

Foreign Influence Townhall Meeting

Presented by FIU's Offices of Research and Economic
Development (ORED) &
University Compliance & Integrity (UCI)
January 19, 2022

Agenda

- Introduction
- Key Definitions
- Ongoing Federal Directives Related to Foreign Influence
- New Florida Statutes
- Export Controls Training
- Additional Resources
- International Engagement Matrix
- FIU's Commitment to International Collaboration
- Questions



Introduction

- Today's goal is to provide FIU faculty and staff with an overview of current and new federal and state regulations related to Foreign Influence, and resources to assist FIU personnel in complying with these requirements.
- Reiterate FIU's continued commitment to fostering international research collaborations.
- Please ask questions in the chat. The chat will be monitored and answers will be provided either live during the webinar by the presenters or via a response in the chat function of zoom.
- This webinar will be recorded and will be uploaded into the ORED website at research.fiu.edu.

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Key Definitions

1. Foreign Influence
2. Restricted Entities/Parties
3. Watch-listed Institutions- ASPI Uni-tracker
4. Foreign Talent/Scholarship Programs

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Foreign Influence

- The term “Foreign Influence” is generally used to characterize a situation wherein an international entity (e.g. a sponsoring or collaborating institution, industry partner, donor, or other international entity with a direct or indirect relationship to the U.S. university) positions itself to gain access to the university’s Intellectual Property (IP) and/or export controlled information; or to covertly influence or steer the course of federally-funded research in a manner that benefits said foreign entity.
- Foreign Influence may involve facilitating research efforts (in the U.S. or abroad) to provide the foreign entity with direct visibility into research activities in an incidental or even “supportive” manner, though nonetheless *outside* the scope of intended collaboration.
- Other examples of foreign influence activity include:
 - Penetrating Information Technology (IT) safeguards to gain unauthorized access to research files
 - Misstating professional credentials and/or omitting home country affiliations for purposes of obtaining a visa to conduct research at the U.S. university
 - Otherwise diverting research results outside the scope of the university’s permission, including fundamental research concerning new or emerging technologies

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Restricted Entities/Parties

- Entities (or persons) located anywhere in the world (including the U.S) identified by the U.S. Federal Government as threats to national security, U.S. trade policy, global nuclear and biologic safety, etc.
- These entities include certain foreign universities and non-academic research institutions.
- The U.S. Government publishes and updates the names of such entities and persons in the Federal Register on an ongoing basis. FIU utilizes the Visual Compliance software tool to identify whether a party is a Restricted Entity/Party.
 - U.S. universities and research institutions are often solicited by Restricted Entities or Parties who wish to benefit from a research, education, or business relationship.
- In general, U.S. persons and institutions are prohibited from engaging in any export-controlled transaction with a Restricted Entity/Party and, depending on the scope of restriction, engaging in financial and service-related transactions as well.
- FIU will not enter into any agreement or conduct business with any individual or entity on the restricted party list.

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Watch-listed Institutions – ASPI Uni-tracker

- The Australian Strategic Policy Institute's (ASPI) University Tracker (Uni-tracker) is a database of Chinese institutions engaged in military or security-related science and technology research.
- Funded in part by the U.S. State Department, and recommended by U.S. federal law enforcement agencies, many U.S. universities now utilize the Uni-tracker's risk indices to evaluate existing and potential relationships with ASPI-listed entities, when considering fundamental research collaborations, academic exchanges and outside activity engagements by individual faculty members.
- Most agreements/collaborations with entities listed on the ASPI Uni-tracker list are prohibited. See resource section and review the International Engagement Matrix if you plan to engage with a foreign entity.

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Foreign Talent/Scholarship Programs

- Foreign talent programs are defined as programs in which an individual has been recruited by a foreign university, entity or government and provides some form of support, benefit, and/or compensation to facilitate and/or in exchange for the transfer of knowledge and expertise from a U.S. entity to the foreign entity.
- The U.S. Department of Energy further defines foreign talent programs as “any foreign-state sponsored attempt to acquire US scientific-funded research or technology through foreign government-run or funded recruitment programs that target scientists, engineers, academics, researchers, and entrepreneurs of all nationalities working or educated in the United States” (see Department of Energy (DOE) Order 486.1).

Ongoing Federal Directives Related to Foreign Influence

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Ongoing Federal Directives Related to Foreign Influence

- During the past three years, the U.S. Government's Executive and Legislative branches have focused considerable attention on the threat posed by **Foreign Influence within Higher Education**.
- This has resulted in **mandatory** institutional reporting to the U.S. federal government of foreign source funding agreements including contracts; grants and gifts; expanded grant disclosure requirements; expanded restrictions; institutional and individual due diligence when potentially engaging with "Restricted Entities" and "Watch-listed" institutions; and restrictions against participation by researchers funded by (or otherwise engaged with) foreign "Talent/Scholarship" programs.
- Federal enforcement consequences for non-compliance with laws pertaining to Foreign Influence can be severe and are enforceable at both the **institutional** and **individual** employee levels.
- Depending on the circumstance, these consequences can include substantial **monetary penalties**; **debarment** from participating in federally funded grant or contract-based research; federal **criminal prosecution**; and institutional as well as individual **reputational damage**.
- Your current and future federal funding can be impacted!

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Ongoing Federal Directives Related to Foreign Influence

➤ Intentional Actions vs. Mistakes

- Some federal foreign influence cases involve situations where an individual (e.g. visiting scholar, faculty member, etc.) intentionally failed to disclose significant ties to foreign governments, institutions, and/or industry.
- Cases involving mistakes in reporting foreign ties may result in disbarment from participating in federally funded research, removal of an individual from a project, or no action at all.
- In some cases, charges have been dismissed and/or reduced once the case is thoroughly investigated.

New Requirements from the State of Florida

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New Florida Statutes

1. F.S. 1012.977 - Disclosure of contracts that affect the integrity of state universities or entities
2. F.S. 1010.36 – Foreign Travel; Research Institutions
3. F.S. 288.860 – International Cultural Agreements
4. F.S. 1010.35 – Screening Foreign Researchers

These statutes' requirements include significant changes to Outside Activity and Conflicts of Interest reporting, Foreign Source reporting, institutional review, approval, and disclosure of foreign travel/activities, prohibitions on contracting with certain foreign entities, and enhanced screening of certain potential employees with foreign citizenship and/or foreign employment/training.

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F.S. 1012.977 – Requirements for Reporting Conflicts & Outside Activities

Requirements:

As of July 2020, the **State of Florida** *requires* employment **suspension without pay** for up to 60 days and possible termination of employment for failure to properly disclose financial conflicts of interest and outside activities.

FIU's Response:

1. The University revised its Outside Activity/Conflicts of Interest reporting system and associated policies and has provided Guidance related to reporting of outside activities and conflicts.
 - Per the H.R. Memorandum of February 12, 2021, all faculty and staff are **required** to complete and submit an Outside Activity/Conflict of Interest (OA/COI) disclosure *on an annual basis whether there is an activity to report or not or whenever there is a material change to a previous disclosure or new activity.*
 - Beginning with the 2020-2021 fiscal year reporting, the OA/COI disclosure process transitioned to PantherSoft.



F.S. 1012.977 – FIU’s Response (continued)

- 2. Anyone Engaged in Externally Funded Research Activities:** the legislation requires that **any** FIU employee engaged in the design, conduct, or reporting of externally funded sponsored research for the University must disclose his/her outside activities and financial interests and receive a determination that those outside activities or financial interests do not affect the integrity of the University. That determination **must** occur before the activity begins.
- 3. Anyone with Outside Affiliations with Foreign Universities, Entities, Governments and People:** To address various federal agencies’ requirements and export control laws regarding outside affiliations with foreign universities, entities, governments, and people, section 1K to the OA/COI Disclosure. This section addresses appointments, affiliations, activities, interests or collaborative projects (whether paid or unpaid and even if described as honorary, courtesy, adjunct or other similar description) with any foreign university or other foreign entity or foreign government, including any involvement in any talent programs (e.g. programs in which you have been recruited by a foreign university, entity or government).

Questions: For additional information regarding outside activity/financial interest reporting for research including access to online training, please see the [Office of Research and Economic Development Conflict of Interest webpage](#)



Trainings Related to Changes in the OA/COI System

- **Faculty Session:** This session is for all faculty and postdocs. It is strongly recommended that any employee who engages in sponsored research view this session. <https://develop.fiu.edu/browse/hr/courses/conflict-of-interest-webinar-for-faculty>
- **Approvers' Session:** This session is for all department heads, business unit heads, and final approvers. This session covers approvers for both faculty and admin/staff with an emphasis on faculty submissions. <https://develop.fiu.edu/browse/hr/courses/conflict-of-interest-webinar-for-approvers>
- **Admin/Staff Session:** This session is for all admin/staff. <https://develop.fiu.edu/browse/hr/courses/conflict-of-interest-webinar-for-admin-staff>

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F.S. 288.860 -International Agreements

Requirement:

1. As of July 1, 2021, the university may not participate in any agreement with and/or accept a grant from a “foreign country of concern” (FCC)* or from an entity controlled by a FCC which constrains the freedom of contract of the university, allows the curriculum or values of a program of the state to be directed or controlled by a FCC, or promotes an agenda detrimental to the safety or security of the US or its residents.
2. Prior to executing any international agreement with a FCC, the agreement must be shared with certain federal national security agencies.

FIU’s Response:

Office of Global Affairs is in the process of ensuring that existing contracts and stated commitments are consistent with legislative objectives. In addition, ORED has implemented a required award Appendix form for all awards where the sponsor (prime or flow through) is NOT a U.S. federal, state, or local government entity, or where the award includes an entity in a FCC. This form will be initiated by the ORED representative and completed by the sponsor and/or entity.

- * **Foreign Country of Concern (FCC):** currently includes China, Russia, Iran, North Korea, Cuba, Venezuela, and Syria (and any agency or other entity under significant control of such FCC).



F.S. 1010.36-Requirements for International Travel & Monitoring

Requirement:

- By January 1, 2022, the university must implement a system that requires screening and pre-approval for all international travel and foreign activities for ALL faculty, researchers, and research department staff.
- The legislation also requires individual and institutional disclosure of certain travel-related activities and expenses.

FIU's Response:

- The University maintains a robust travel authorization and approval system (via the TA in **PantherSoft**), which was previously expanded to include an Export Control review.
- In response to the new legislation, the TA will include, for all foreign travel, expanded questions prior to travel approval, expense disclosure requirements prior to receiving reimbursements, and new traveler acknowledgement requirements.
- Use of this system is now **MANDATORY** for all faculty, researchers, and research department staff **PRIOR** to commencement of travel.

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F.S. 1010.35-Requirements for Screening in the Hiring Process and Visitors

Requirements:

1. Extensive additional documentation* and screening of certain applicants for research, research-related support positions or visiting researchers before hiring. These applicants include:
 - Individuals who are citizens of any foreign country and who are not permanent U.S. residents
 - U.S. citizens/permanent residents who have any affiliation with an institution or program in China, Russia, Iran, North Korea, Cuba, Venezuela, and/or Syria
 - U.S. Citizens/permanent residents who have been employed or received training for at least a year in China, Russia, Iran, North Korea, Cuba, Venezuela, and/or Syria
 - U.S. citizens/permanent residents employed by the U.S. government in one of the previously listed countries are exempt

* Additional Documentation Includes

- Every institution of higher education attended, whether or not listed on applicant's CV or resume
- All previous employment since applicant's 18th birthday
- A list of all published material
- A list of all current and pending research funding from any source, including details about the research, their role, funding source, and amount
- List and description of any non-university professional activities
- Any affiliation with an institution or program in a foreign country
- A complete copy of the applicant's passport
- Applicant's most recently submitted DS-160 (Online Nonimmigrant Visa Application)



F.S. 1010.35 -FIU's Response

FIU's Response:

1. New document collection and screening protocols, as well as an expanded background check through a third-party provider conducted prior to clearance for hire or, if a non-paid visiting scholar, prior to the sponsorship of a visa.
2. Expanded checks are also being conducted for any individuals hired since 7/1/21 who may require additional background information and review.
3. Graduate Assistant (GA/RA/TA) is considered a research or research support position even though the individual may only be serving as a TA during a specific term.
4. Screening process for non-paid visiting researchers is being finalized.
5. New processes and training will be provided to the FIU community.

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Export Controls Training

- As part of our institutional commitment to adherence with U.S. federal regulations and compliance best practices, FIU will be launching 30-minute export control training modules geared towards specific concerns related to research and institutional administration that can be taken online.
- The modules are as follows:
 - Export Controls Overview for Individuals Engaged in Research
 - Export Controls Overview for Individuals Engaged in Health/Life Science Research
 - Export Controls Overview for Institutional Administrators and Staff
- All members of the University community are encouraged to partake in the training module that is applicable to them, however the training will be mandatory for all personnel engaged in externally funded research projects.
- Additional details on the training modules and access will be communicated soon.

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Additional Resources

- **Please refer questions to:**
 - William T. Anderson, PhD, Associate Vice President for Research: andersow@fiu.edu
 - Roberto M. Gutierrez, Assistant Vice President for Research: gutierrr@fiu.edu
- The following web links provide helpful guidance related to foreign influence:
 - **Export Control- Foreign Influence:** <https://exportcontrol.fiu.edu/export/topics/foreign-influence>
 - **ORED Guidance Related to Foreign Influence:** <https://research.fiu.edu/guidance-regarding-foreign-influence-and-research/>
 - **Conflicts of Interest website:** <https://research.fiu.edu/coi>
 - **Export Control:** <https://exportcontrol.fiu.edu/>
 - **ORED:** <https://research.fiu.edu/ored/>
 - **UCI:** <https://compliance.fiu.edu/>
 - **Global:** <https://global.fiu.edu/>



International Engagement Matrix

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International Engagement Matrix

- In the chart on the next slides, we indicate how FIU addresses scenarios of potential engagement with U.S. Government-Restricted versus Watch-listed entities and parties.
- For purposes of this chart, the term “Prohibited” refers to FIU’s institutional position with respect to these types of engagement from a Foreign Influence prevention and research security perspective.
- When an actual export of an item is also concerned, the term “Prohibited” also refers to the Federal Government’s explicit export prohibition pursuant to applicable Federal law and regulations.
- In some situations, engagement will require institutional review on a case-by-case basis.
- Please proactively consult this chart in the event that any of the scenarios apply to you now or in the future.

International Engagement with Restricted/High Risk Parties

Type of International Engagement	Restricted Party..	Watch-Listed (ASPI) Party...
Entering into a Memorandum of Agreement/ Understanding with...	Prohibited	Case-by-case basis: with concurrence of Dean/Director of related unit and approval of the Provost and/or VP of Research.
Entering into a Material Transfer Agreement (MTA) or Non-Disclosure Agreement (NDA)	Prohibited	Prohibited
IP Agreements:		
<ul style="list-style-type: none"> • Spin-off entity will include a... 	Prohibited	Prohibited
<ul style="list-style-type: none"> • Commercialization of IP with... 	Prohibited	Prohibited
<ul style="list-style-type: none"> • Sharing proprietary business information with... 	Prohibited	Prohibited
Sponsored Research or Service (re-charge) Agreements:		
<ul style="list-style-type: none"> • Sponsor is a... 	Prohibited	Prohibited
<ul style="list-style-type: none"> • Subaward to a... 	Prohibited	Prohibited
Individual Research Collaboration (not requiring an FIU agreement) where collaboration includes a fundamental research exchange of information: name of collaborating/affiliated international institution should proactively be referred to ORED or Export Control Officer for screening to determine whether or not participating entity is restricted or watch listed.	Prohibited	Case-by-case basis: with concurrence of Dean/Director of related unit and approval of the Provost and/or VP of Research.



International Engagement with Restricted/High Risk Parties

Type of International Engagement	Restricted Party...	Watch-Listed (ASPI) Party...
Exporting any commodity, software, material, non-published information to...	Prohibited	Requires export control review and approval
Student exchange with...	Prohibited	Reviewed on a case-by-case basis
Teaching at a...	Prohibited	Reviewed on a case-by-case basis
Providing distance education to students at a...	Prohibited	Reviewed on a case-by-case basis
Exploratory travel/visit on official university business to a...	Prohibited	Reviewed on a case-by-case basis
Sabbatical (wholly or in part) at a...	Prohibited	Prohibited
Outside Individual (non-FIU) activity at a....	Regulatory guidance an institutional obligations communicated to FIU personnel, including potential grant disclosure consequences; personnel must execute a Foreign Activity Acknowledgement (FAA)* <i>prior</i> to commencing activity	
Donations/Gift Agreements from a...	Prohibited	Prohibited
Active recruitment of students currently attending a...	Prohibited	Prohibited
Recruitment of personnel from a...	Prohibited	Prohibited



International Engagement with Restricted/High Risk Parties

Type of International Engagement	Restricted Party...	Watch-Listed (ASPI) Party...
<p>Visitors/Personnel on Campus (Assumes that the individual is not a Restricted Party. Under no circumstance would FIU petition for or support a visa on behalf of a person individually identified on any U.S. Government list.)</p>		
<ul style="list-style-type: none"> Employees (includes all individuals who are classified as “employees” regardless of visa type (e.g. H-1, O-1, J-1 post doc, OPT, etc.) role, or paid/unpaid status) affiliated with... 	Requires a) foreign influence review prior to employment offer; b) case-by-case concurrence from Dean/Director of related unit, approval by Provost and VP of Research (when employment may involve/expose research); c) employee execution of FAA*	
<ul style="list-style-type: none"> Visiting Scholars (includes non-employees e.g. J-1 visa type) affiliated with... 	Prohibited	Reviewed on a case-by-case basis
<ul style="list-style-type: none"> Visiting Delegations (B-visa) affiliated with... 	Prohibited	Reviewed on a case-by-case basis
<p>* The Foreign Activity Acknowledgement (FAA) outlines federal and state regulations regarding export controls, trade compliance, and inappropriate foreign influence for institutional personnel. The FAA also outlines institutional policies regarding export controls, use of institutional property and devices, Conflicts of Interest, Conflicts of Commitment, sponsored research reporting, and other related requirements. When required, the FAA must be executed by all individuals engaging in the activity, regardless of nationality, citizenship, or institutional status.</p>		



FIU's Commitment to International Collaborations

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FIU's Commitment to International Collaborations

1. FIU is committed to full compliance with Federal and State regulations concerning the University's global engagement, including the new legislative requirements.
2. FIU is committed to supporting international collaboration and engagement in research and scholarly activities.
3. FIU's compliance program facilitates proactive screening of our institutional engagement partners against the published lists of restricted and watch-listed entities in order to avoid compliance concerns.
4. We need our faculty and staff members to fully disclose international relationships to protect them and the University. Compliance and due diligence toward addressing Foreign Influence and Research security concerns require a *proactive partnership* among ORED, University Compliance and our faculty and staff.

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Questions



Thank you

