

# Office of Contracts & Grants

## Foreign Influence/Engagement Update and NSPM-33

September 28, 2022

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# Foreign Influence/Engagement Update

# History

- Since early 2018, we have observed heightened awareness and increased activity related to the issue of foreign influence in academia within the federal government and amongst our peer institutions. Federal funding agencies have issued new requirements and guidance, federal law enforcement agencies have increased prosecutorial activity, and Congress has signed new legislation and sought information on how the academic research community is responding to this evolving issue.

# Undue Foreign Influences on Research Integrity

Federal agencies and policymakers have expressed concern that foreign entities may be using the academic research enterprise in an attempt to compromise the United States' economic competitiveness and national security. Federal funding agencies have sought to clarify longstanding policies and issued new guidance.

# Concerns

1. Peer review violations
2. Failure to disclose substantial foreign resources:
  - a. Foreign employment arrangements
  - b. Foreign grant support that creates problems with overlap, or over-commitment
  - c. Non-disclosure of substantial foreign research support  
- free labor (visiting scholar/student funded by a foreign source)
  - d. Talents awards
  - e. Foreign grants—Hidden transfers of information, know-how, data, person- time

# Concerns

3. Failure to disclose significant foreign financial Conflict of Interest:

a. Equity in foreign companies

b. Foreign patents that leverage US tax-payer funded work

4. Compliance with Regulatory Requirements: U.S. Export Control laws and regulations establish a set of requirements for the transfer of technology and data to foreign countries and/or foreign nationals in the U.S and sanctions from the Office of Foreign Assets Control (OFAC) restrict interactions with individuals or entities on the sanctions list.

# Harvard professor convicted by U.S. jury of lying about China ties – Reuters – December 21, 2021

- A federal jury in Boston found Charles Lieber, a renowned nanoscientist and the former chairman of Harvard's chemistry department, guilty of making false statements to authorities, filing false tax returns and failing to report a Chinese bank account.



# China Initiative Cases Have Faltered

- Despite a conviction of a Harvard University professor on charges that he hid his ties to a Chinese-run recruitment program, other high-profile cases brought as part of the China Initiative have faltered.



# Federal judge acquits Tennessee professor with ties to China – September 10, 2021

A federal judge threw out all charges against a University of Tennessee professor accused of hiding his relationship with a Chinese university while receiving research grants from NASA.

<https://ap news.com/article/technology-donald-trump-education-arrests-tennessee-0c2f79a2d05209a122293b2c857daa74>

# U.S. drops case against MIT professor accused of ties to China – Associated Press, January 20, 2022

The Justice Department dropped its case against Gang Chen, a Massachusetts Institute of Technology professor, charged last year with concealing research ties to the Chinese government, saying it could “no longer meet its burden of proof at trial.”

<https://apnews.com/article/science-technology-massachusetts-boston-massachusetts-institute-of-technology-c12c84da32fecc07c3e26ad0276a585e>

# DOJ Curbs Trump-Era Zeal for China Spy Probes as Cases Sputter (Bloomberg) October 10, 2021

The Trump administration went all-in on what it called its “China Initiative,” with the Justice Department prosecuting Chinese and Chinese-American researchers it said were stealing U.S. secrets while hiding their links to the government in Beijing and the People’s Liberation Army. Now, after a number of those cases fizzled in court and amid growing criticism that the initiative leads to discrimination against Asian-Americans, Justice Department leadership under Attorney General Merrick Garland is moving more cautiously.

<https://www.bloomberg.com/news/articles/2021-10-27/doj-curbs-trump-era-zeal-for-china-spy-probes-as-cases-sputter>

# Focus on Transnational Repression and High-Risk Areas

- Per Council on Government Relations (COGR) at June Meeting: China Initiative – stepping back and eliminating criminal – refocusing effort on transnational repression, where foreign government impedes free speech of their citizens while they are in US. Also, focusing on high risk areas – AI, quantum, hyper sonic

# **National Security Presidential Memorandum NSPM-33**

# Concerns Did Not Go Away and New Requirements Emerged for Universities

The White House Office of Science and Technology Policy (OSTP) released [guidance](#) to federal agencies for implementing [National Security Presidential Memorandum-33](#) (NSPM-33).

**The guidance specifically focuses on five key areas addressed by NSPM-33:**

1. Disclosure Requirements and Standardization
2. Digital Persistent Identifiers
3. Consequences for Violation of Disclosure Requirements
4. Information Sharing
5. Research Security Programs

# Standardization of Disclosure Requirements (Current and Pending, Biosketches, Other Support, etc.)

- Establish standardized disclosure requirements across federal agencies for researchers to the maximum extent practicable

# Digital Persistent Identifiers (DPI)

- Incorporation of DPIs (also known as Persistent Identifiers (PIIDs)) into grant and cooperative agreement application and disclosure processes and other documents.
- Use of available DPI services. To the greatest extent possible, DPI services provided by private entities, including, where possible, services already widely used by researchers should be leveraged.

Example:

<https://support.orcid.org/hc/en-us/articles/360006973993-What-is-ORCID->



# Consequences for Violation of Disclosure Requirements

Violation of disclosure requirements may lead to criminal, civil, and/or administrative consequences as may be deemed appropriate based upon the particular facts of the violation.

# Information Sharing

Circumstances for research agency sharing with other agencies information about violations of disclosure requirements:

Research agencies should share information about violations of disclosure requirements, consistent with due process, privacy considerations, and all other applicable laws.

# Research Security Program

Requirements for research security programs. NSPM-33 requires a certification from research organizations awarded in excess of \$50 million per year in total Federal research funding that they have implemented a research security program that includes the four elements highlighted in NSPM-33.

- Cybersecurity
- Foreign Travel Security
- Research Security Training
- Export Control Training as Appropriate

# Questions?

Thank you.

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