to the director of an NGO which fostered scholarly nonpartisan dialogue. She worked on issues that involved the PRC. Her earlier employment was as an intern where she worked as a bilingual translator for a U.S.-sanctioned radio station broadcasting pro-democracy information. Applicant’s wife has contact with citizens of the PRC through her job, which is involved with human rights groups and activists.<sup>6</sup>

Applicant’s parents-in-law are citizens and residents of Taiwan. Applicant’s wife has one sibling, a brother, who is a citizen and resident of Taiwan. He is engaged to be married. His fiancée works for a shipping company. They plan to marry in a year or two. Applicant indicated it is very likely his wife will attend the wedding, and he will also if he is able. Her brother completed his mandatory military service in the Taiwanese Coast Guard and remained because of the job opportunities. Applicant’s father-in-law retired from the Taiwanese Navy between five and ten years ago. His mother-in-law works in

---

<sup>4</sup> AE I.

<sup>5</sup> Tr. 44, 49, 96-99, 110.

<sup>6</sup> Tr. 109-113; AE C, D.

special education at a school. Applicant's wife communicates with her parents about three times a week. She does not speak with her brother very frequently. Applicant speaks to his in-laws about six times a year on special occasions. He has limited language skills to communicate in their language. Applicant and his wife do not provide financial support for any of her relatives, although they may occasionally send gifts on special occasions.<sup>7</sup>

Applicant's mother-in-law has a large family consisting of nine brothers and sisters, who live in Taiwan. Applicant's wife has many cousins who live there. His mother-in-law is the youngest of the siblings. His wife does not speak with any of her mother's family frequently, but may see some of them when she is visiting Taiwan. One of Applicant's wife's uncles works in the PRC. He and his wife live part-time in Taiwan and part-time in the PRC. Applicant believes he manages some type of factory. Applicant's wife may have contact with them when she visits Taiwan or by telephone on special occasions. Applicant believes there may be another family member who manages a farm in Malaysia, but he is unsure.<sup>8</sup>

Applicant's father-in-law's extended family was split during the Chinese civil war. Applicant does not know how many siblings he had. His family moved to Taiwan during the civil war. Many years later, his father-in-law found distant relatives who still lived in the PRC and he may have had some contact with them, but Applicant is unsure who they are or what type of contact has been made. He believes that the relatives are from the father-in-law's father's first wife, so he may have half-brothers, sisters, and cousins.<sup>9</sup>

Applicant and his wife traveled to Taiwan in January 2010, January 2008, and January 2007. In January 2007, Applicant went to Taiwan to ask his wife's parents if he could marry their daughter. He was there for two weeks. In January 2008, he and his wife traveled together and also took a four-to-five day trip, as tourists, to the PRC. In 2010, they went to Taiwan to visit his wife's relatives. As part of their trip, they also went on a seven-day trip to coastal China as part of a longer trip to Asia. It was a vacation and allowed his wife to gain perspective for her professional responsibilities as the assistant program officer. Applicant accompanied her so they could visit the West Lake area which is a popular destination for couples. Applicant anticipates he and his wife will continue to travel to Taiwan in the future to visit her relatives. In 2006, he traveled with friends throughout Asia and their trip originated in Hong Kong, but did not visit mainland PRC. Applicant is interested in the PRC's national parks so he visits them while there.<sup>10</sup>

---

<sup>7</sup> Tr. 50-54, 78, 99, 107-109.

<sup>8</sup> Tr. 100, 103-107.

<sup>9</sup> Tr. 100-103.

<sup>10</sup> Tr. 44-48, 65-67, 114-120; AE J.

In 2005,<sup>11</sup> Applicant visited the PRC. His college roommate was a citizen of the PRC at the time. This former roommate has since become a naturalized citizen of the United States. The roommate met Applicant at the airport in the PRC, along with another friend, who was Canadian. They stayed with the roommate at his home and met his parents. His parents are naturalized U.S. citizens, but return to the PRC and stay about eight months of the year. Applicant's friend's uncle, is a high-ranking government official. Through Applicant's friend's uncle, they received a tour of the Great Hall of the People in the PRC. Applicant never met the uncle. His former roommate now lives and is employed in the United States. Applicant took the trip because he was interested in seeing China.<sup>12</sup>

Applicant's wife had contact with a PhD student from the PRC who was a translator. At one time, Applicant and his wife had contact with students from the PRC who were their classmates. They both studied in a program that had many international students. Applicant has minimal, if any, contact with most of them now, except to occasionally see what they are doing through Facebook. He has two former classmates that live in the PRC. In 2008, when he was in the PRC, he visited one friend while he was there and they had dinner. He believes he is employed by the local Chinese government. He has lost contact with the other friend. His wife maintains contact with a friend from the PRC. The contact may be about once every three months. She may use this person to assist her in validating information she uses in her job.<sup>13</sup>

Applicant's wife may visit friends when she is in Taiwan. Applicant may accompany her when they all meet for dinner. He does not have friends in Taiwan independent of his wife. He would only see them if he was visiting Taiwan. Applicant's wife maintains a bank account, that she has had for many years, in Taiwan for convenience. It has approximately \$3,500. Applicant estimated their total assets in the United States to be about \$100,000. He and his wife have purchased a home together and intend on staying in the United States to raise a family.<sup>14</sup>

Applicant provided a character letter from the program manager where he is employed. He started working for his employer initially through a prestigious fellowship program for outstanding graduates with master's degrees, who wanted to pursue public service. It was only open to young professionals "with exceptional technical and research skills combined with strong leadership potential." Applicant remained with the company and is considered one of the top performers. He has had access to procurement-sensitive and proprietary data and has followed the rules and guidelines to protect the information. He is viewed as one of his program manager's most trusted

---

<sup>11</sup> SOR ¶ 1.i alleges the year 2008. The correct date is 2005.

<sup>12</sup> Tr. 45-48, 65, 67-76; AE J.

<sup>13</sup> Tr. 56-64, 76-77.

<sup>14</sup> Tr. 48, 54-56, 77-78. 91-93, 121-122.

advisors. He has demonstrated strong moral character with the utmost integrity. His reliability, trustworthiness, and good judgment have never been questioned.<sup>15</sup>

Applicant provided character letters about his wife from her employer. Her employer describes their work as promoting democracy around the world through market-oriented reform. Their organization receives some of its funding from the Department of State. She is responsible for handling the PRC portfolio, because of her comprehensive understanding of the PRC, and the associated obstacles and opportunities to free enterprise and political reform. She traveled to the PRC in August 2010, with her supervisor, to enhance the situational awareness and gauge the effectiveness of the projects in promoting democracy and market-oriented reforms. She was steadfast and committed to accomplishing the important work of her organization.<sup>16</sup>

A past employer for Applicant's wife also provided a character letter. She noted that Applicant's wife helped initiate a number of funded projects in East Asia that effectively advanced democracy and market-oriented reform in China, Vietnam, and North Korea. She is committed to the work and has a tireless passion for advancing democracy and fostering civil society across the region. She is considered a tremendous asset to the NGO's "bipartisan efforts to foster democratic institutions and 'support freedom around the world' in support of American foreign policy objectives."<sup>17</sup>

### **Taiwan and PRC<sup>18</sup>**

In 1949, Taiwan was populated by refugees fleeing a civil war in China. That same year, Communists in mainland China established the People's Republic of China, and a separate, independent government was established in Taiwan. The PRC does not recognize Taiwan, and insists there is only "one China."

Taiwan is a multi-part democracy. Through nearly five decades of hard work and sound economic management, Taiwan has transformed itself from an underdeveloped, agricultural island to an economic power that is a leading producer of high-technology goods. On January 1, 1979, the United States formally recognized the PRC as the sole legal government of China. The United States also announced that it would maintain cultural, commercial, and other unofficial relations with the people on Taiwan. The Taiwan Relations Act (TRA) signed into law on April 10, 1979, created the legal authority for the conduct of unofficial relations with Taiwan. The American Institute in Taiwan, a private nonprofit corporation with offices in Taiwan, is authorized to issue visas, accept passport applications, and provide assistance to U.S. citizens in Taiwan. A

---

<sup>15</sup> AE A.

<sup>16</sup> AE E.

<sup>17</sup> *Id.*

<sup>18</sup> HE I

counterpart organization was established by Taiwan. It has multiple offices in the United States.

Maintaining strong, unofficial relations with Taiwan is a major U.S. goal. The United States does not support Taiwan independence, but it does support Taiwan's membership in appropriate international organizations such as the World Trade Organization (WTO), which it joined in 2002, Asia-Pacific Economic Cooperation (APEC) forum, and the Asian Development Bank. In addition, the United States supports appropriate opportunities for Taiwan's voice to be heard in organizations where its membership is not possible.

The TRA enshrines the U.S. commitment to help Taiwan maintain its defensive capability. The United States continues to sell appropriate defensive military equipment to Taiwan, in accordance with the TRA.

President George W. Bush stated in 2003, that the United States is opposed to any attempt by either side to unilaterally alter the status quo in the Taiwan Strait. The United States insists on the peaceful resolution of cross-Strait differences and encourages dialogue to help advance such outcome.

Taiwan's commercial ties with the United States have been maintained or enhanced since 1979. It enjoys Export-Import Bank financing, overseas private investment corporation guarantees, normal trade relations status, and ready access to U.S. markets.

Maintaining diplomatic relations with the PRC has been recognized to be in the long-term interests of the United States by seven consecutive administrations, however, maintaining strong, unofficial relations with Taiwan is also a major U.S. goal, in line with the desire to further peace and stability in Asia.

The PRC is a large and economically powerful country, with a population of over a billion people and an economy growing at about 10% per year. The PRC has an authoritarian government, dominated by the Chinese Communist Party. The PRC has a poor record with respect to human rights, suppresses political dissent, and its practices include arbitrary arrest and detention, forced confessions, torture, and mistreatment of prisoners.

Both the PRC and Taiwan are known to be active collectors of U.S. economic intelligence. The PRC also maintains intelligence operations in Taiwan.

## **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 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, these guidelines are applied 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(c), 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 access to classified information will be resolved in favor of 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and 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 Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline B, Foreign Influence**

AG ¶ 6 expresses the security concern regarding foreign influence:



Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

AG ¶ 7 describes conditions that could raise a security concern and may be disqualifying. I have considered all of them and especially considered the following:

- (a) contact 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 sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information;
- (d) sharing living quarters with a person or person, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion; and
- (e) a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign operated business, which could subject the individual to heightened risk of foreign influence or exploitation.

The mere possession of a close personal relationship with a person who is a citizen and resident of a foreign country is not, as a matter of law, disqualifying under Guideline B. However, depending on the facts and circumstances, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. Applicant's wife is a citizen of Taiwan. She resides with Applicant in the United States. She is a permanent resident of the United States and Applicant is sponsoring her for U.S. citizenship. She will meet the residency requirement in about nine months. Applicant's parents-in-law, brother-in-law, and extended family are citizens and residents of Taiwan. Applicant's wife has friends who are also citizens and residents of Taiwan. When he and his wife visit Taiwan, they see her family and friends. Applicant and his wife have acquaintances and casual friends who are residents and citizens of the PRC. The PRC and Taiwan are both known to be active collectors of U.S. economic intelligence. This creates a heightened risk of foreign

exploitation, inducement, manipulation, pressure, or coercion. It also creates a conflict of interest. Therefore, I find AG ¶¶ 7(a), 7(b), and 7(d) apply. Applicant's wife maintains a bank account in Taiwan for convenience with a balance of about \$3,500. Applicant estimated that their assets in the United States were about \$100,000. The bank account does not equate to a substantial business, financial, or property interest which could subject Applicant to a heightened risk of foreign influence. Therefore, I find AG ¶ 7(e) does not apply.

I have also analyzed all of the facts and considered all of the mitigating conditions for this security concern under AG ¶ 8 and conclude the following are potentially applicable:

(a) the nature of the relationship 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 and interests of the U.S.;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interests in favor of the U.S. interests; 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 wife, parents-in-law, brother-in-law, extended family members, and friends are citizens and residents of Taiwan. Applicant and his wife visit her immediate family periodically, and she talks with them often. They both have less contact with her brother and limited contact with the extended family. However, they likely visit with them when they are in the country. Applicant anticipates future visits to Taiwan. He and his wife's contact with her immediate family are frequent and more than casual. Their contact with the extended family is infrequent and not likely to create a risk for foreign influence or exploitation. Both Applicant and his wife have acquaintances and casual friends from college that are from the PRC. Applicant and his wife have minimal contact with them and with his friend whose uncle arranged the tour of the Great Hall. That friend is now a resident and citizen of the United States. Applicant may occasionally see an update about his other friend in the PRC on Facebook. His wife has minimal contacts in the PRC with people she uses to help her with validating information for work. I find both Applicant and his wife's PRC contacts are infrequent and casual and not likely to create a heightened risk. Therefore, AG ¶ 8(c) does not apply to her immediate family, but does apply to her extended family and to both Applicant's and his wife's contacts in the PRC.

The nature of a nation's government, its relationship with the U.S., and its human rights record are relevant in assessing the likelihood that 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, the country is known to conduct intelligence operations against the U.S., or there is a serious problem in the country with crime or terrorism.

Applicant is a loyal U.S. citizen who is devoted to public service to his country. His wife is a permanent U.S. resident who is devoted to promoting a pro-democracy agenda through the NGO she works for. She will apply to become a U.S. citizen in a few months when she is eligible. Her family lives in Taiwan. Her father is retired from the Taiwanese Navy and her brother currently serves in the Taiwanese Coast Guard. Taiwan has a democratically elected government and maintains close relations with the United States. It collects U.S. intelligence, as do other U.S. allies. It does not have a poor human rights record and there is no indication that it uses coercion in its intelligence operations. I find it unlikely that Applicant or his wife would ever be placed in a position of having to choose between the interests of Taiwan or her family living there and the interests of the United States. Applicant identified with being American before he became a citizen. The ties to Taiwan through his wife do not create a conflict of interest because of Applicant's deep and longstanding loyalties to America. Any issues can be expected to be resolved in favor of the United States. I find mitigating condition AG ¶ 8(a) and 8(b) apply.

### **Guideline C, Foreign Preference**

Under AG ¶ 9 the security concern involving foreign preference is as follows:

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

AG ¶ 10 describes disqualifying conditions that could raise a security concern. I have considered the following are potentially applicable:

(a) exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member. This includes but is not limited to: (1) possession of a current foreign passport; (2) military service or a willingness to bear arms for a foreign country; (3) accepting educational, medical, retirement, social welfare, or other such benefits from a foreign country; (4) residence in a foreign country to meet citizenship requirements; (5) using foreign citizenship to protect financial or business interests in another country; and

(b) action to acquire or obtain recognition of a foreign citizenship by an American citizen.

I have also considered all of the mitigating conditions under AG ¶ 11 to include:

(a) dual citizenship is based solely on parents' citizenship or birth in a foreign country;

(b) the individual has expressed a willingness to renounce dual citizenship;

(c) exercise of the rights, privileges, or obligations of foreign citizenship occurred before the individual became a U.S. citizen or when the individual was a minor, and

(e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated.

Applicant emigrated with his family, when he was a boy, to the United States from the Netherlands. He became a U.S. citizen on February 4, 2005. He held a Dutch passport that expired on March 1, 2005. He did not renew the passport. I find none of the above disqualifying conditions apply. Applicant did not use his Dutch passport after becoming a U.S. citizen. It then expired. He researched how to formally renounce his Dutch citizenship and is willing to do so. He has not exercised any rights, privileges, or obligations of foreign citizenship since becoming a U.S. citizen. I find all of the above mitigating conditions apply.

### **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 the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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 Guidelines B and C in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment. Applicant is devoted to his career in public service to his nation. His wife is a citizen of Taiwan. She has embraced the American culture and is working for an NGO in promoting democracy. She is a permanent resident of the United States and is waiting to fulfill the time requirements before she can become a citizen. Her family lives in Taiwan. Although Taiwan is an active collector of U.S. intelligence, there is no indication that it coerces its citizens. I have considered Applicant's deep loyalties to the United States and conclude that he would resolve in favor of the United States any conflicts of interest that may arise. I find the nominal contacts Applicant and his wife have with acquaintances from the PRC do not rise to the level of a security concern. Overall, the record evidence leaves me with no questions or doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising under the guidelines for Foreign Influence and Foreign Preference.

### **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:	FOR APPLICANT
Subparagraphs 1.a-1.p:	For Applicant
Paragraph 2, Guideline C:	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 clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is granted.

---

Carol G. Ricciardello  
Administrative Judge