

Research Integrity & Undue Foreign Influence

In the midst of a global pandemic, international scientific collaboration has perhaps never been more important. However, the U.S. government's efforts to prevent and investigate undue foreign influence in federally-funded research remain active.

Why Foreign Influence Matters

As tensions between the U.S. and various foreign governments increase, accusations of academic espionage by foreign-supported researchers at U.S.-based research institutions are on the rise. The NIH, NSF, DOE, and other agencies are increasingly warning institutions of researchers who have not disclosed foreign associations in compliance with grant funding regulations and other laws. The government continues to initiate enforcement actions and we expect this to increase in frequency and scope during the coming months.

As a result, research and academic institutions in the U.S. need to be ever more vigilant to mitigate brand risk, the loss of federal funds, the risk of undermining intellectual property assets and exposure to enforcement actions.

Federal Government Takes Further Steps to Limit Foreign Students from Pursuing Education in the US – Universities are Fighting Back

On July 8, 2020, Harvard and MIT filed a complaint in the U.S. District Court in Massachusetts against the Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”), challenging ICE’s announcement earlier this week that it would require any international students on F-1 visas whose university curriculum is entirely online to depart the country. Prior to the COVID-19 crisis, students on F-1 visas were required to attend most classes in person. However, in response to COVID-19, ICE announced an exemption to this rule on March 13, 2020, stating that F-1 visa students could attend remote classes for the duration of the national emergency. Relying on the March 13th exemption, several universities across the country, including Harvard and MIT, have announced that, in order to slow the spread of COVID-19, they will offer most of their fall 2020 semester curriculum online. On Monday, ICE rescinded the exemption without warning, and announced that universities will have to certify for each student on an F-1 visa that the student’s program is not entirely online and that the student is taking the minimum number of online classes required to make normal progress in their degree program.

- ▶ Harvard and MIT allege that ICE’s decision is arbitrary and capricious and an abuse of its discretion. The universities argue that the decision reflects an effort by the federal government to force universities to reopen in-person classes, without recognizing that, in light of the global pandemic, it is neither safe nor advisable to do so. The complaint alleges that, by threatening to force many F-1 students to withdraw from Harvard and MIT, ICE and DHS are forcing the universities to choose between losing numerous students who bring significant tangible and intangible benefits to the school or holding in-person classes and risking the health of their entire university community.
- ▶ ICE’s July 6th announcement follows the Trump Administration’s recent efforts to limit the ability of foreign students to pursue an education in the United States – and in particular, those students coming from China. On May 29th, the President issued a proclamation to limit F and J visas for certain Chinese nationals seeking to study or conduct graduate research or participate in exchange visits at U.S. universities. Additionally, Senators Tom Cotton (R-AR) and Marsha Blackburn (R-TN) and Representative David Kustoff (R-TN) introduced the SECURE CAMPUS Act, which if adopted, would limit the ability of Chinese nationals to pursue graduate or post-graduate STEM fields in the U.S., and prohibit federal funding for STEM field research where a researcher is a participant in a Chinese foreign talent recruitment program.