



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



In the matter of:

Applicant for Public Trust Position

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ADP Case No. 15-06670

Appearances

For Government: Daniel F. Crowley, Esq.
For Applicant: Mark S. Zaid, Esq.

03/27/2017

Decision

LYNCH, Noreen A., Administrative Judge:

This case involves trustworthiness concerns raised under Guideline C (Foreign Preference) and Guideline B (Foreign Influence). Eligibility for assignment to a public trust position is granted.

Statement of the Case

Applicant submitted a security clearance application on April 1, 2015. On March 23, 2016, the Department of Defense (DOD) sent him a Statement of Reasons (SOR) alleging trustworthiness concerns under Guideline C and Guideline B. DOD acted under Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006.

Applicant received the SOR and requested a hearing before an administrative judge. I was assigned the case on August 12, 2016. A notice of hearing was issued on November 3, 2016, scheduling the hearing for January 26, 2017. Government Exhibits (GX) 1 through 3 were admitted in evidence without objection. Applicant testified,

presented three witnesses, and submitted Applicant's Exhibits (AX) A through M, which were admitted without objection. I received the transcript (Tr.) on February 3, 2017.

Procedural Issue

Department Counsel requested that I take administrative notice of certain facts regarding the State of Israel. Applicant did not object, and the file of materials proffered in support of the request were labeled Hearing Exhibit I and entered into the record.

Findings of Fact

In his answer to the SOR, Applicant admitted the factual allegations in the SOR under Guideline C (Foreign Preference) with detailed explanation. He also admitted factual allegations under Guideline B (Foreign Influence). He provided additional information to support his response. His admissions in his answer and at the hearing are incorporated in my findings of fact.

Applicant is 31 years old. He is single and has no children. He is a data analyst for a defense health agency. (Tr. 60) He has been with his current employer since April 2015. (AX A) He previously worked as a business analyst and database support analyst from August 2013 to 2015. (GX 1) Applicant completed an SF-86 in April 2015. The security process stopped as Applicant took alternative work. Despite the fact that the case was labeled as an ISCR not ADP, both counsel assured me that this is a request for a public trust position. (Tr. 8-10).

Applicant was born in the United States in April 1986. His entire immediate family is American and born in the United States.¹ He was educated in the United States and received his high school diploma in 2004. (GX 1) In August 2004, Applicant left the United States and traveled to Israel. From 2004 until about June 2005, and then from August 2006 to March 2009, Applicant lived in Jerusalem, Israel attending a non-degree institution (seminary/Yeshiva). He considered this a "gap year" studying Judaic texts. In 2008, Applicant started a program in electrical engineering at an Israeli university. (GX 1; Tr. 68) In September 2008, he decided to apply for Israeli citizenship. He believed that since he would be studying in Israel it made sense for him to become a dual citizen. However, after a few months, he decided that the program was not as he expected. (Answer to SOR) He found that despite his Hebrew, he could not manage the program. He was not doing well academically, despite his earnest efforts. (Tr. 74) He decided not to take final exams.

Applicant returned to the United States for a visit in 2008 for a few months. (Tr. 67) At the time, his grandmother was terminally ill. (Tr. 76) While in Israel, Applicant obtained an Israeli passport in January 2009. Also in 2009, Applicant voted in a general election in Israel, which was the only time he voted in such an election. He believed since he was living there it was a civic duty. (Tr. 85) He has no intention of voting in an

¹ His stepbrother is a dual citizen of Israel and the United States.

Israeli election again. If he had known voting or the IDF would have an impact on working in the United States, he would never have done so.

In addition, while in Israel, Applicant served in the Israeli Defense Forces (IDF) from March 2007 until December 2007. Applicant viewed this as volunteering with other members of his school program to gain a better appreciation of the culture and language of the country. (Tr. 64-65) Applicant was in the IDF for about nine months. (Tr. 66) He spent most of the time training, but he eventually drove a tank. He did not have combat experience. (Tr. 66) Applicant acknowledged that he had a great deal of difficulty in the army. (Tr. 74) He does not think of it and is not in touch with most of the people who were in the IDF with him. (Tr. 74)

He does not deny that even though a U.S. citizen by birth, he used his Israeli passport to travel to Israel. He used his U.S. passport at other times. He also renewed the Israeli passport in January 2011 and 2014 to attend weddings. Applicant does not deny that while living in Israel, he went to a doctor once or twice, which means he availed himself of medical benefits exercising Israeli citizenship. (Tr. 84)

In 2009, Applicant left Israel and returned to the United States to study at university. He graduated from an American university with a degree in electrical engineering in 2012. After the completion of his undergraduate degree, he did a short "study abroad" program broad to gain an understanding of business initiatives. He used his U.S. passport for those trips. (Tr. 77) He joined an international study group and they traveled to Nicaragua. He then obtained employment with a company in the United States. (GX 1)

Applicant's mission in life in the United States has been to help others. He would never go to battle for Israel. The United States is his home. He is loyal to his home in the United States. (Tr. 87)

Applicant's stepbrother is a dual citizen of the United States and Israel. His stepbrother resides in Israel and has served in the IDF. He is not close to Applicant. Applicant may see him once a year in the United States at a family gathering. (Tr. 90) He does not know the specific nature of Applicant's work. Applicant last saw him at a family wedding. (Tr. 91)

Applicant has a friend who resides in Israel, but is a dual citizen of South Africa. Applicant does not interact with him. He has no connection to the Israeli government. (Tr.94) He recently married Applicant's cousin.

Another friend of Applicant is a dual citizen of Israel and the United States. He grew up in the United States and went to Israel for seminary. Applicant knew him while he was studying in Israel. He is a patrol officer in Israel. (Tr. 95) He believes he is in the reserves. He talks to him rarely on social media. He has no idea of Applicant's work.

Applicant does not currently possess an Israeli passport. He turned that passport in to his FSO when he learned it was something that he needed to do to be considered for a position of trust. (Tr. 78) The Israeli passport expired in 2016. (Tr. 78) He did not understand the trustworthiness concern before then. He does not intend to apply for another one. He is also willing to renounce his Israeli citizenship. (Tr. 79)

Applicant was clear that despite the fact that he received Israeli citizenship and was in the IDF, neither would cause him to betray the United States. He has never been approached by, or interacted with, anyone who was a spy. (Tr. 80) He explained living in Israel was different than just having a vacation with his family. He finds it an abrasive and confrontational place. (Tr. 81) He does not consider himself a political person. (Tr. 82) However, he recognizes his Jewish heritage. There is a cultural connection.

Applicant maintained about \$3,000 in a bank in Israel. He no longer has the account. (Tr. 86) He transferred the money to the United States. He has no other financial interests in Israel. (Tr. 87) All of Applicant's assets are in the United States. (AX C)

Applicant's friend testified that she sees him once a week and that her husband grew up with Applicant. She is familiar with the SOR. She works for the Government and understands the security process. (Tr. 22) She has known Applicant for about three years. They maintain social contact and see each other at temple. (Tr. 26) She stated that the topic of his previously living in Israel was not discussed until the issue of the trustworthiness concern arose. Applicant's friend noted that Applicant was upset that he might lose a job that he enjoys. (Tr. 26) She emphasized that it is extremely common for a young Jewish person to go to Israel to spend time in that community. She has been to Israel and her husband studied there. (Tr. 27) She testified that the connection that many Jewish people have, such as Applicant, is to the culture and to the land. Applicant is very trustworthy and does not hesitate to recommend him for a public trust position.

Applicant's second witness testified that she holds a security clearance, and she has known Applicant since college. They belong to the same social group. She is aware of the SOR. (Tr. 35) She also studied at seminary in Israel, and she has visited friends who live in Israel on several occasions. She explained that in addition to studying religious texts, there is an element of community service. (Tr. 35) Many students join the IDF to gain an understanding of the culture. IDF service is compulsory for individuals at that age. (Tr. 37) As to her understanding of Applicant's character, she knows that he would never provide sensitive information to Israel. "He knows right from wrong." She testified that he is loyal to the United States. She emphasized that it is easy to get Israeli citizenship and no one thinks that at some point in a career that could be a concern. (Tr.40)

Applicant's third witness, who holds a security clearance, studied in Israel. He has known Applicant since elementary school. He also attended the same program in Israel with Applicant. (Tr.46) He is a family friend as well. He is aware of the concerns

alleged in the SOR. (Tr. 47) He explained that Jewish students are encouraged to spend a “gap year” in Israel before college, which helps them gain admission to elite universities. (Tr. 49) This witness noted that he and Applicant do not discuss the time in Israel or the politics of Israel. (Tr. 53) This witness also knows the friends of Applicants who are mentioned in the SOR. (Tr. 55) He emphasized the character and integrity of Applicant, and he recommends him. (Tr. 57)

Applicant submitted a current employment performance appraisal, which covers the period from 2015 to 2016. Applicant received clearly outstanding and some above expectation ratings. (AX B) At the time of the June 2016 evaluation, he received a merit promotion, raise, and a more responsible position.

Applicant also submitted nine affidavits, including one from his father. His father wrote that when Applicant’s mother died in 2004, Applicant left for Israel almost immediately. He explained that most of Applicant’s high school friends were going to spend a year in Israel. He believes his son was looking for a sense of belonging. His father states that Applicant has no desire to live in Israel. He is a proud U.S. citizen, votes in U.S. elections, and is grounded in his life in the United States. His son (Applicant) is totally committed to his work supporting the insured who have served in the U.S. armed forces. (AX E)

Applicant submitted other affidavits from friends who work for the Government, have public trust positions and understand the allegations in the SOR. They know him from temple. All attest to his ethics and integrity. Some of them have also studied in Israel. Each one notes that Applicant is a dedicated, trustworthy person. Each recommends Applicant for a position of trust. (AX F-M) One friend described him as passionate about his work in the United States.

Administrative Notice

Israel is a parliamentary democracy of about 7.71 million people with a modern economy with ongoing regional security concerns. Despite the instability and armed conflict that have marked Israel’s relations within the region since it came into existence, Israel has developed a diversified, technologically advanced market economy focused on high-technology electronic and biomedical equipment, chemicals, and transport equipment. Israel occupied the West Bank, Gaza Strip, Golan Heights, and East Jerusalem as a result of the 1967 war. In 1994, the Palestinian Authority was established in the Gaza Strip and West Bank, although the Islamic Resistance Movement (HAMAS), a U.S. designated foreign terrorist organization (FTO), took control of the Gaza Strip in June 2007. Terrorist attacks are a continuing threat in Israel, and may be aimed at American interests. The U.S. State Department advises U.S. citizens to take due precautions when traveling to the West Bank, Gaza.

The relationship between Israel and the United States is friendly and yet complex. Since 1948, The United States and Israel have a close friendship based on common democratic values, religious affinities, and security interests. The Government

notes that United States-Israeli defense, diplomatic, and economic cooperation has been close for decades. U.S. aid for Israel has been designed to maintain Israel's qualitative military edge over neighboring militaries since Israel must rely on better equipment and training to compensate for a manpower deficit in any potential regional conflict. Arms sales, information sharing, and co-development of technology between the United States and Israel raises questions about what Israel might do with the capabilities it acquires. To minimize any such concerns, the United States enacted the Arms Export Control Act (AECA) that specifically enumerates the purpose for which foreign governments can use U.S. military articles and limits their ability to transfer the products to third-parties without prior consent of the U.S. President.

The Government also cites to the 1986 case of Jonathan Pollard, who pled guilty to selling classified information to Israel; the 2005 Lawrence Franklin case, where the individual pled guilty to disclosing classified information to an Israeli diplomat and two lobbyists; and a 2011 case where a U.S. Government scientist pled guilty to attempted espionage, believing he was providing classified information to an Israeli information officer. In addition, the Government cites to five source documents, ranging from 2015 materials from the Congressional Research Service, the U.S. Department of Justice, and the U.S. Department of Commerce; a 2014 document from the U.S. Department of State concerning travel information; and a 2006 Office of National Counterintelligence Executive Annual Report.

Concerning the Government's request that I take administrative notice of the fact that Israeli military officers have been implicated in collecting or attempting to collect protected technology from the United States, the incident reported in the Intelligence Threat Handbook occurred in 1986. Like the Pollard case, that information must be evaluated in light of its dated nature. The anecdotal evidence of criminal wrongdoing of other U.S. citizens is of decreased relevance to an assessment of Applicant's eligibility for a position of public trust, given there is no evidence that Applicant or any member of his family was involved in any aspect of the cited cases.

Policies

Positions designated as ADP I and ADP II are classified as "sensitive positions" Regulations C3.1.2.1.7 and C3.1.2.1.2.3. The standard that must be met for assignment to sensitive duties is that the person's loyalty, reliability, and trustworthiness are such that assigning the person to sensitive duties is "clearly consistent with the interests of national security." Regulation C6.1.1.1 DOD contactor personnel are entitled to the procedural protections in the Directive before any final unfavorable access determination may be made, Regulation C8.2.1

A person who seeks access to sensitive information enters into a fiduciary relationship with the Government predicated on trust and confidence. 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 sensitive information.

When evaluating an applicant's suitability for a public trust position, the administrative judge must consider the disqualifying and mitigating conditions in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines 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 protection of the national security is the paramount consideration. Under AG 2(b), "[a]ny doubt concerning personnel being considered for access to [sensitive] information will be resolved in favor of national security." The Government must present substantial evidence to establish the controverted facts alleged in the SOR. Directive E3.1.14. 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 burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). An applicant has the ultimate burden of demonstrating that it is clearly consistent with national security to grant or continue eligibility for access to sensitive information.

Analysis

Guideline B, Foreign Influence

The security concern under this guideline is set out in AG ¶ 6:

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.

Two disqualifying conditions under this guideline are relevant. A disqualifying condition may be raised by "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." AG ¶ 7(a). In addition, AG ¶ 7(e) provides that "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 or foreign influence or exploitation.”

AG ¶¶ 7(a) and 7(e) are raised by Applicant’s relationship with his stepbrother, who is a dual citizen of Israel and the United States and lives in Israel. As a threshold issue, the evidence reflects that interests within Israel have been shown to use United States citizens to obtain protected information. Consequently, on its face, there is a risk that Applicant could be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in the interests of the United States, or be vulnerable to pressure or coercion by any foreign interest. Such evidence demands that the facts be examined in terms of a “heightened risk.” Here Applicant’s immediate family live in the United States and are U.S. citizens. The only person that is a dual citizen and lives in Israel is his stepbrother. Applicant has a few friends who he rarely keeps in touch with. He has no bank account in Israel at this time.

Guideline B is not limited to countries hostile to the United States. “The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States.” ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004).

Furthermore, “even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security.” ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at **15-16 (App. Bd. Mar. 29, 2002). Finally, friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. Nevertheless, 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 an applicant’s family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the U.S. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue. See *generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided).

The Government submitted country summaries of Israel. Record evidence places a burden of persuasion on Applicant to demonstrate that his relationship with his stepbrother living in Israel does not pose a security risk. Applicant should not be placed in a position where he might be forced to choose between loyalty to the United States and a desire to assist his stepbrother.

I conclude that Applicant’s ties are sufficient to raise an issue of a heightened risk of foreign exploitation, inducement, manipulation, pressure or coercion. His relationship

with his stepbrother creates some concern about Applicant's "obligation to protect sensitive information or technology" and his desire to help his stepbrother.

The mere possession of close ties with a family member in Israel is not, as a matter of law, disqualifying under Guideline B. However, if an applicant has a close relationship with even one relative living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could possibly result in the compromise of classified information. *See generally* ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case NO. 99-0424 (App. Bd. Feb. 8, 2001).

While there is no evidence that intelligence operatives, terrorists, or criminals from Israel seek or have sought classified or economic information from or through Applicant or his friends or stepbrother, it is not possible to rule out such a possibility in the future. There is some evidence to raise the potential of foreign pressure or attempted exploitation. AG ¶¶ 7(a) and 7(e) apply, and further inquiry is necessary about potential application of any mitigating conditions.

Trustworthiness concerns under this guideline can be mitigated by showing that "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 U.S." AG ¶ 8(a).

Trustworthiness concerns under this guideline can also be mitigated by showing "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 interest in favor of the U.S. interest." AG ¶ 8(b).

AG ¶ 8(f) provides additional mitigation if "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." Applicant had a bank account in Israel while living there. He had \$3,000 in the bank. He has closed the account. He has no money or financial interests in Israel.

AG ¶¶ 8(a), 8(b), and 8(f) are applicable. Applicant's stepbrother is a dual citizen. Applicant has no other family in Israel. Applicant does have some social media contact with his stepbrother and friends during the year. The amount of contacts between an applicant and relatives living in a foreign country are not the only test for determining whether someone could be coerced or influenced through their relatives.

AG ¶ 8(b) is applicable. Applicant expressed his loyalty to the United States. He is a U.S. citizen who has lived and worked in the U.S. except for a period of time when he studied in Israel. Israel is an ally of the United States with mutual defense.

Israel is a substantial trading partner of the United States and cooperates with the United States on many military matters. A friendly relationship is not determinative, but it makes it less likely that a foreign government would attempt to exploit a U.S. citizen through relatives or associates in that country. I have also considered the ongoing situation in Israel with extensive terrorist activities, and human rights issues. Even though Israel is not a hostile country and its interests are not inimical to the United States, it is reasonable to consider that the situation and groups in Israel could take an action that may jeopardize their friendly position with the United States. There are some indications that elements in Israel could seek sensitive information from their citizens who have family in the United States.

Applicant has strong ties to the United States. He was born in the United States to U.S. citizens. His immediate family are all U.S. citizens and live in the U.S. He left to study in Israel for cultural reasons. He was young and decided to stay after seminary to study at university. He also decided at a young age, since he was living there, to apply for Israeli citizenship. He obtained an Israeli passport and served in the IDF for nine months as a civic duty. He has firm ties to the United States and considers it his home. He embraced the culture, history and lifestyle of the United States.

Applicant's loyalty to the United States is such that he can be expected to resolve any conflict of interest in favor of the United States interest. There is no risk to the national interest if Applicant has access to sensitive information. Applicant has met his heavy burden to show that his stepbrother and friends living in Israel does not cause a trustworthiness concern.

AG ¶ 8(f) is also applicable. Applicant has no money in a bank account in Israel. He closed the account. He only used it when he was studying there.

Guideline C, Foreign Preference

The security concern under this guideline is set out in AG ¶ 9:

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.

Under AG ¶10, the following disqualifying condition is relevant:

- (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 ... or other benefits; (7) voting in a foreign election

In 2004, Applicant, who is a U.S. citizen, went to live in Israel to study at a seminary. He obtained Israeli citizenship in 2008. He obtained an Israeli passport in 2009, which he renewed in 2011 and 2014. While living in Israel he joined the IDF and served for nine months. In 2009, Applicant voted in a general Israeli election. At the time, he was about 20 years old. He testified that this was a common practice for Jewish students to live in Israel for a gap year. Granted, he stayed longer than that and decided to study at an Israeli university. As part of his program, he felt it a civic duty to vote and join the IDF. He did not have a position of public trust at the time. He returned to the United States and has no intention of living in Israel. He has no intention of voting in any other Israeli elections. He votes in U.S. elections. He has surrendered his Israeli passport to his FSO. Applicant expressed a willingness to renounce his Israeli citizenship. He does not look favorably upon his time in the IDF. Since returning to the United States he has a settled professional life. These factors are significant under the whole-person analysis. He has excellent performance reviews. He is financially settled in the United States.

All of the mitigating conditions listed under AG ¶11 specifically apply to disqualifying condition AG¶ 10(a) (2-7), with the exception of (a), (d) and (f). He has expressed a willingness to renounce the Israeli citizenship; he was a minor at the time of his study in Israel; and the passport has been surrendered. Applicant's history and conduct show that he is unlikely to make decisions that would harm the United States. On the contrary, he has spent many years in the United States supporting the United States. Applicant's one medical visit while living in Israel did not express a preference for Israel, but showed he was ill.

Whole-Person Concept

Under the whole-person concept, an 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. An 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 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.

There are substantial facts supporting mitigation of security concerns. Applicant is a U.S. citizen by birth. After high school and his mother's death, he decided to do a "gap year" in Israel where he studied at a seminary. He thought he would also study at a university, but that did not work out for him. When he was living in Israel he decided to obtain citizenship, obtain a passport, and join the IDF as part of his program and exploration into the culture. He was young. He had no idea that this could affect him when he returned to the United States. He also believed that it was his civic duty to vote in a 2009 general election. These were not signs of foreign preference. It never occurred to him in the future such issues would arise. Applicant's entire immediate family are U.S. citizens. He has little or no contact with his stepbrother. He occasionally makes contact with some acquaintances in Israel on social media.

Applicant was candid about his time in Israel. He found the culture difficult. He has no intention of returning to live in Israel. This is a common practice for young Jewish students to go to Israel to study. Many others have done so. He has surrendered his foreign passport. He is willing to renounce citizenship. He has no bank accounts in Israel or financial interests. He also noted that he felt service in the IDF was part of his entire cultural program. He does not have fond memories of it.

Applicant voted in an in election in 2009. He believed it was the right thing to do. The United States did not condone such a vote. He does not plan to vote in any other Israeli elections. Applicant votes in U.S. elections.

After weighing the disqualifying and mitigating conditions under Guideline B, and Guideline C, and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns based on foreign influence and foreign preference. Accordingly, I conclude Applicant has carried his burden of showing that it is clearly consistent with the national interest to grant him a position of public trust.

Formal Findings

I make the following formal findings on the allegation in the SOR:

Paragraph 1, Guideline C:	FOR APPLICANT
Subparagraphs 1.a-1.i:	For Applicant
Paragraph 2, Guideline C,	FOR APPLICANT
Subparagraphs 2.a- 2.f:	For Applicant

Conclusion

In view of all the circumstances presented in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a position of public trust. Eligibility for access to sensitive information in a public trust position is granted.

Noreen A. Lynch
Administrative Judge