



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 23-02826

Appearances

For Government: Sakeena Farhath, Esq., Department Counsel
For Applicant: Sean Rogers, Esq.

06/18/2025

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guideline B (Foreign Influence). Clearance is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on September 6, 2022. On January 23, 2024, the Defense Counterintelligence and Security Agency (DCSA) sent her a Statement of Reasons (SOR) alleging security concerns under Guideline B (Foreign Influence). The DCSA acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), which became effective on June 8, 2017.

Applicant answered the SOR on April 29, 2024, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on June 27, 2024. The case was assigned to me on February 25, 2025. On March 7, 2025, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on May 14, 2025. I convened the hearing as scheduled. Government Exhibit 1 was admitted in evidence without objection. Department Counsel requested that I take administrative notice of relevant facts about Taiwan and the People's Republic of China which are set out in Administrative Notice (AN) Exhibits 1 and 2. I took administrative notice as requested.

Applicant testified, presented the testimony of five witnesses, and submitted Applicant's Exhibits (AX) A through S, which were admitted without objection. The record closed upon adjournment of the hearing on May 14, 2025. DOHA received the transcript on May 27, 2025.

Findings of Fact

In Applicant's answer to the SOR, she admitted all the allegations in the SOR, with explanations. Her admissions are incorporated in my findings of fact.

Applicant is a 39-year-old linguist employed by a federal contractor since August 2022. She was born in Taiwan, entered the United States in August 2015, and became a U.S. citizen in July 2020. She grew up speaking English. Her mother decided that Applicant should learn English as a second language, and so they spoke only English at home, read English books, watched American movies, and watched American television. (Tr. 12) Applicant received a bachelor's degree in political science from a university in Taiwan in June 2009 and a master's degree from a university in the United States in May 2018. She married a native-born U.S. citizen in September 2015 and has a six-year-old daughter and an infant son. (Tr. 22) She and her husband co-own three residential properties in the United States. (Tr. 19) They do not own any property in Taiwan. (Tr. 25)

SOR ¶ 1.a alleges that Applicant's father is a citizen and resident of Taiwan. Applicant's parents separated when she was in elementary school, and her father was not involved in her life. He has never been employed by the Taiwanese government. (AX C; Tr. 34) He managed a factory when he was younger, but he is no longer able to work. (Tr. 29) He is destitute and in very poor health. He is blind in one eye, hard of hearing, and recently suffered a heart attack. As is customary in her culture, Applicant sends him money every month to "keep him off the streets." She calculates the amount of money he needs every month to pay his rent and buy food. (Tr. 31-32) In her SCA, she stated that she originally was sending her father \$300 per month, but that amount was increased to \$680 per month in 2019. (Tr. 53; GX 1 at 30)

From 2016 to 2018, Applicant and her father were not on speaking terms, because he was bitter after Applicant and her sisters sold a house that an aunt had inherited from their mother in 2011 and passed to them. The three sisters divided the proceeds from the sale, but their father did not receive anything. Applicant gave half of her share of the proceeds to the aunt who gave them the house. Applicant has no plans to visit her father and rarely talks to him because she finds it very stressful. (Tr. 62)

SOR ¶ 1.b alleges that Applicant has “multiple close and continuing personal relationships with citizens and/or residents of Taiwan.” The Directive ¶ E3.1.3 requires that an Applicant be provided with a written SOR “that shall be as detailed and comprehensive as the national security permits.” The SOR falls short of this requirement, but Applicant has not been prejudiced. Notwithstanding the lack of specificity, Applicant provided information about her sisters, three aunts, and a cousin. That information is set out below.

One of Applicant’s sisters lives in Spain and is married to a British national. She works as a translator employed by several language-service providers. She has never held a government position in Taiwan or any other country. (AX N) Applicant and her sister were estranged and had no contact between about 2009 and 2022, but they now communicate weekly by texts or telephone calls. (AX N; Tr 64)

Applicant’s another sister resides in the United States, holds a green card, and is married to a U.S. citizen. She has had no contact with this sister since 2019. (Tr. 65-66)

Applicant has three aunts and one cousin in Taiwan. She last saw them in person in December 2023. None of them have worked for the Taiwanese government or any other government. One of her aunts owns a supermarket and is a wholesale food supervisor. The daughter of this aunt is a former nurse but now a stay-at-home mother. Another of her aunts is retired but previously worked for a semiconductor company. A third aunt is a stay-at-home mother who previously worked as an accountant. (AX O, P, Q, and R) Applicant also has a half-sister from her father’s previous marriage who lives in Taiwan, with whom she has no contact. (GX 1 at 31) She does not know where this half-sister lives. (Tr. 66)

SOR ¶ 1.c alleges that the spouse of one of Applicant’s friends is a citizen of Taiwan and formerly served as a Taipei Economic and Cultural Representative for the Taiwanese government. While Applicant was attending a university in Taiwan, she had a classmate who later married an employee of the Taiwanese government. When she learned that her classmate and spouse were stationed in the city where she now lives and works, she contacted them. However, she immediately disliked her former classmate’s spouse because of the way he treated his wife. The former classmate and her spouse have returned to Taiwan. She saw them once while visiting her family in Taiwan in December 2023. When Applicant decided to apply for a security clearance, she decided to terminate all contact with them. (SOR response at 5; Tr. 42-43).

On April 24, 2025, Applicant initiated action to renounce her Taiwanese citizenship. (AX S) She was advised by the Taiwanese consulate that the process will take about three months. (Tr. 51) She has surrendered her Taiwanese passport. (Tr. 73)

Applicant visited Taiwan in 2019 when she accompanied her husband on a business trip, and she visited family members during this trip. She, her husband, and their children visited Taiwan for three weeks in December 2023, traveling around the country and visiting family members. (Tr. 74-75)

Applicant testified that she came from a “broken” family. She and her sisters were raised by their mother, who was very strict and used physical punishment. She saw her father only about once every three months. After her mother passed away, her sisters blamed their father for her death and have no contact with him. After Applicant and her sisters were given a house by their aunt, her sisters insisted on selling it over Applicant’s objection. Her father was bitter about not receiving any of the proceeds from the sale of the house. She believes her relationship with her father is toxic, because “it’s always about him.” She testified that there is no one living in Taiwan that she feels close to. (Tr. 87-89)

Applicant’s classmate from graduate school, now a translation project manager for a pharmaceutical company, testified that Applicant is very professional, trustworthy, and a very impressive interpreter. She considers her a genuine and honest person. She believes that Applicant’s entire life and loyalty is rooted in the United States. (Tr. 95-96)

A business management consultant testified that he first met Applicant in 2013 while living overseas where her Applicant’s husband was employed. He considers Applicant “the epitome of somebody we want with a clearance doing this kind of work.” He considers her a loyal friend, caring, smart, and “the voice of reason” with their group of friends. He believes that she is loyal to the United States and grateful for the opportunity to be part of her husband’s family. (Tr. 99-104)

A long-time friend of Applicant’s husband testified that Applicant has become a close friend. He has observed that Applicant has become deeply rooted in her community in the United States. He testified, “She takes work very seriously. She takes her family seriously. She’s just a good person.” (Tr. 108-11)

Applicant has become closely involved in her husband’s extended family. Her husband is the second cousin of the wife of an insurance executive and the younger brother of a woman who worked for the federal government as a lawyer for more than 20 years. The insurance executive’s wife considers Applicant to be her “actual sister,” and trusts her completely. Applicant has been a member of this family group of cousins and in-laws for about 15 years, and they “love her dearly.” (Tr. 113-24)

I have taken administrative notice that Taiwan is a multi-party democracy, established as a separate, independent government by refugees from mainland China in 1949. The People’s Republic of China (PRC) does not recognize Taiwan’s independence and insists there is only one China. The United States recognized Taiwan as an independent government until January 1979, when it formally recognized the PRC government as the sole legal government of China. Taiwan has developed a strong economy and has significant economic contacts with the PRC. For many years, Taiwan has been an active collector of U.S. economic intelligence, and there have been numerous instances involving illegal export, or attempted export, of sensitive, dual-use technology to Taiwan.

I have also taken administrative notice that the People’s Republic of China (PRC) has an authoritarian government dominated by the Communist Party. China seeks to be the preeminent power in East Asia and a leading power on the world stage. It seeks to

preempt challenges to its reputation and legitimacy, undercut the influence of the United States, drive wedges between the United States and its partners, and foster global norms that favor its authoritarian system. China's pressure on Taiwan regarding unification creates a serious source of friction with the United States.

Policies

"[N]o 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 applicants 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 § 2.

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, 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 and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons 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 that 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 made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense 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* at 531. Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record." See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019). It is "less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620 (1966). "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. ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

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 the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan* at 531.

Analysis

Guideline B, Foreign Influence

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

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual maybe manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

The following disqualifying conditions under this guideline are relevant:

AG ¶ 7(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

AG ¶ 7(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) requires substantial evidence of a “heightened risk.” The “heightened risk” required to raise one of these disqualifying conditions is a relatively low standard. “Heightened risk” denotes a risk greater than the normal risk inherent in having a family member living under a foreign government. See, e.g., ISCR Case No. 12-05839 at 4 (App. Bd. Jul. 11, 2013).

Applicant has expressed no affection to her father, but she feels an obligation to “keep him off the streets.” I conclude that her feelings of obligation to her father and the hostile foreign policy of China toward Taiwan are sufficient to establish AG ¶ 7(a).

The following mitigating condition is applicable:

AG ¶ 8(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.

This mitigating condition is established. Applicant is married to a native-born U.S. citizen and has two children who are native-born U.S. citizens. Her career and financial assets are solely in the United States. She was exposed to American culture as a child and is now strongly attached to it. In contrast to her contentious relationships with siblings and “toxic” relationship with her father, she has strong bonds of loyalty to and affection for her husband and her husband’s extended family in the United States.

Whole-Person Analysis

Under AG ¶ 2(c), the 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. An administrative judge must evaluate an applicant’s security eligibility by considering the totality of the applicant’s conduct and all the relevant circumstances. An 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.

I have incorporated my comments under Guideline B in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Applicant’s testimony at the hearing was sincere and credible. Her enthusiasm for her life, marriage, and family ties in the United States was obvious. After weighing the disqualifying and mitigating conditions

under Guideline B and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by her family ties in Taiwan.

Formal Findings

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

Paragraph 1, Guideline B (Foreign Influence): FOR APPLICANT

Subparagraphs 1.a through 1.c: For Applicant

Conclusion

I conclude that it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

LeRoy F. Foreman
Administrative Judge