



- Boston University
- Brandeis University
- Brown University
- California Institute of Technology
- Carnegie Mellon University
- Case Western Reserve University
- Columbia University
- Cornell University
- Dartmouth College
- Duke University
- Emory University
- Georgia Institute of Technology
- Harvard University
- Indiana University
- The Johns Hopkins University
- Massachusetts Institute of Technology
- McGill University
- Michigan State University
- New York University
- Northwestern University
- The Ohio State University
- The Pennsylvania State University
- Princeton University
- Purdue University
- Rice University
- Rutgers University – New Brunswick
- Stanford University
- Stony Brook University –
- State University of New York
- Texas A&M University
- Tufts University
- Tulane University
- University at Buffalo –
- State University of New York
- The University of Arizona
- University of California, Berkeley
- University of California, Davis
- University of California, Irvine
- University of California, Los Angeles
- University of California, San Diego
- University of California, Santa Barbara
- University of California, Santa Cruz
- The University of Chicago
- University of Colorado Boulder
- University of Florida
- University of Illinois, Urbana-Champaign
- The University of Iowa
- The University of Kansas
- University of Maryland, College Park
- University of Michigan
- University of Minnesota, Twin Cities
- University of Missouri, Columbia
- The University of North Carolina at Chapel Hill
- University of Oregon
- University of Pennsylvania
- University of Pittsburgh
- University of Rochester
- University of Southern California
- The University of Texas at Austin
- University of Toronto
- The University of Utah
- University of Virginia
- University of Washington
- The University of Wisconsin - Madison
- Vanderbilt University
- Washington University in St. Louis
- Yale University

June 15, 2022

The Honorable Patty Murray
Chairwoman
Committee on Health, Education, Labor
and Pensions
United States Senate
Washington, D.C. 20510

The Honorable Richard Burr
Ranking Member
Committee on Health, Education, Labor
and Pensions
United States Senate
Washington, D.C. 20510

The Honorable Bobby Scott
Chairman
Committee on Education and Labor
House of Representatives
Washington, D.C. 20515

The Honorable Virginia Foxx
Ranking Member
Committee on Education and Labor
House of Representatives
Washington, D.C. 20515

Dear Chairwoman Murray, Ranking Member Burr, Chairman Scott, and Ranking Member Foxx:

I write representing America’s leading research universities to express concern with the potential adverse consequences of the new Higher Education Act (HEA) Section 124 reporting requirement created by Section 6124(b) of S. 1260, the U.S. Innovation and Competition Act (USICA).

This provision would create a new mandate requiring all university personnel to report any gifts from, or contracts with, any foreign source. While we agree that researchers and universities need to be transparent about foreign funding they receive, the provision as currently written would be counterproductive to both our national scientific enterprise and national security. It would impose duplicative and unworkable requirements that would not enhance U.S. research security and would instead discourage international research collaborations that are essential to the United States remaining the global science and innovation leader. We urge that the Senate language pertaining to Section 124 not be included in the final conference agreement.

Universities and faculty already report and disclose information for research security purposes. Section 117 of the HEA requires public reporting of foreign gifts to and contracts with an institution of higher education. In addition, Section 223 of the National Defense Authorization Act (NDAA) for FY 2021 requires federal grant applicants to report all foreign funding they have received (and requires universities to ensure their faculty and staff are aware of the requirement). AAU helped to craft, and supports, this statute. It is unclear exactly what additional information the Section 124 provisions are intended to elicit, or why that information would be valuable.

Even more troubling, the proposed HEA Section 124 provision in S. 1260 contains no dollar threshold for what needs to be reported, which will result in great effort and expense to collect, store, and report large amounts of information that has no direct bearing on national

security. The lack of a dollar threshold increases the likelihood of inadvertent reporting errors that will raise questions or suspicions where none exist and waste important resources that could be used productively in support of academic research security. At the very least, we urge the conferees to include the \$50 thousand reporting threshold contained in Section 90304(b) of H.R. 4521, the America COMPETES Act.

The lack of a threshold in the Senate provision means that it would capture trivial gifts such as a \$15 lunch, coffee mug, or book given to any university research faculty or staff member (even those not directly receiving federal funding) to express appreciation for giving a guest lecture or co-authoring a paper with an international scholar. Contrary to the intent of this provision, its breadth is unlikely to result in researchers reporting all of their international research relationships. Rather it would signal to U.S. researchers that they are best to avoid international relationships or work, no matter how valuable to their field, because of the additional burden such collaborations would create and the potential for government officials to raise questions or imply improprieties about even the most innocuous international exchanges.

As mentioned above, current law and federal agency requirements included in Section 223 of the FY 2021 NDAA already require all federally funded researchers to disclose, as part of initial grant applications and annual progress reports, **all** support (foreign *and* domestic) related to their research. This already gives federal agencies like NSF, NIH, and DOD the information they need to ensure the integrity and security of funded research and to bring administrative and enforcement actions where necessary.

Additional reporting requirements overseen by the U.S. Department of Education are redundant. Moreover, the proposed provision undermines work already being done to ensure research integrity in response to National Security Presidential Memorandum 33 (NSPM-33), which was issued by the Trump administration. Efforts are currently underway as a part of NSPM-33 implementation to make reporting consistent across federal agencies, to help federal agencies identify real security problems, and reduce the reporting burden on research faculty by implementing consistent conflict of interest reporting across all federal agencies.

In evaluating this proposed new requirement, we believe several practical questions must be addressed to clarify how the requirement would enhance academic research security:

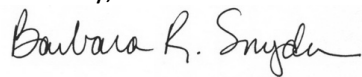
- What gifts and contracts would this requirement cover? Are there any exemptions to what would be included? Is the intention to cover even small, routine gifts like water bottles and coffee cups?
- What critical disclosure information would this new requirement collect that is not already provided to federal research agencies as mandated under Section 223 of the FY21 NDAA? At the very least, could the provision cross-reference Section 223 to define what is to be disclosed, and to clarify the responsibility of the university versus that of the faculty and staff?
- Is the intent to cover all faculty and staff, no matter how distant their relationship is to anything that could raise security concerns? What about researchers and staff who do not receive federal funding and who work in fields like law, business, education, or the humanities? If they are covered, what is the specific national or economic security rationale for imposing the requirement to collect this information from those individuals?
- How could implementation of this provision have unintended consequences, such as public harassment of individual faculty and staff (and particularly those of Asian descent)?
- What exactly does it mean to have a “searchable database” under the provision’s requirements? What kind of information would need to be available? Another part of the provision mentions “instructions on reporting,” but no actual reporting is required by the provision.

- What does it mean to have a plan to deal with “information gathering” under this requirement? What kind of activities is this designed to guard against? How does it relate to plans likely to be required pursuant to NSPM-33?

The vagueness and breadth of the Senate version of Section 124 is especially disconcerting given the previous and ongoing implementation challenges and inconsistencies, as well as the lack of clear rules and guidance on existing HEA Section 117 reporting requirements. This additional provision will only further complicate and confuse an already complex regulatory environment as it relates to both institutional and individual research faculty disclosure of foreign gifts, contracts, and research support.

We thank you for your continuing efforts on the conference and would be happy to further engage with you or your staff regarding our concerns on this issue. We look forward to working with you to ensure that a final agreement advances American security, innovation, and competitiveness.

Sincerely,



Barbara R. Snyder
President
Association of American Universities

cc: Senate Majority Leader Chuck Schumer
Speaker of the House Nancy Pelosi
Senate Minority Leader Mitch McConnell
House Minority Leader Kevin McCarthy
Chair Cantwell and Ranking Member Wicker, Senate Committee on Commerce, Science & Transportation
Chair Peters and Ranking Member Portman, Senate Committee on Homeland Security & Governmental Affairs
Chair Reed and Ranking Member Inhofe, Senate Armed Services Committee
Chair Johnson and Ranking Member Lucas, House Committee on Science, Space & Technology
Chair Pallone and Ranking Member McMorris Rodgers, House Committee on Energy & Commerce
Chair Smith and Ranking Member and Ranking Member Rogers, House Armed Services Committee