

The CHIPS and Science Act of 2022 (H.R. 4346)

Research Security Provisions

Sec. 10114. Research Security.

Requires DOE Secretary to develop and maintain tools and processes to manage and mitigate research security risks, such as a science and technology risk matrix, informed by threats identified by ODNI, to facilitate determinations of the risk of loss of U.S. intellectual property or threat to U.S. national security posed by activities carried out under any covered support.

Sec. 10247. GAO Study of NIST Research Security Policies and Protocols.

Requires a GAO study of NIST policies and protocols to protect its research and combat undue foreign influence.

Sec. 10331-10332. Office of Research Security and Policy and Chief of Research Security.

Requires NSF to maintain a Research Security and Policy office within the Office of the NSF Director with at least four full-time staff. The office will coordinate all research security policy issues across NSF which includes identifying and addressing potential security risks that threaten research integrity and other risks to the research enterprise; developing research security policy and best practices; conducting outreach and education activities for recipients on research policies and potential security risks; educating NSF program managers on evaluating for potential security risks; communicating reporting and disclosure requirements; performing risk assessments of NSF proposals and awards using analytical tools to assess nondisclosures of required information; establishing policies to ensure compliance with NSPM-33; and conducting or facilitating due diligence with regards to applications for NSF R&D awards.

Sec. 10334. Online Resource.

Requires NSF to develop an online resource containing up-to-date information, tailored for institutions and individual researchers.

Sec. 10335. Research Awards.

Requires NSF to continue to make research awards to support research on the conduct of research and the research environment, including research on research misconduct or breaches of research integrity and detrimental research practices.

Sec. 10336. Authorities.

Authorizes the NSF Office of Research Security and Policy, in coordination with the NSF OIG, to conduct risk assessments, including through the use of open-source analysis and analytical tools, of research and development award applications and disclosure to NSF.

Sec. 10337. Responsible Conduct in Research Training.

Amends Section 7009 of the America COMPETES Act of 2007 on responsible conduct in research training for postdoctoral researchers, faculty, and senior personnel to address mentor training and mentorship, training to raise awareness of potential research security threats, and federal export control, disclosure, and reporting requirements.

Sec. 10338. Research Security and Integrity Information Sharing Analysis Organization.

Requires the establishment of a Research Security and Integrity Information Sharing Organization to help universities and researchers identify improper and illegal efforts to compromise research security.

Sec. 10339. Plan with Respect to Controlled Information and Background Screening.

Requires NSF, in consultation with ODNI and other federal agencies, to develop a plan to identify research areas supported by NSF, including in the key technology areas, that may involve access to controlled unclassified or classified information, including in the key technology focus areas; and exercise due diligence in granting access, as appropriate, to CUI or classified information to individuals working on research awards who are employees of NSF or covered individuals on NSF research and development awards.

Sec. 10339A. Foundation Funding to Institutions Hosting or Supporting Confucius Institutes.

Restricts NSF funding to institutions that maintain a contract or agreement with a Confucius Institute unless a waiver is granted.

Sec. 10339B. Foreign Financial Support.

Institutions must annually report to NSF, in the form of a summary document, current financial support, including gifts and contracts, of \$50,000 and above the institutions receives directly or indirectly from a foreign source associated with a foreign country of concern (China, North Korea, Russia, Iran, or any other country determined to be a concern by the Secretary of State). All financial supporting documents must be retained by the institutions and true copies may be requested by NSF as a result of summary document review. Institutions who fail to comply with this section may be subject to reduction or termination of awards.

Sec. 10343. Research Ethics.

Requires NSF to revise grant proposal instructions, after input from stakeholders, to require that ethical and societal considerations be included as part of a proposal for funding prior to making the research and development award. Considering stakeholder input, NSF will develop clear guidance on what constitutes a “readily foreseeable or quantifiable risk.”

Sec. 10631. Requirements for Foreign Talent Recruitment Programs.

Requires OSTP, in coordination with the interagency working group (established under Section 1746 of the FY20 NDAA) to distribute a uniform set of guidelines for federal research agencies regarding foreign talent recruitment programs. Policy guidelines will prohibit all personnel of each federal research agency from participating in a foreign talent recruitment program and define and describe the characteristics or a foreign talent recruitment program. In accordance with Section 223 of the FY21 NDAA, covered individuals must disclose if they are party to a foreign talent recruitment program contract, agreement, or arrangement. Covered individuals may not participate in a malign foreign talent recruitment program.

Sec. 10632. Malign Foreign Talent Recruitment Program Prohibition.

Requires each federal research agency to establish a policy as part of the research grant proposal process which requires covered individuals to certify they are not a part of a malign foreign talent recruitment program at the time the proposal is submitted or annually thereafter for the duration of the award. Institutions applying for such an award must certify that each covered individual who is employed by the institution has been made aware of the requirements. A description of the federal research agency’s proposed policy is to be published and available for public comment. Policies that are developed should not prohibit international collaborations (scholarly presentations, publishing written materials regarding scientific information not otherwise controlled, participation in international conferences/exchanges, writing a recommendation letter for a foreign student, etc) unless such activities are funded, organized, or managed by an academic institution or a foreign talent recruitment

program on the lists developed in Section 1286(c) of the FY19 NDAA. Recipient institutions must provide training on the risks of malign foreign talent recruitment programs to covered individuals, including those who are participating in international collaboration type-activities.

Sec. 10633. Review of Contracts and Agreements.

Each federal research agency has the authority to require, upon request, that an institution provide 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 recruitment program, for all covered individuals in a research and development award application. Upon review and in consultation with an institution, if a contract, grant, or agreement is determined to interfere with the capacity for agency supported activities or create duplication with agency-supported activities, the research agency and institution can initiate the substitution or removal of a covered individual from the award, reduce the award funding amount, or suspend/terminate the award. Each federal research agency should take necessary steps to protect the privacy of all covered individuals, provide justification for the action, and afford subjects an opportunity to provide comments and rebuttal, and an opportunity to appeal before final administrative action is taken.

Sec. 10634. Research Security Training Requirement for Federal Research Award Personnel.

Each federal research agency is to establish a requirement as part of an application for a research and development award that each covered individual listed on the award application certify they have completed (within the last year) research security training. Institutions must also certify that each covered individual who is employed by the institution has completed such training. OSTP will take into consideration stakeholder input, develop guidelines for institutions to use in develop their own training programs including adoption of security training modules. The security training modules should be focused on cybersecurity, international collaboration and international travel, foreign interference, and rules for proper use of funds, disclosure, conflict of commitment, and conflict of interest. OSTP will seek input from academic, private sector, intelligence, and law enforcement stakeholders regarding the scope and content of security training modules. OSTP is to ensure that the security training modules that are developed can be adapted and utilized across all the federal research agencies and has a plan for regularly updating such modules.

Sec. 10635. Research Funds Accounting.

Requires the Comptroller General to conduct a study on federal funding made available to foreign entities of concern for research. The study is to include an assessment of the amount, type, and requirements related to federal funding made available to foreign entities of concern for research.

Sec. 10636. Person or Entity of Concern Prohibition.

Prohibits persons or entities identified as a concern from receiving or participating in any grant, award, program, support, or other activity for certain programs, including the new NSF Directorate for Technology, Innovation and Partnerships.

Sec. 10637. Nondiscrimination.

Each federal research agency must ensure that their policies and activities are carried out in a manner that does not target, stigmatize, or discriminate against individuals on the basis of race, ethnicity, or national origin.

Sec. 10638. Definitions.

Provides definitions for the following:

- Covered Individual – an individual who contributes in a substantive, meaningful way to the scientific development or execution of a research and development project proposed to be carried out with a research and development award from a federal research agency and is designated as a covered individual by the federal research agency.
- Foreign Country of Concern – means China, North Korea, Russia, Iran, or any other country determined to be a country of concern by the Secretary of State
- Foreign Entity of Concern – a foreign entity that is designated as a foreign terrorist organization; included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control (OFAC) at the Department of Treasury (commonly known as the SDN list); owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation; alleged by DOJ to have been involved in activities for which a conviction was obtained relative to the Espionage Act; Arms Export Control Act; the Atomic Energy Act; Export Control Reform Act; or the International Emergency Economic Powers Act; or determined by the Department of Commerce to be engaged in authorized conduct that is detrimental to U.S. national security or foreign policy.
- Malign Foreign Talent Recruitment Program – means any program, position, or activity that includes compensation in the form of cash or certain in-kind compensations in exchange for the individual (1) engaging in the unauthorized transfer of U.S. intellectual property, materials, data products, or other nonpublic information to the government of a foreign country or foreign entity; (2) being required to recruit trainees or researchers to enroll in a program, position or activity; (3) establishing a lab or company, accepting a faculty position; or undertaking any other employment or appointment in a foreign country or with a foreign entity if activities are in violation of the standard terms and conditions of a federal research and development award; (4) being unable to terminate the foreign talent recruitment program contract or agreement except in extraordinary circumstances; (5) being limited in the capacity to carry out a research and development award or required to engage in work that would result in substantial overlap or duplication of federally funded work; (6) being required to apply for and successfully receive funding from the sponsoring government’s funding agencies with the sponsoring foreign organization as the recipient; (7) being required to omit acknowledgement of the recipient institution with which the individual is affiliated, or the federal research agency sponsoring the research and development award, contrary to the institutional policies or standard terms and conditions of the federal research and development award; (8) being required to not disclose to the federal research agency or employing institution the participation of such individual in such program, position, or activity; (9) having a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the federal research and development award.