

Research Integrity & Undue Foreign Influence

Senate Bill Seeks to Reduce Undue Foreign Influence in Research by Increasing Institutional and Individual Compliance Obligations and Penalties for Violations

On June 18, 2020, fourteen Senator co-sponsors introduced the bipartisan *Safeguarding American Innovation Act*. The bill responds in part to a Senate report issued last November, which came on the heels of a year-long investigation led by Sen. Rob Portman (R-OH) as the chair of the Senate Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations (PSI). The report details concerns about talent recruitment programs, the Chinese government giving grant monies to U.S. researchers to replicate work that was already supported by U.S. federal agencies (e.g., NIH, NSF, etc.), and visa abuses where students from China are alleged to have been sent to U.S. academic institutions to spy for the Chinese government and appropriate U.S. intellectual property. The legislation also addresses findings from PSI's February 2019 report, which revealed an alleged lack of transparency in how educational institutions manage and report foreign gifts and contracts to the Department of Education (DOE).

The new legislation, if adopted would:

- **Establish a new Federal Research Security Council within OMB** – the Council would be comprised of federal research and national security agencies (e.g., DOD, DOJ, DHS, NASA, NSF, etc.) and charged with developing uniform grant making policy and management guidance “to protect the national and economic security interests of the United States.”
- **Make it an independent crime to fail to report outside compensation or support on grant applications** – a failure to disclose the receipt of any outside compensation, including foreign compensation, on federal grant applications or documents in connection with federal grant applications could result in fines and/or imprisonment of up to five years and a five-year debarment from receiving federal funds. Currently, prosecutors are relying on wire and mail fraud, false statement, and tax evasion charges to pursue undue foreign influence cases.
- **Authorize the State Department to deny visas in more cases** – the legislation would allow State to deny visas to certain foreign nationals seeking access to sensitive technologies if the “acquisition of those goods, technologies, or sensitive information” would be contrary to the national and economic security interest of the U.S. The State Department can consider factors such as an individual's past or likely employment or cooperation with certain foreign military and security related organizations, foreign institutions, governments, and other entities believed to be involved in U.S. export control violations or the theft of intellectual property.
- **Enhance DOE authority regarding foreign gift reporting** – if passed, schools would need to report gifts of \$50,000 or more (the current threshold is \$250,000) and DOE could impose fines of up to three times the amount of the gift or contract with the foreign source on any institution that repeatedly fails to file a disclosure report.
- **Mandate additional campus safeguards for sensitive technologies** – if passed, universities, colleges, and other cultural exchange program sponsors would need to take new steps to prevent unauthorized access to sensitive technologies and report to the government planned access for exchange visitors (enabling the government to restrict access where deemed prudent/necessary).

Resources

- Senator Portman's press release on the proposed legislation can be found [here](#).
- The full text of the bill can be found [here](#).