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This Month’s HEADLINES

This Month’s DEEP DIVE: Understanding Threats to U.S. Research Security, featuring Tobin Smith.

This Month’s HOMEWORK: Actions you can take this month

Wendy Naus
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Tobin Smith,
Vice President for Policy,
Association of American Universities
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Use the chat box to ask a question.

More opportunities for Q&A at the end.
This Month’s Headlines

CONGRESS

• Congress Balancing Competing Priorities with FY 2020 Stopgap Expiring Dec. 20
  • More: www.cossa.org/tag/fy-2020

• Members of Congress Request Feedback on Cures 2.0 Legislation
  • More: https://bit.ly/2E88iR1

• Senate Subcommittee Releases Report, Holds Hearing on Securing U.S Research from Foreign Talent Recruitment Programs
  • More: https://www.hsgac.senate.gov/subcommittees/investigations/hearings/securing-the-us-research-enterprise-from-chinas-talent-recruitment-plans

EXECUTIVE BRANCH

• OSTP Seeks Input on Research Environment

• Office of Evaluation Sciences Seeks 2020 Fellows
  • More: https://oes.gsa.gov/

COMMUNITY

• National Academies Launches Committee on Science and Innovation Leadership for the 21st Century
  • More: https://www8.nationalacademies.org/pa/projectview.aspx?key=51225

COSSA

• AAAS CEO Emeritus Rush Holt Answers “Why Social Science?”
  • More: www.whysocialscience.com

• Advocacy Day Registration to Open Later this Month
  • More: www.cossa.org/event/2020-advocacy-day

• Action Alert: Tell Congress to Finish FY 2020 Funding
  • More: http://www.cossa.org/advocacy/take-action

EXECUTIVE BRANCH (cont’d)

• PCAST Holds First Meeting, Swears in New Members
  • More: https://science.osti.gov/About/PCAST/Webcasts

Subscribe for more news: www.cossa.org/washington-update
Questions

Use the chat box to ask a question.

More opportunities for Q&A at the end.
Understanding Threats to U.S. Research Security

Today's Guest:
Tobin Smith
Vice President for Policy,
Association of American Universities
UNDERSTANDING THE THREATS TO U.S. RESEARCH SECURITY
Current Government Concerns & University Response

Tobin L. Smith
Vice President for Policy, AAU
COSSA Headlines Webchat
Thursday, December 12, 2019
FBI chief says Chinese operatives have infiltrated scores of ‘naive’ U.S. universities

Associated Press
Published: 9:03am, 14 Feb. 2018
Federal & Congressional Pressure to Re-Examine Research Protections

• Intelligence agencies sound the alarm
• Numerous reports raise concerns
• Agencies send out letters and are clarifying old and developing new policies
• Congressional pressure to address security concerns builds; but Congress lacks understanding of the controls already in place

Result: Several ill-informed and potentially damaging proposals to U.S. science have been introduced in Congress
Historical Context

- Early 1980s - Fears arise that universities are targets/points of leakage of military technology to the Soviet Union; the Nation’s “soft underbelly”.
- DoD-University Forum created by AAU and the Department of Defense.
- NSDD-189 Issued by President Reagan (September 21, 1985).
- Similar concerns arise in the late 1980 – early 1990s concerning Japan and economic competition.
- Late 1990s and 2000s – Concerns turn to China, Terrorism and Select Agents/DURC.
Current Security Control Regimes

- **Classified Information**
  - POTUS & designated agency heads/officials
  - Executive Order 12356
  - Classification Levels: Top Secret; Secret; Confidential

- **Export Controls**
  - ITAR (Department of State, Directorate of Defense Trade Controls)
  - EAR (Department of Commerce, Bureau of Industry and Security)
  - OFAC (Department of Treasury, Office of Foreign Assets Control)
  - Nuclear Equipment & Materials (Nuclear Regulatory Commission)

- **Controlled Unclassified Information (CUI)**
  - National Archives and Records Administration (NARA)
  - Over 120 CUI categories (e.g. export controlled research; controlled technical information; health information; student records)
  - 20 Organizational Index Groupings (e.g. defense; export control; nuclear; patent; privacy)
  - NIST SP 800-171 – Network security and data protection regulations for CUI

- **Select Agents Regulations**
  - Department of Health and Human Services & USDA
Specific Concerns

• Huawei and other university funding relationships
• Talent recruitment programs
• Faculty relationships and failure to disclose foreign funding sources/affiliations
• Shadow laboratories
• Breaches in peer-review
• Foreign investment/CFIUS
• Confucius Institutes
• Student groups
• Sharing of Genetic Information
Congressional Hearings & Roundtables

- **April 2018** – “Scholars or Spies: Foreign Plots to Targeting America’s Research & Development,” House Science Subcommittee on Oversight and Subcommittee on Research and Technology
- **Sept 2018** - House Science Committee Roundtable with higher education leadership, federal science agencies, FBI
  - Two reports issued subsequently focusing on Confucius Institutes and Foreign Talent Programs
- **May 2019** - House Armed Services Roundtable with higher education leadership
- **June 2019** - “Foreign Threats to Taxpayer – Funded Research: Oversight Opportunities and Policy Solutions,” Senate Finance Committee
Simple Summary of Legislative Proposals & Federal Actions

• Increased institutional reporting of funding received from foreign gifts and contracts (HEA Section 117)
• Restrictions on participation in foreign talent programs
• Creation of new categories of “critical technologies” or “sensitive research” which limit access to foreign students & scholars to certain labs and research projects
• Focus on clarifying and enforcing agency disclosure requirements
• Increased visa delays and some intl. students recently denied readmission into the U.S.
• Better interagency coordination and forums for dialogue between federal agencies and the university/scientific community
Department of Education
Section 117, Foreign Gift Reporting

• Reporting is submitted to ED by an institution’s Financial Aid office in January and July each year.
• Section 117 “guidance” provided by Dear Colleague Letters from 1995 and 2004.
• **January 2019** – Letter sent by six higher ed associations to ED requesting clarification of HEA Section 117 on foreign gift reporting requirements:
  • Does $250k reporting threshold apply to the aggregate total of gifts or individual gift totals?
  • How is an “institution” defined for 117 purposes?
  • Are foreign countries or specific entities to be reported?
  • How do institutions amend or correct previous reports?
• **April 2019** – Higher ed meets with ED; no update provided on timeline of guidance

  ■ **June/July 2019**
    ■ Additional letters sent by higher ed associations to ED in June and July asking ED to respond to January letter. ED’s response letters do not provide clarification but instead note they will continue to enforce Section 117.
    ■ ED sends investigation letters to four schools; two additional letters sent in September
  ■ **Sept. 6, 2019** – Dept. of Education issues Information Collection Request.
  ■ **Nov. 5, 2019** – Associations submit comments as do several universities.
    ➢ 41 total submissions - 37 from the university community; 33 from universities/univ. systems; 4 from higher ed associations; 2 favorable comment letters
2018 Export Controls Reform Act

• Included in the FY19 NDAA
• Mostly codified previous law and regulations
• Calls for a process to identify and regulate emerging critical technologies
• Commerce/BIS 11/18 ANPRM on Controls for Emerging Technologies (83 FR 58201)
• Additional ANPRM expected shortly from BIS on Foundational Technologies
• Also ANPRM on Foundational Technologies
National Institutes of Health

- August 2018 letter and statement from Dr. Collins
- ACD Working Group Recommendations December 13, 2018
- “Reminders on Other Support“ Guide Notice and FAQs July 10, 2019
- 71 current letters of inquiry to institutions, 17 referrals to HHS OIG
- Meanwhile:
  - 2 Congressional hearings
  - FY20 Senate Appropriation hearing – focus
  - Media Focus
National Science Foundation

Sen. Grassley Letter to NSF Director (April 15) & NSF Response (April 26)

Current & Pending Support requirements
• Revised C&P language in draft PAPPG released on May 29. Comments were due July 29.
• NSF is developing a template.

National Science Board (NSB) Discussion of Science and Security on July 18.

JASON Study Released Yesterday
• Foreign threats are legitimate and must be taken seriously
• Focus on protecting research integrity
• Focus on Disclosure and COI and treat similarly to research misconduct
• Openness and foreign talents critical to advancing U.S. research
DOD and DOE

**Department of Defense**

- Section 1286 of the National Defense Authorization Act of 2019
- Task Force on Protecting Critical Technologies
- March 20, 2019 Memo on current and pending support requirements

**Department of Energy**

- December 14, 2018 Memo on developing S&T Risk Matrix
- January 31, 2019 Memo on prohibiting DOE personnel from participating in foreign talent programs
- June 7, 2019 – Implements prohibition for DOE employees but NOT universities
OSTP Coordination of Federal Agency Policies

- H.R. 3038 - SASTA Legislation
  - Creates NSTC Working Group & NASEM Roundtable on Science, Tech & Security
  - Supported by over 100 organizations and institutions
  - Included in FY 2020 NDAA Compromise

- Joint Committee on Research Environments (JCORE)
  - Announced by OSTP on May 7

- Subcommittee on Research Security
  - Two OSTP staff & 3 staff Co-chairs

- 18 federal agencies; have already had several meetings.

- Initial discussions have focused on:
  - Coordination of Federal communications/outreach efforts to academic and research institutions; four regional meetings planned
  - Providing guidance and best practices for research institutions
  - Standardizing conflict of interest and commitment disclosure requirements and enforcement
Universities Seeking to Balance Science & Security Concerns

1) Take security concerns seriously and must comply with existing requirements
2) Defend core principles of openness & value of foreign students/scholars
3) AAU - APLU survey on effective practices to address foreign security threats
   - 140 examples submitted by 39 institutions
   - Several “Buckets”
     Communication; coordination; training; enhanced reviews; cyber and data security; IP protection; security agency interaction; foreign travel; international visitors; export controls

3) Memo to AAU Presidents and Chancellors
   - What does your institution already do?
   - What responsibilities do faculty have?
   - What more can your institution do?

4) Editorial, Inside Higher Education, “We Must Have Both” August 5, 2019

5) Several national/regional meeting & briefings with more to come!
   (e.g. Loyola Chicago, Sen. Warner/Rubio Roadshow, FBI Academic Summit)
To Maintain Leadership the U.S. Must:

1) Grow support for scientific research and increase funding in key strategic areas.
   - *AI, quantum, robotics, supercomputing, advanced manufacturing, etc.*

2) Invest in training and development of domestic talent.
   - *A New NDEA for the 21st Century*
   - *Adequately fund public higher education*

3) Continue to value, attract & retain top foreign talent.
   - *Immigration policy must encourage top foreign talent to study, conduct research, and stay in the U.S.*

4) Maintain scientific openness and continue to engage in international scientific collaborations which have mutual benefits.
   - *Reaffirm NSDD-189 and avoid creating grey areas*
   - *Focus on ensuring reciprocity in international collaborations*

5) Universities must work with federal science and security agencies to protect against legitimate foreign threats and ensure scientific integrity.
Useful Resources & Organizations

➢ AAU Science and Security webpage
  - [https://www.aau.edu/key-issues/science-security](https://www.aau.edu/key-issues/science-security)
  - Science and Security Resources Document
    – Key terms and background info; Fed Security Agency briefs; relevant reports; tools, experts and compliance resources; case studies/examples; news articles

➢ APLU, ACE & COGR Resources

➢ ASCEP
  - Academic Security & Counter Exploitation Program
  - Website: [https://rso.tamus.edu/home/asce/](https://rso.tamus.edu/home/asce/)
  - To request membership: ASCEP@tamus.edu

➢ AUECO
  - Association of University Export Compliance Officers
  - Website: [http://aueco.org](http://aueco.org)

➢ REN-ISAC
  - Research and Education Networks Information Sharing and Analysis Center
  - Website: [www.ren-isac.net](http://www.ren-isac.net)
Contact Me

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Let’s hear from you!

If using computer microphone: raise your hand!
   Step 1: select “participants”
   Step 2: select “raise hand”
   (may be in sidebar)
   Step 3: after you’re unmuted, ask your question!

If using telephone audio: put your question in the chat box!
Gain better understanding of potential security threats and concerns at your home institutions.

Increase your awareness of the university conflict of interest disclosure and export controls compliance requirements and how they might apply to your research.

Familiarize yourself with federal agency disclosure policies regarding current and pending support and conflict of interest when applying for federal grants and how these apply to any collaborations in which you are engaged and/or funding you receive from foreign entities; keep an eye out for future changes.

Monitor and encourage support for Congressional efforts to increase federal funding to support key strategic research areas important to U.S. national security and economic competitiveness, many which will likely include additional funding to examine related social, ethical and legal issues (e.g. Schumer proposal regarding NSF).

Review AAU’s Best Practices: https://www.aau.edu/key-issues/actions-taken-universities-address-science-and-security-concerns
COSSA’s Homework Assignment

❑ Send us your thoughts for CURES 2.0 legislation by Friday, December 13
  • Email: chosman@cossa.org

❑ Respond to and share COSSA’s Action Alert before December 20
  • [http://www.cossa.org/advocacy/take-action](http://www.cossa.org/advocacy/take-action)

❑ Respond to OSTP’s RFI on the research environment & share your response with COSSA – Deadline is December 23

❑ Watch for Advocacy Day Early Bird Registration next week
  • [https://www.cossa.org/event/2020-advocacy-day/](https://www.cossa.org/event/2020-advocacy-day/)
Next Month:

- January’s HEADLINES and look into COSSA’s 2020 priorities
- DEEP DIVE: TBA

MARK YOUR CALENDAR-
January 9, 2020
PREVIOUS DEEP DIVE TOPICS:
• Nov: 2020 Census
• Oct: USDA’s Economic Research Service
• Sept: Social Science at NSF: What’s New and What’s Next
• Aug: How and Why to Advocate from Home
• July: 2020 Census and the Citizenship Question
• June: Policy Updates from COSSA
• May: National Academies’ Decadal Survey of Social Science Applications for Intelligence Analysis
• April: FY 2020 Social Science Budgets – Part II
• March: FY 2020 Social Science Budgets – Part I
• Feb: Evidence-Based Policymaking and the Foundations for Evidence-Based Policymaking Act of 2018
• Jan: COSSA’s 2019 Legislative Agenda and Advocacy Resources
❑ Tune in each month – 2nd Thursday
❑ Tell your colleagues to sign up for COSSA Member Messages and Alerts—MEMBERS ONLY (email Julia at jmilton@cossa.org)
❑ Encourage other organizations and universities to Join COSSA (email Wendy at wnaus@cossa.org)
❑ Send us your ideas for DEEP DIVES (email Camille at chosman@cossa.org)
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