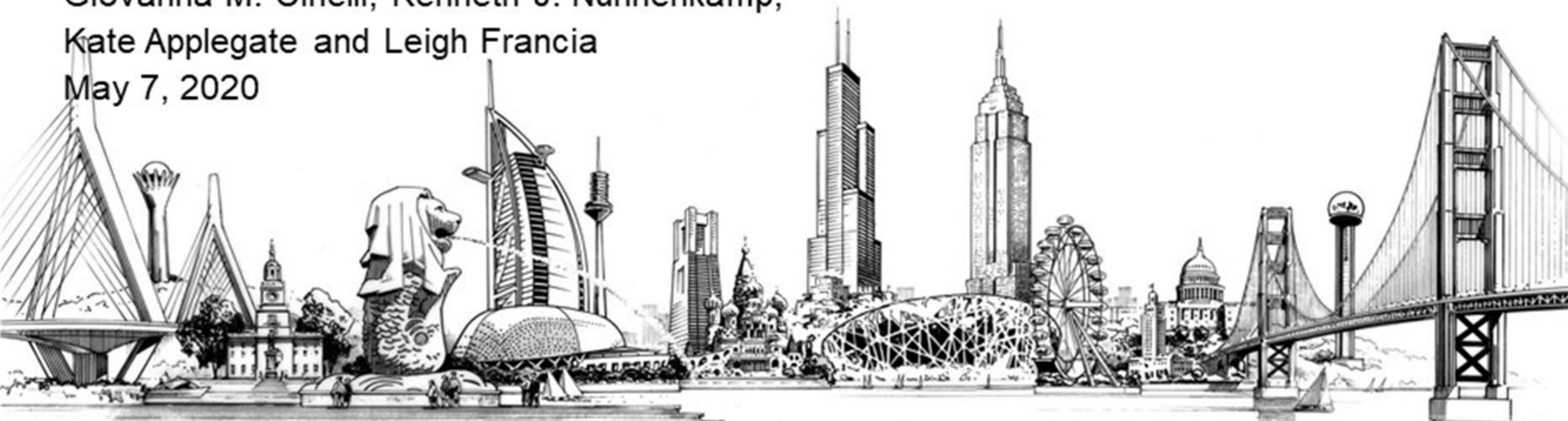


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FOREIGN INFLUENCE AND CONFLICTS OF INTEREST IN U.S. UNIVERSITIES AND NONPROFITS RECEIVING FEDERAL FUNDS

Giovanna M. Cinelli, Kenneth J. Nunnenkamp,
Kate Applegate and Leigh Francia
May 7, 2020



OVERVIEW:

- **ISSUE RELEVANCE: U.S. GOVERNMENTS' RESPONSE TO CURRENT EVENTS**
- **APPLICABLE LAWS AND REGULATIONS**
- **REVIEW OF CURRENT HIGH-PROFILE ENFORCEMENT CASES**
- **STRATEGIC PERSPECTIVE**

ISSUE RELEVANCE: WHY IS THIS IN THE NEWS?

- ❖ Tensions in Technology Leadership
- ❖ Dual Use Technology
- ❖ Foreign Actions: Strategies that Seek to Challenge or Displace U.S. Leadership in the defense, military, intelligence and economic sphere
 - Civil-military fusion in pursuit of “intelligent warfare”
 - “Made in China 2025”
 - Foreign Talent or Experts Recruitment Plans
 - Intellectual Property theft
 - Diversions or violations of export controls
- ❖ U.S. Reactions: Increased emphasis on technology controls
 - Increase in investigations: conflicts of interest, funds disclosure, export violations
 - Increase in cases and severity of penalties (Departments of Justice, State, Commerce, Education and Treasury)
 - New rules and regulations targeting Chinese companies specifically

NEW REQUIREMENTS OR A RESTATEMENT OF LONG-STANDING OBLIGATIONS

- ❖ Although the obligation to report gifts and contracts from foreign sources has garnered an extensive amount of attention within the last 3 years, the legal requirements to report these gifts and contracts has been in effect for over 30 years
 - The Department of Education (DOE) has consistently, though more quietly, expressed ongoing concerns regarding the risks related to the growing financial relationship between academic institutions and foreign sources
 - This concern was reflected in Section 117 reporting requirements, added as amendments in 1986, that mandated the disclosure of gifts (whether unrestricted, restricted, or conditional) from foreign sources (whether by commercial entities, governments, quasi-governmental organizations, or individuals)

NEW REQUIREMENTS OR A RESTATEMENT OF LONG-STANDING OBLIGATIONS

- ❖ Although the obligation to report gifts and contracts from foreign sources has garnered an extensive amount of attention within the last 3 years, the legal requirements to report these gifts and contracts has been in effect for over 30 years
 - Although DOE considered both the statute and its guidance clear on the requirements, in April of this year, the Department issued statements in OMB Number 1801-NEW (revised on April 13, 2020) regarding changes to the reporting system due, in part, “to ensure institutions provide Congressionally-mandated transparency with respect to covered gifts from and contracts with foreign sources...”
 - DOE also expressed concerns with the inadequacy of the information provided, even when reporting occurred. The lack of adequate information affects the Department’s ability to “use this information to inform its enforcement work under 20 USC 1011f...”

NEW REQUIREMENTS OR A RESTATEMENT OF LONG-STANDING OBLIGATIONS

- ❖ While DOE considers the obligations and requirements clear and articulated, institutions affected by the requirements view some of the interpretations as ‘chilling’ to academic freedoms and the continued development of enhanced global cooperation and integration
 - In response to outreach by DOE and inquiries into the reporting obligations, a number of interest organizations have engaged in exchanges with DOE to address the perceived disconnects
 - Interested parties include individual academic institutions, research centers (in the medical and other fields), lobbying representatives for these institutions, as well as Congress and other Executive branch agencies that engage directly from the research funding side with these institutions
 - Given this interrelationship, is the U.S. Government’s interest – from DOE, as well as the Department of Justice – unremarkable
 - Should we expect an increased interest in enforcement?

TIMELINE OF SELECT EVENTS

Date	Event
September 21, 1985	NSDD 189: Fundamental Research and Export Controls
February 1, 1995	Letter from the Department of Education re: Postsecondary Educational Institutions: How to Report Ownership or Control By, Contracts With, or Gifts From Foreign Sources
October 4, 2004	Letter from the Department of Education re: Reporting of Foreign Gifts, Contracts, and Relationships by Institutions
May 24, 2010	Memorandum for Secretaries of the Military Departments re: Fundamental Research
November 4, 2010	Executive Order 13556: Controlled Unclassified Information
January 5, 2011	<i>U.S. v. Roth</i> (conspiracy to export and exporting defense articles and services without a license) (University of Tennessee)
April 2011	Federal Bureau of Investigation White Paper: Higher Education and National Security the Targeting of Sensitive, Proprietary and Classified Information on Campuses of Higher Education
May 14, 2015	<i>U.S. v. Xi</i> (wire fraud, aiding and abetting) (Temple University)
September 2015	FBI Counterintelligence Strategic Partnership Intelligence Note: Chinese Talent Programs

TIMELINE OF SELECT EVENTS

Date	Event
November 2, 2017	<i>U.S. v. Zhang</i> (conspiracy to commit federal grant fraud, false statements, obstruction by falsification) (Virginia Polytechnic Institute and State University)
July 17, 2018	Letter from Department of Education Under Secretary Jones to Representative Banks re: June 19, 2018 letter to Secretary DeVos on oversight of universities in connection with Huawei Technologies
August 20, 2018	Letter from the National Institutes of Health re: Threats to the Integrity of U.S. Biomedical Research
August 23, 2018	National Institutes of Health Statement on Protecting the Integrity of U.S. Biomedical Research
September 13, 2018	Statement by E. W. Priestap, FBI Assistant Director: FBI Warns Texas Leaders of Foreign Threats to Research and Academic Institutions
December 2018	NIH Advisory Committee Report and Presentation to the Director: ACD Working Group for Foreign Influences on Research Integrity (members include leaders from Stony Brook University; Vanderbilt University Medical Center; Ohio State University; MIT; Washington University; Maryland University; and Wayne State University)
December 12, 2018	Testimonies from Assistant Attorney General John Demers and Assistant Director, FBI Counterintelligence Division E.W. Priestap before the U.S. Senate Committee on the Judiciary Hearing concerning China's Non-Traditional Espionage against the United States
2019	U.S. Senate Permanent Subcommittee on Investigations Staff Report: <u><i>Threats to the U.S. Research Enterprise - China's Talent Recruitment Plans</i></u>

TIMELINE OF SELECT EVENTS

Date	Event
January 17, 2019	Letter from Senator Grassley to Department of Health and Human Services Inspector General Levinson re: Integrity of Taxpayer-funded Research
January 31, 2019	Letter from Department of Health and Human Services Inspector General Levinson to Senator Grassley re: Answers to Questions raised in January 17, 2019 Letter
January 31, 2019	Memorandum for Heads of Departmental Elements: Department of Energy Policy on Foreign Government Talent Recruitment Programs
February 2019	GAO Report to Congressional Requesters: <u>Agreements Establishing Confucius Institutes at U.S. Universities are Similar, but Institute Operations Vary</u> , GAO-19-278
February 2019	Department of Health and Human Services, Office of Inspector General: <u>Report on Opportunities Exist for the National Institutes of Health to Strengthen Controls in Place to Permit and Monitor Access to Its Sensitive Data</u> , A-18-18-09350
February 28, 2019	Letter from Department of Education Deputy Secretary Mitchell Zais to University Presidents and Chancellors re: Confucius Institutes
March 20, 2019	Memorandum from the Under Secretary of Defense for Acquisition and Sustainment Actions for the Protection of Intellectual Property, Controlled Information, Key Personnel and Critical Technologies
April 1, 2019	Letter from Senator Grassley to Department of Defense Acting Secretary Shanahan re: Foreign Threats to Taxpayer-funded Research
April 15, 2019	Letter from Senator Grassley to National Science Foundation Director Cordova re: Foreign Threats to Taxpayer-funded Research

TIMELINE OF SELECT EVENTS

Date	Event
June 7, 2019	Department of Energy Order 486.1: Foreign Government Talent Recruitment Programs
June 28, 2019	Notice of Investigation: Georgetown University and Texas A&M University 84 Fed. Reg. 31052-31055 (June 28, 2019)
July 1, 2019	Letter response from the Department of Defense Office of the Undersecretary to Senator Grassley re: April 1, 2019 letter regarding protection of DoD-funded research from foreign threats
July 3, 2019	Letter from the Department of Education to American Council of Education Senior Vice President Hartle re: January 18, 2019 and June 12, 2019 Letters regarding Reporting Requirements under Section 117 of the Higher Education Act (HEA)
July 10, 2019	Notice from the Office of the Director, National Institutes of Health: Reminders of NIH Policies on Other Support and on Policies related to Financial Conflicts of Interest and Foreign Components
July 12, 2019	Letter from American Council on Education Senior Vice President Hartle to Department of Education Deputy Secretary re: July 3, 2019 response regarding reporting requirements under Section 117 of the HEA
July 19, 2019	Notice of Investigation: Cornell University and Rutgers University 84 Fed. Reg. 34878-34881 (July 19, 2019)
July 24, 2019	Letter from Department of Education Acting General Counsel Reed Rubinstein to Seyfarth Shaw LLP re: Reporting Requirements under Section 117 of the HEA

TIMELINE OF SELECT EVENTS

Date	Event
July 30, 2019	Letter from the Department of Education to the American Council on Education Senior Vice President Hartle re: July 12, 2019 Letter to Secretary DeVos regarding Disclosure of Foreign Gifts and Contracts under Section 117 of the HEA
August 21, 2019	<i>U.S. v. Feng Tao</i> (wire fraud and program fraud) (University of Kansas)
September 6, 2019	Department of Education to the Association of Public Land-grant Universities re: August 28, 2019 letter to Secretary DeVos regarding reporting of foreign monies
September 6, 2019	Letter from the Department of Education to the National Association of Student Financial Aid Administrators re: September 4, 2019 and August 1, 2019 letters regarding 20 U.S.C. §1011f and Section 117 of the HEA
September 6, 2019	Letter from the Department of Education to the American Council on Education re: August 2, 2019 and August 2, 2019 Letters regarding 20 U.S.C. §1011f and Section 117 of the HEA
November 19, 2019	Statement of John Brown, FBI Assistant Director, before the Senate Homeland Security and Governmental Affairs Committee, Permanent Subcommittee on Investigations: Securing the U.S. Research Enterprise from China's Talent Recruitment Plans
November 21, 2019	Notice of Investigation: Massachusetts Institute of Technology and University of Maryland 84 Fed. Reg. 64309-64313 (November 21, 2019)
November 27, 2019	Letter from U.S. Department of Education Deputy General Counsel Rubinstein to Senator Portman re: Section 117 of the HEA
December 19, 2019	Department of Justice settlement (\$5.5 million) with Van Andel Research Institute for allegations of False Claims Act violations over nondisclosure of Chinese research grants

TIMELINE OF SELECT EVENTS

Date	Events
December 20, 2019	S. 1790, National Defense Authorization Act for Fiscal Year 2020, Sec. 228, Research Program on Foreign Malign Influence Operations
2020	Defense Security Service National Counterintelligence and Security Center: Foreign Visits Fact Sheet
January 27, 2020	<i>U.S. v. Lieber, Ye and Zheng</i> (false statements to DOD and NIH) (Harvard University, Boston University, Beth Israel Deaconess Medical Center)
February 10, 2020	Information Collection by the Department of Education to Change the Foreign Source Gift Reporting Process to ensure Compliance and Enforcement 85 Fed. Reg. 7540 – 7541 (February 10, 2020)
February 11, 2020	Letter from the Department of Education to Harvard University President Bacow re: Notice of 20 U.S.C. §1011f Investigation and Record Request
February 11, 2020	Letter from the Department of Education to Yale University President Salovey re: Notice of 20 U.S.C. §1011f Investigation and Record Request
February 27, 2020	<i>U.S. v. Hu</i> (wire fraud and false statements to NASA) (University of Tennessee, Knoxville)
March 10, 2020	<i>U.S. v. Lewis</i> (program fraud) (West Virginia University)
April 24, 2020	Letter from the Department of Education to Mr. James Milliken, Chancellor of the University of Texas System regarding Notice of 20 U.S.C. § 1011f Investigation and Records Request
May 4, 2020	Letter to Secretary of Education DeVos from Representatives Jordan, Foxx, Rogers, Lucas, Nunes, Thornberry and McCaul regarding questions concerning Foreign Source Gifts, the Impact on Academic Espionage and Related Issues

IMPACTS

❖ **Direct: Universities and Nonprofits**

- ❖ Who: Faculty, staff and students; satellite labs and partnerships
- ❖ What: Legal implications, hiring/admissions, funding and research output

❖ **Indirect: Corporations**

- ❖ Who: STEM, Research & Development, Intellectual Property and Exporters
- ❖ What: Export considerations, ongoing cases and business partnerships

❖ **Broad: Advancements in high technology, foreign relations, national security**

APPLICABLE LAWS AND REGULATIONS

- ❖ The Higher Education Act of 1965, 20 U.S.C. § 1011f (Section 117)
- ❖ Department of Defense and Full-Year Appropriations Act, P.L. 112-10
- ❖ Consolidated and Further Continuing Appropriations Act of 2012, P.L. 112-55
- ❖ False Statements Act, 18 U.S.C. § 1001
- ❖ Conspiracy to Commit Offense or to Defraud the United States, 18 U.S.C. § 371
- ❖ Fraud by Wire, Radio, or Television, 18 U.S.C. § 1343
- ❖ False, Fictitious or Fraudulent Claims, 18 U.S.C. § 287
- ❖ Federal Program Fraud, 18 U.S.C. § 666

THE HIGHER EDUCATION ACT OF 1965, 20 USC § 1011 F (SECTION 117)

- ❖ Disclosures of Foreign Gifts
 - Applies to:
 - ★ An institution that is owned or controlled by a foreign source; or
 - ★ Any institution that receives a gift or contract that qualifies for reporting
 - Applies to gifts or contracts that:
 - ★ Equal \$250,000 or more
 - ★ Are calculated to include single gifts/contracts or gifts/contracts in the aggregate
 - ★ Are provided during a calendar year; and
 - ★ Are from a foreign source

THE HIGHER EDUCATION ACT OF 1965, 20 USC § 1011 F (SECTION 117)

- ❖ The statute defines the key terms – gift, contract, foreign source and institution
 - Gift: “any gift of money or property” (§ 1011f(h)(3))
 - Contract: “any agreement for the acquisition by purchase, lease or barter of property or services by the foreign source, for the direct benefit or use of either of the parties” (§ 1011(f(h)(1))
 - Restricted or conditional gift or contract: “any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding –
 - ★ The employment, assignment, or termination of faculty
 - ★ The establishment of departments, centers, research or lecture programs
 - ★ New faculty positions
 - ★ The selection or admission of students; or
 - ★ The award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion” (§ 1011f(h)(5)(A)-(D))

THE HIGHER EDUCATION ACT OF 1965, 20 USC § 1011 F (SECTION 117)

- ❖ The statute defines the key terms – gift, contract, foreign source and institution
 - Foreign source (§ 1011f(h)(2)(A)-(D)):
 - ★ “a foreign government, including an agency of a foreign government”
 - ★ “a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states”
 - ★ “an individual who is not a citizen or a national of the United States or a trust territory or protectorate”; and
 - ★ “an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source”

THE HIGHER EDUCATION ACT OF 1965, 20 USC § 1011 F (SECTION 117)

- ❖ The statute defines the key terms – gift, contract, foreign source and institution
 - Institution (§ 1011f(h)(4)(A)-(C)): “any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State, that –
 - ★ is legally authorized within such State to provide a program of education beyond secondary school
 - ★ Provides a program for which the institution awards a bachelor’s degree (or provides not less than a 2-year program which is acceptable for full credit to such a degree) or more advanced degrees; and
 - ★ Is accredited by a nationally recognized agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person) or which institution receives support from the extension of Federal financial assistance to any of the institution’s subunits”

WHAT HAS HAPPENED IN THE LAST 3 YEARS?

- ❖ Increased outreach by DOE to reconfirm its interpretation of the reporting requirements
- ❖ Increased number of investigations by DOE and by the Justice Department
- ❖ Increased interest by Congress
 - June 19, 2018 Letter to Secretary DeVos requesting details of gifts and contracts in partnership with Huawei Technologies (HT or Huawei)
 - December 5, 2018 Statement of E.W. Priestap, Assistant Director of the Counterintelligence Division, FBI, before the Senate Committee on the Judiciary, Hearing concerning China's Nontraditional Espionage against the United States: the Threat and Potential Policy Responses

WHAT HAS HAPPENED IN THE LAST 3 YEARS?

- ❖ Increased interest by Congress
 - December 13, 2018: Statement of John C. Demers, Assistant Attorney General, National Security Division, DOJ, before the Senate Committee on the Judiciary, Hearing concerning China's Nontraditional Espionage against the United States: the Threat and Potential Policy Responses
 - March 13, 2019: H.R. 1678/S. 1879: Protect our Universities Act
 - May 31, 2019: H.R. 3038/S. 2133: Securing American Science and Technology Act
 - December 20, 2019: NDAA § 228 (Research Program on Foreign Malign Influence Operations)
 - May 4, 2020: Letter to the Honorable Betsy DeVos from Representatives Jordan, Foxx, Rogers, Lucas, Nunes, Thornberry and McCaul requesting detailed information regarding "the Department's efforts to address unreported foreign direct investment into the U.S. higher education system"

CASE STUDIES

- ❖ Dr. Charles Leiber, Harvard University
- ❖ Dr. James Patrick Lewis, West Virginia University
- ❖ Anming Hu, University of Tennessee, Knoxville
- ❖ Yiheng “Percival” Zhang, Virginia Polytechnic Institute and State University
- ❖ Feng Tao, University of Kansas

DR. CHARLES LEIBER

- ❖ Harvard professor received funding from NIH, DOD and Thousand Talents Program
- ❖ Established a joint research lab without Harvard's knowledge or approval
- ❖ Denied participation in the Thousand Talents Program and association with Wuhan University of Technology
- ❖ Charged (by DOJ) with false statements (18 U.S.C. § 1001(a)(2)) to NIH and DOD (case remains pending)

DR. JAMES PATRICK LEWIS

- ❖ West Virginia University (WVU) physics professor recruited by the People's Republic of China's "Global Experts 1000 Talents Plan"
- ❖ Maintained an active research program for Chinese Academy of Sciences in exchange for a salary and living and research subsidies
- ❖ Fraudulently requested WVU grant him paid parental leave
- ❖ Spent his leave working full-time in China while collecting payment for parental leave from WVU
- ❖ Pled guilty to DOJ charges of federal program fraud (18 U.S.C. § 666) and currently awaiting sentencing

ANMING HU

- ❖ Associate Professor of mechanical, aerospace and biomedical engineering at the University of Tennessee, Knoxville (UTK)
- ❖ Active faculty member of the PRC-managed Beijing University of Technology's (BJUT) Institute of Laser Engineering
- ❖ Made false representations and omissions to UTK about his affiliation with BJUT
- ❖ Caused UTK to falsely certify to NASA that UTK was in compliance with federal law
- ❖ Charged (by DOJ) with three (3) counts of wire fraud (18 U.S.C. § 1343) and three (3) counts of false statements (18 U.S.C. § 1001) to UTK and NASA (case remains pending)

YIHENG “PERCIVAL” ZHANG

- ❖ Virginia Tech biological systems engineering professor and founder of a U.S. research firm funded by federal grants
- ❖ Paid researcher for the Chinese Academy of Sciences
- ❖ Submitted fraudulent grant proposals to the National Science Foundation
- ❖ Used grant funds for research completed in China and submitted falsified timesheets to investigators
- ❖ Found guilty of DOJ charges of conspiracy to defraud the United States (18 U.S.C. § 37), aiding and abetting the submission of false statements (18 U.S.C. §§ 2 and 1001(a)(2)), and obstruction of justice (18 U.S.C. § 1519) and was sentenced to time served

FENG TAO

- ❖ Associate professor at the University of Kansas (KU) Center for Environmentally Beneficial Catalysis
- ❖ Signed a full-time Changjiang scholars employment contract at Fuzhou University
- ❖ Did not disclose the Changjiang contract to KU and certified to KU he had no conflicts of interest
- ❖ Nondisclosure allowed continued access to U.S. government grant and contract funds for research and Tao's salary
- ❖ Indicted (by DOJ) under two (2) counts of wire fraud (18 U.S.C. § 1343) and one (1) count of federal program fraud (18 U.S.C. § 666) (case remains pending)

ONGOING INVESTIGATIONS

- ❖ Notices of 20 U.S.C. § 1011f (Count Twelve) Investigation and Record Requests have been made to:
 - Georgetown University
 - Texas A&M University
 - Cornell University
 - Rutgers University
 - Harvard University
 - Yale University
 - Massachusetts Institute of Technology
 - University of Maryland

STRATEGIC CONSIDERATIONS

- ❖ Anticipate additional U.S. Government and Congressional inquiry – investigations, letters requesting information, testimony at hearings, potential GAO or IG investigations
- ❖ Expect the establishment of further reporting requirements – for example, institutions that currently report but exclude foreign source names will be required to provide the identifying information
- ❖ Updates to donor and contract documents related to foreign source funding
 - Reasonable cooperation clauses
 - Permission to publish names and other identifying information
 - Requirements for further ‘ultimate beneficial ownership’ data
 - Requirements for disclosure of all ties to other institutions – with the term, ‘ties,’ interpreted broadly
 - Indemnification for lack of candor in foreign source-identifying data

STRATEGIC CONSIDERATIONS

- ❖ Potential changes to government contracts or subcontract terms – for example, additional flow-down requirements
- ❖ Potential changes to the manner in which institutions oversee, monitor and audit conflict-of-interest reporting – for example, changes in due diligence may be needed
- ❖ Potential risks of over-reporting

QUESTIONS?

SAVE THE DATE

Part 2: Foreign Influence and Conflicts of Interest in U.S. Universities and Nonprofits

Receiving Federal Funds

June 25, 2020

11:00 am – 12:30 pm

East Coast Time

Speakers



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Giovanna M. Cinelli is the Firm's leader of the International Trade and National Security Practice. Throughout a career spanning over 30 years, she has represented and counseled defense, aerospace and high technology companies on a broad range of issues affecting national security, including export investigations (civil and criminal), due diligence, post-transaction cross-border compliance, Committee on Foreign Investment in the United States (CFIUS) reviews, government contracts, export policy, and licensing. She has conducted over 250 civil and criminal investigations (both unclassified and classified), addressed transactional due diligence matters in hundreds of investments, and counseled clients through the complexities of export control changes from 1992 through the present. She has negotiated complicated export enforcement settlements with the Department of State and successfully closed (without penalties) a range of directed and voluntary disclosures before the Departments of Commerce and Treasury (Office of Foreign Assets Control), as well as the Department of State. Congress considers her a subject matter expert on CFIUS. She testified on April 12, 2018 before the House Financial Services Committee on regulatory issues related to cross-border investments, national security and critical concerns involving the implementation of FIRRMA by the US. She is a frequent participant at workshops and conferences hosted by the Center for Strategic and International Studies, the Council on Foreign Relations and the Parliamentary Intelligence Forum hosted by the US Congress under Congressman Robert Pittenger's leadership. She is a member of the Firm's CFIUS Working Group, a Chambers ranked attorney and a recognized thought leader in the national security, CFIUS and export control fields.

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Kenneth J. Nunnenkamp represents buyers and sellers in transactions before the Committee on Foreign Investments in the United States (CFIUS), and counsels parties to transactions regarding CFIUS risks, applicability and solutions. His experience includes representation of buyers and sellers in public and private transactions in all value ranges, from small transactions in the millions to large matters in the billions, public and private. Ken's experience with CFIUS includes almost every industry and transactions involving entities from more than 35 countries, including Japan, China, Germany, the United Kingdom, Canada, Switzerland, Norway, Sweden, Indonesia, Australia, South Korea, Luxembourg, France, and many more. Ken chairs the Morgan Lewis CFIUS Working Group, which brings together the Firm's attorneys who practice in the area and who are interested in its developments. Ken's expertise encompasses trade and regulatory fields dealing with or implicating national security issues, including: US economic sanctions; Trade remedies (§§ 201, 232 and 301, and related matters, including exclusion requests, hearing testimony and Congressional involvement); Export controls and compliance/investigations under the ITAR, EAR and other regulations; US Customs regulations governing imports and exports; Customs and Census issues arising under the Foreign Trade Regulations, Endangered Species Act and Lacey Act issues with imports and exports of exotic and controlled items; C-TPAT; and Trade Agreements/Buy American issues. Ken also represents clients in matters relating to classified activities and before the Justice Department's Foreign Agent Registration Act (FARA) division. He brings more than 30 years of litigation and investigation experience, including time as a JAG Officer in the US Marine Corps. As an experienced entrepreneur, Ken applies business acumen to legal solutions, while assessing risk in user-friendly terms. He serves on the Wake Forest University Business School Board of Visitors, and publishes and presents frequently on topics relating to national security law, trade and business.

Biography



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Kate Applegate is a Legal Practice Assistant in International Trade and National Security Practice of Morgan Lewis. She is resident in the Firm's Washington, D.C. office and manages factual and regulatory research on a broad range of topics including export and import controls, sanctions, foreign direct investment (CFIUS) and national security policy. She has conducted extensive research, including sophisticated trends and enforcement analyses related to export controls, compliance obligations and sanctions requirements, specifically the Office of Foreign Assets Control Regulations (OFAC), Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR) and the Defense Production Act (DPA, as it relates to CFIUS). She graduated from Wellesley College with honors, with a BA in Philosophy and has been with Morgan Lewis since June of 2019.

Biography



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Leigh Francia is a Legal Practice Assistant in the International Trade and National Security practice of Morgan Lewis, resident in the Firm's Washington, D.C. office. She provides substantive and administrative support to her practice in its representation of clients before multiple U.S. government agencies in trade compliance matters, including support before the key agencies involved in policy, licensing and enforcement of export and import controls, foreign direct investment (CFIUS) and sanctions. Leigh joined the firm in June 2019 and has managed complex assessments of enforcement trends, as well as analysis of issues associated with trade compliance. Prior to joining the Firm, she majored in political science at the University of Colorado, Boulder and graduated summa cum laude in May 2019. Her thesis and coursework centered on quantitative methodology and public policy.

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