

United States Senate

WASHINGTON, DC 20510

July 18, 2018

The Honorable John McCain
Chairman
Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, DC 20510

The Honorable Jack Reed
Ranking Member
Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, DC 20510

The Honorable Mac Thornberry
Chairman
House Committee on Armed Services
2120 Rayburn House Office Building
Washington, DC 20515

The Honorable Adam Smith
Ranking Member
House Committee on Armed Services
2120 Rayburn House Office Building
Washington, DC 20515

Dear Chairman McCain, Chairman Thornberry, Ranking Member Reed and Ranking Member Smith,

As you negotiate the Fiscal Year (FY) 2019 National Defense Authorization (NDAA) conference report, we urge you to include Senator Cornyn's Academic Counter Exploitation Amendment # 2799 in the conference report. In order to defend U.S. national security, we must vigorously protect sensitive research and development (R&D) technology originating in our universities, without putting undue strain and hardship on those same universities. Amendment #2799 furthers these two goals.

U.S. colleges and universities are an appealing choice for foreign nationals because of the high quality of education. Over 1.2 million international students^[1] are currently studying at U.S. colleges and universities. Students from China, India, and South Korea make up more than half of these new foreign students pursuing higher education degrees, with Chinese students accounting for about one-third (377,070) of these students.

There is no doubt that international students and visiting scholars bring valuable talent and expertise to American academia. While most have bona fide reasons for coming to the United States to study and teach, there is a small contingent of students and scholars from China that are not here to advance American innovation or interests, but instead intend to advance the interests of their respective governments and political parties. These individuals present a threat to our national security and economy.^[2]

^[1] March 2018 SEVP data for F-1 academic/M-1 vocational students. See *SEVIS by the Numbers: Biannual Report on International Students*, April 2018, at p.3; <https://www.ice.gov/doclib/sevis/pdf/byTheNumbersApr2018.pdf>.

^[2] See the FBI's Counterintelligence Strategic Partnership Unit prepared a white paper entitled *Higher Education and National Security: The Targeting of Sensitive, Proprietary and Classified Information on Campuses of Higher Education* in April 2011. <https://www.fbi.gov/file-repository/higher-education-national-security.pdf>.

For example, the Chinese Communist Party (CCP) uses a non-traditional strategy to access, extract and export cutting-edge technologies, research, and innovation from U.S. institutions of higher education. To further their military modernization goals, the CCP's focus remains particularly concentrated in areas of R&D with military applications, such as robotics, semiconductors, and artificial intelligence. One avenue to access, extract, and export sensitive R&D is through academic espionage at United States colleges and universities, where students and visiting scholars come to study and conduct research—generally in the fields of science, technology, engineering, and mathematics (STEM).

Whether the CCP intentionally plants students into sensitive R&D programs or recruits them later through coercive methods, CCP loyalists are extracting cutting-edge R&D for export to China. Once in China, this R&D can be transferred to a state-owned enterprise, a Chinese university or, if already sufficiently developed, directly to the Central Military Commission for immediate or future employment by the People's Liberation Army.

As China continues to challenge United States hegemony, it is imperative that our institutions of higher education collaborate effectively with the Intelligence Community and the Department of Justice to ensure that sensitive, academic-rooted R&D is protected and is not being exported to near-peer competitors.

Amendment #2799 would authorize the Department of Defense (DOD) to create a new forum to work with other national security agencies to engage universities to discuss and determine effective means of addressing national security issues. Through ongoing collaboration and information sharing, this forum would help develop sound policies and appropriate safeguards to protect sensitive scientific research as well as address emerging national security threats on university campuses.

One of the first tasks such a forum could deal with is how to 1) appropriately address the concerns about foreign talent/expert recruitment programs, including how to appropriately identify and discourage United States citizens from participating in these programs, and 2) develop a national strategy to ensure the United States has its own talent and expert recruitment programs to produce an adequate supply of talent in STEM, foreign languages, and other areas critical to our nation's national and economic security needs.

Unfortunately, the House-passed bill includes provisions (Sec. 1283) that would place undue burdens on our universities. Some of these concerns include:

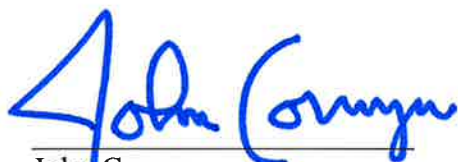
- *The lack of definition and explicit listing of specific talent or expert recruitment programs of concern would make institutional and individual compliance challenging and impractical.* The House language provides no definition of what a “talent or expert recruitment program” is, nor does it specify how such programs would be determined and publicly listed. Without such clarity, compliance for research universities and other institutions would be very difficult, if not impossible.

- *Requiring universities to provide certification that DOD funds are not made available to any individual who has participated or is participating in such talent or expert recruitment programs would be problematic.* The provision requires that universities, as the granting or contracting agent of DOD funding, provide this certification. Unlike DOD research awards and contracts, foreign talent and expert recruitment awards are usually made directly to the individual. Since these types of awards go to the individual and do not flow through the institution, information concerning who has received such talent awards is not something for which the university has any formal record, and such information would be very difficult to obtain retrospectively.
- *Retrospective review would excessively burden institutions and likely be ineffective.* Requiring institutions to retrospectively review DOD grants and contracts to ensure that nobody working on such grants and contracts has participated in such talent/expert recruitment programs would require excessive time and resources. As mentioned above, this is not information that institutions have a means of tracking, since funds for such talent recruitment programs go directly to the individual and do not pass through the institution.

Amendment #2799 avoids pitfalls that could negatively impact our universities, while still advancing U.S. national security interests. For these reasons, we respectfully request that the conference report include this amendment.

Thank you for your consideration of our request.

Sincerely,



John Cornyn
United States Senator



Catherine Cortez Masto
United States Senator



M. Michael Rounds
United States Senator



Gary C. Peters
United States Senator

Tom Cotton

Tom Cotton
United States Senator

Tammy Baldwin

Tammy Baldwin
United States Senator

Richard Blumenthal

Richard Blumenthal
United States Senator