



Talking Points on USICA/COMPETES Conference Research Security Provisions

Background

The House and Senate voted to go to a formal conference committee naming [107 conferees](#) to the bill. APLU and member institutions will continue to be deeply engaged in advocacy to enhance productive research partnerships with the federal government that appropriately strengthens research integrity and shields it from undue foreign government influence.

Problematic Provisions on Research Security

There are several research security related provisions that were included in either the House or Senate versions focused on safeguarding federally supported research from attempts by foreign governments to steal intellectual property.

- Committee on Foreign Investment in the United States (CFIUS) review of certain foreign gifts and contracts (Sec 3138 of S. 1260)
 - This provision would require institutions to seek preapproval from the federal government before accepting any gift or contract over \$1 million from foreign persons or governments where the resulting work “...relates to research, development, or production of critical technologies.”
 - CFIUS is a process built to examine foreign investment in U.S. companies. The reviews often can take up to a year and include costly regulatory and legal fees for both the U.S. company and foreign investor. It is not a process designed to review research grants and philanthropic gifts.
- Modifying reporting threshold requirements on foreign gifts and contracts, also known as Section 117 of the Higher Education Act
 - S.1260 would lower the current reporting thresholds for foreign gifts or contracts to institutions from \$250,000 per year to \$50,000. The House bill (H.R. 4521) would lower the threshold to \$100,000 per year.
- Enacting new requirements for institutions of higher education to create and maintain searchable databases of all gifts or contracts with a foreign actor or entity received by individual researchers and staff (Sec. 124).
 - S. 1260 would require institutions with more than \$5 million in federal science and engineering funding to create and maintain a disclosure report of foreign gifts

or contracts to individual faculty or staff. The House bill (H.R. 4521) would require only schools with more than \$50 million in federal science and engineering funding to create these databases.

- S.1260 would set no reporting limits, gifts such as a pen or a coffee mug from a visiting internal guest would need to be reported. The House bill (H.R. 4521) would set the reporting threshold at \$50,000 for individual gifts or contracts to faculty/staff (the Senate bill did not include any reporting threshold).

Take Action

- **Encourage your Congressional delegation to oppose Sec 3138 of S. 1260** from being included in the final Conference Agreement. CFIUS remains an inappropriate mechanism to examine any potential risks associated with international scientific partnerships.
- CFIUS was created to prevent ongoing foreign control of U.S. corporations. With regards to U.S. universities, it is not clear what a CFIUS review of gifts and contracts would be designed to counter or how proper review would be determined when applied to university gifts and contracts.
- Sec. 3138 would overwhelm CFIUS with a task it was never designed to undertake, result in huge compliance costs for institutions, and significantly limit international research collaborations. For the first time ever, the federal government would have the broad authority to decide, in advance, what non-federally funded research could be conducted on college campuses.
- Urge your delegation to **support the House provisions** for modifications to Sections 117 and 124 of the Higher Education Act and **oppose the Senate provisions**.
 - APLU has long requested a clear and straight forward Section 117 reporting system at the Department of Education. APLU appreciates the refinements to the reporting levels and exemptions made in H.R. 4521 regarding Sec. 117 and urges Congress to include them in the final agreement.
 - We believe that reporting of gifts and contracts to individual researchers is duplicative of existing reporting requirements established by federal research agencies. However, we appreciate that H.R. 4521 has made refinements to the proposal originated in S.1260. The provision in H.R. 4521 is more narrowly focused and exempts simple, de minimis personal gifts like a coffee mug with the logo of the foreign visitor's home university or a shared meal.
 - Increasing duplicative and overly complicated new reporting requirements will not necessarily increase research security but will divert university resources and discourage legitimate and necessary international scientific cooperation.
 - Additionally, for public institutions without adequate privacy protections the reporting called for in both USICA and COMPETES for records on individual researchers and staff could allow these records to become public records under state laws. Leading to a chilling effect on researchers engaging in completely legitimate international interactions.

New research security regulations need to be well targeted and should not create an atmosphere where U.S. higher education institutions are seen as less favorable places for positive international collaborations to develop new knowledge and scientific innovation. Creating a less welcoming more bureaucratic environment will undermine the very U.S. economic competitiveness USICA/COMPETES is supposed to enhance.

Other Resources

[March 2022 Joint Association Letter on COMPETES/USICA Conference Priorities](#)

[February 2022 APLU Letter COMPETES/USICA Conference Priorities](#)

[September 2021 Joint Association Letter on COMPETES/USICA](#)

[August 2021 APLU COMPETES/USICA letter](#)

[April 2021 Joint Association Letter on CFIUS](#)