

# Research Security: Update on Legislative Actions

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Association of American Universities  
NASEM Science, Technology and Security Roundtable Meeting  
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# Context

**Boston Herald**

Wanted by the FBI: Chinese national accused of doing research at Boston University under Chinese army orders

**NEWS**

## Emory professor hit with criminal charge, linked to Chinese government program

Xiojiang Li was a member of the Thousand Talents plan, a Chinese program that a Senate report last year said was designed to steal sensitive research.

**Tampa Bay Times**

## Top Moffitt Cancer Center doctors failed to disclose payments from China, report says

The money came from the "Thousand Talents Program" and went to personal accounts set up in China.

**REUTERS**

Michigan-based research institute to pay \$5.5 million over Chinese-funded grants

**The Boston Globe**

Head of Harvard's chemistry department charged with lying about ties to Chinese university; two Chinese nationals accused of economic espionage

**npr**

Former Cleveland Clinic Researcher Allegedly Failed To Disclose Ties To China

## FBI chief says Chinese operatives have infiltrated scores of 'naive' U.S. universities

Associated Press

Published: 9:03am, 14 Feb. 2018



# Congressional Hearings & Roundtables

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- **April 2018** – *“Scholars or Spies: Foreign Plots to Targeting America’s Research & Development,”* House Science Subcommittee on Oversight and Subcommittee on Research and Technology
- **June 2018** – *“Student Visa Integrity: Protecting Educational Opportunity and National Security,”* Senate Judiciary Subcommittee on Border Security and Immigration
- **Feb 2019** – *“China’s Impact on the U.S. Education System,”* Senate Homeland Security Permanent Subcommittee on Investigations. Two reports were subsequently issued focusing on Confucius Institutes and Foreign Talent Programs
- **May 2019** – *Roundtable with Higher Education Leaders,* House Armed Services Committee
- **June 2019** – *“Foreign Threats to Taxpayer – Funded Research: Oversight Opportunities and Policy Solutions,”* Senate Finance Committee
- **July 2020** – *Member Briefing with Research University Leaders,* House GOP China Briefing
- **May 2021** – *Joint Staff-level Roundtable on Research Security,* House SS&T, HASC, Senate CST, and SASC
- **July 2021** – *“Researching while Chinese American,”* House Oversight Democratic Member Roundtable

# Recent Congressional & Executive Branch Actions

- **OSTP/NSTC JCORE Interagency Research Security Working Group**

- National Security Presidential Memorandum 33  
-- Recommended Practices for Strengthening the  
Security and Integrity of America's S&T Research  
Enterprise

- **FY 2021 National Defense Authorization Act (NDAA)**

- Section 223 disclosure requirements
- Restriction on DOD funding to universities that host Confucius Institutes
- Section 1299C – Initiative to Support Protection of Academic Researchers from Undue Foreign Influence and Other Security Threats (***Updates Sec. 1286 of the FY19 law and Sec. 1281 of the FY20 law***)
  - \* Calls for designation of a new DOD academic liaison
  - \* Requires list of foreign talent recruitment programs

- \* Mandates additional lists of academic institutions of concern and foreign threat programs
- \* Calls for enhanced information sharing regarding fundamental research threats
- \* Calls for additional briefings to academic institutions
- \* Required DOD to report to Congress on progress and other items by April 2021

- **FY 2020 NDAA**

- JCORE Research Security Committee
- NASEM Roundtable on Science, Technology & Security
- Section 1281 – Academic Research Security Initiative

- **FY 2019 NDAA**

- Export Control and Reform Act of 2018 (ECRA)
- Section 889 – prohibition on telecommunications and video surveillance equipment
- Section 1286 – Academic Research Security Initiative

# USICA Research Security Provisions – Additional Screening, Reporting and Review Requirements

Section	Title	Summary
Section 2308	Plan with respect to sensitive or controlled information and background screening.	Requires NSF to develop a plan to identify research areas that may include sensitive or controlled information and provide background screening for individuals working in such research areas who are employed by NSF or are recipients of NSF funds.
Section 2526	Supporting documents.	Mandates that NSF collect final copies of <u>any</u> contracts, agreements, or documentation of financial transactions between universities, their foundations, and related organizations and any educational, cultural, or language entity that is directly or indirectly funded by the PRC government. Also requires NSF to collect a descriptions of financial contributions to U.S. universities from the PRC government or affiliated organizations.
Section 3138	Review by CFIUS of certain foreign gifts and contracts to universities.	Expands CFIUS review to include certain gifts and contracts between universities and foreign persons.
Section 5212	Prohibition on reviews by CIFUS of certain foreign gifts and contracts to universities.	Prohibits use of funds by CFIUS to review or investigate gifts to an IHE from a foreign person.
Section 6104	Protecting America’s biomedical research enterprise.	Requires HHS to identify ways to improve the protection of IP, assess risks and to identify and develop research security strategies.
Section 6124	Disclosures of foreign gifts and contracts at institutions of higher education.	Lowers the Section 117 reporting threshold to \$50,000. Creates a new requirement titled “Institutional Policy Regarding Foreign Gifts and Contracts to Faculty and Staff” that would require universities to ensure that faculty and staff report <u>any</u> gifts from, or contracts entered into, with a foreign source, and then maintain this information in a searchable database.

# USICA Research Security Provisions – Foreign Talent Recruitment Programs

Section	Title	Summary
Section 2303	Foreign government talent recruitment program prohibition.	Prohibits federal research awards from being awarded for any proposal where the principal investigator or other individuals listed on the award application who are members of a foreign government talent recruitment program sponsored by China, Russia, Iran, or North Korea. Requires researcher to provide any foreign talent program contracts/agreements from these countries to the research agencies for review. Uses the definition for “talent recruitment programs” currently contained in NSPM-33 or successor policy document.
Section 6101	Foreign talent programs.	Requires disclosure of participation in foreign talent programs, consistent with section 2303, as it applies to federal extramural biomedical research funding awarded through HHS.

# USICA Research Security Provisions – Safeguarding American Innovation Act

Section	Title	Summary
Section 4493	OMB Federal Research Security Council.	Creates a new multi-agency research coordinating council at OMB in addition to existing OSTP/NSTC interagency coordinating committee.
Section 4494	Federal grant application fraud.	Assesses penalties for failure to disclose receipt of any outside compensation, including foreign compensation by a federal research grant applicant or falsifying information.
Section 4495	Restricting the acquisition of emerging technologies by certain aliens.	Acknowledges the State Department’s authority to determine if an alien is inadmissible if they are seeking to knowingly acquire sensitive or emerging technologies to undermine national security interests. Provides a list of “relevant factors” that the State Department shall consider in making such determinations. Provision sunsets 2 years after enactment and requires additional reporting to Congress.
Section 4497	Certifications regarding access to export-controlled technology in educational and cultural exchange programs.	Requires J-1 sponsors to certify to the State Department that they comply with export control regulations and that no export control licenses are required for technology that will be accessed by the J-1 visa holder and that they will prevent access to controlled technology or technical data by the exchange visitor. Sponsors who maintain export-controlled technology/data must submit a technology control plan on how they prevent unauthorized export or transfer to the Department of State.

# USICA Research Security Provisions - Confucius Institutes

Section	Title	Summary
Section 2525	Foundation funding to institutions hosting or supporting Confucius Institutes.	Prohibits NSF funding to institutions that maintain a contract or agreement between the institution and a Confucius Institute unless NSF deems a waiver appropriate.
Section 6122	Confucius Institutes.	Prohibits Dept of Education (ED) funding to institutions (except title IV) that maintain a contract or agreement between the institution and a Confucius Institute. Requires ED to consult with NASEM and evaluate any CI contract or agreement and publish an evaluation of the contract on ED's website to confirm protection of academic freedom, prohibits foreign campus law, grants managerial authority to the institution not the CI.



# USICA Research Security Provisions – RSI-ISA0

Section 2302	Research security and integrity information sharing analysis organization.	Establishes a research security and integrity information sharing analysis organization (RSI-ISA0) to serve as a clearinghouse for information on identifying improper or illegal efforts by foreign entities to obtain research results, know-how, materials, and IP and for other purposes.
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# NSF for the Future Act (H.R. 2225)

## Key Research Security Provisions (Part I)

Section	Title	Summary
Section 7(c)(1)(2)(3)	NSF Office of Research Security and Policy and Chief of Research Security.	Establishes a Research Security and Policy Office within the NSF Director's office. Requires the appointment of a Chief of Research Security and a report to Congress on required resources and staff.
Section 7(c)(4)	Online Resource.	Requires NSF to develop an online resource for both institutions and researchers on NSF security policies, potential security risks and mitigation strategies, and examples of positive international collaborations vs. foreign government interference efforts.
Section 7(c)(5)	Risk Assessment Center.	Creates an independent risk assessment center to develop online resources and help awardees assess and identify research security issues relating to disclosure, foreign partnerships, and other matters.
Section 7(c)(6)	Research Grants.	Supports research grants to better understand issues pertaining to research security and protecting research integrity from foreign threats
Section 7(c)(7)	Authorities.	Provides the Office of Research Security and Policy the authority to conduct risk assessments and to request the submission of supporting documentation, including copies of contracts, grants, or any other agreement specific to foreign appointments, employment with a foreign institution, participation in a foreign talent program and other information and various mechanisms for enforcement of related NSF policies.

# NSF for the Future Act (H.R. 2225)

## Key Research Security Provisions (Part II)

Section 7(c)(8)	Malign Foreign Talent Recruitment Program Prohibition.	Requires NSF applicants to certify they are not an active participant of a malign foreign talent recruitment program from a foreign country of concern and will not be a participant for the duration of the NSF award. Requires institutions applying for an award to certify that each covered individual who is employed by the institution has been made aware of the requirement. Includes language to not limit scholarly presentations, participation in international conferences or other international exchanges/partnerships/programs that involve open and reciprocal exchange of scientific information, and other activities. The new policy would not be applied retroactively.
Section 7(c)(9)	Security Training Modules.	Requires NSF, in collaboration with NIH and other relevant agencies, to develop an online research security training module for NSF awardees.
Section 7(c)(10)	Responsible Conduct in Research Training.	Adds new requirement for RCR training for faculty and other senior personnel.
Section 7(c)(11)	National Academies Guide to Responsible Conduct in Research.	Requires the National Academies to update their report “On Being a Scientist: A Guide to Responsible Conduct in Research.”
Section 7(e)	Research Ethics.	Requires NSF to amend award proposal instructions to include a requirement for an ethics statement as part of any funding proposal.

# Likely Areas of Future Congressional Interest

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- New categories of “sensitive information”
- Fundamental research
- Genetic information
- Gain of Function Research (GoFR)
- Cybersecurity