

May 10, 2019

Dear ACE member Presidents and Chancellors,

Over the past year, the attitudes of policymakers toward China have changed noticeably. During a plenary session at the ACE2019 Annual Meeting in March, Richard Haass, a veteran diplomat and president of the Council on Foreign Relations, said that he had “never seen a major consensus move as quickly and as dramatically as has the U.S. consensus on China. Whether we’re talking about Democrats or Republicans...you have seen the real emergence of a much tougher line towards China.” Dr. Haass further cautioned there is a risk that if universities do not address issues related to China on their own, “it’s going to be done for them by Congress or the Executive Branch.”

Those comments did not come as a surprise to us at ACE. Many entities, from federal research labs to corporations to think tanks, are potential targets of foreign espionage and soft-power initiatives. But over the past year, ACE, along with other major higher education associations, have been aware of the growing concerns about espionage on college campuses and have taken concrete steps to engage with the administration, Congress, and the national security and science agencies to better understand the situation and to build cooperative working relationships. While federal attention, and the focus of this letter, is currently largely focused on China, improper foreign influence in general is a bipartisan issue.

Part of this wariness focuses on academic partnerships and programs. Last summer, I sent a [letter](#) to approximately 80 ACE member colleges and universities with Confucius Institutes (CIs) to alert those campuses to criticisms of CIs and steps that might be taken to address them. I write today to all ACE member institutions to discuss the alarms that federal officials, from bipartisan members of Congress to the Director of the Office of National Intelligence, are sounding about the threat of espionage in higher education. Most recently, Sen. Mark Warner (D-VA), convened a classified briefing for a group of ACE presidents with Senate Intelligence Committee Chair Richard Burr (R-NC), committee member Sen. Marco Rubio (R-FL), and Dan Coats, Director of the Office of National Intelligence, regarding foreign attempts to influence academic activities and commandeer research and intellectual property through inappropriate and sometimes illegal activities.

We know that ACE members are strongly committed to internationalization, which in many cases includes engagement with China. ACE remains fully committed to helping our members address the full range of challenges and opportunities related to internationalization, including expert advice on strategic planning and the management of international partnerships. Some of our resources appear in the addendum that follows this letter.

The concerns being raised by policymakers and the national security agencies do not reflect hostility to international students or scholars and their many important contributions to our campuses. Members of the administration, Congress, and national security officials repeatedly and uniformly express support for continuing the higher education community’s international engagement, and the importance of preserving the United States as the destination of choice

for the world's most talented students and scholars. In addition, it is important that we continue to protect the openness and free inquiry essential to our research activities.

However, the concerns about espionage are focused on China's stated plans to surpass the United States technologically and economically in the coming years and actions they may be taking to advance that goal. Legitimate competition is fine; espionage and the theft of intellectual property is not. Federal policymakers have emphasized the need to enhance security protecting research with national and economic security implications, as well as to closely examine and increase transparency around foreign talent recruitment programs and research partnerships.

We have already seen some evidence that Congress and federal agencies are taking steps to address these threats. The National Institutes of Health (NIH) (click [here](#) and [here](#)) has taken action to protect the peer review process from foreign influence; [memos](#) from the Department of Energy (DOE) have restricted participation in talent recruitment programs by DOE-funded researchers; and a [memo](#) from the Under Secretary of Defense will limit the ability of other countries to exploit technology developed by the Department of Defense (DoD). In addition, we continue to see a steady drumbeat of stories in the national press (for example, [here](#) and [here](#)) about the theft of data and intellectual property.

I encourage you to take steps to address these issues in a proactive way on your own campuses. The addendum to this letter describes possible actions to consider in the areas of partnerships, compliance, and other campus policies as ways to protect against these threats. We have developed these ideas with the help of think tanks (such as the Wilson Center and the Hoover Institution), U.S. intelligence agencies (FBI and the Office of the Director of National Intelligence), as well as other international partners who are facing similar threats.

Moreover, the Association of American Universities (AAU) and the Association of Public and Land-grant Universities (APLU), with support from ACE and the Council on Governmental Relations, created a [summary](#) of best practices in countering foreign influence and protecting sensitive research. AAU and APLU suggest that these recommendations be broadly shared with the larger community, and I encourage you to examine these ideas.

In addition, the FBI has made it clear they are eager to develop a collaborative relationship with higher education that protects national and economic security without impinging on academic freedom or institutional autonomy. At a recent briefing, the FBI Assistant Director of Counterintelligence encouraged universities to identify "vital assets" (such as faculty and staff, areas of research, lab facilities, etc.) and take steps to:

- Protect those assets;
- Have clear written rules of engagement with foreign governments, companies, or other actors about what is allowed and not allowed in the research setting (what can be shared outside the building, etc.); and,
- Inform faculty and staff of the threat and of the need to be particularly vigilant while traveling abroad.

Most important, I believe, is for campuses to have a working relationship with the local FBI field office. There are [55 regional FBI offices](#) across the country, and if you are not familiar with who runs the one in your vicinity, I suggest reaching out and introducing yourself.

There is an ongoing debate in Washington as to whether existing national policies on research collaboration and intellectual property are adequate to address these growing concerns or whether additional legislation or regulation is needed. ACE and other national higher education associations are working to ensure that our community is an important partner in these discussions.

My colleagues and I are eager to work with all of you to address these important issues in a proactive way, one that protects the academic freedom of our institutions, the open nature of the research being performed on our campuses, and our rich engagement with the world, and that ensures that U.S. colleges and universities remain a welcoming place for the world's most talented students and scholars.

Please feel free to contact me or Sarah Spreitzer (saspreitzer@acenet.edu) or Steven Bloom (sbloom@acenet.edu) if we can provide additional information or assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Mitchell". The signature is stylized and cursive.

Ted Mitchell
President

Suggestions for Enhancing the Security of International Partnerships in an Era of Global Tensions

Partnerships

- ***Espionage threats can come from all countries:*** Numerous countries, corporations, and other actors seek to influence and illegally benefit from American colleges and universities. Efforts to defend institutional integrity should therefore not focus on scholars or institutions from specific nations but should promote best practices throughout the campus community without bias. ACE’s international experts offer general resources on best practices in establishing global partnerships. That information can be found [here](#) and [here](#).
- ***Transparency is key:*** One of the continuing concerns from Congress and the federal security agencies is the lack of transparency with Memorandums of Understanding (MOUs) and funding from China for partnership programs, such as Confucius Institutes (CIs). Numerous scholars and think tanks have recommended that U.S. institutions of higher education should promote transparency and apply due diligence to any partnership agreements to ensure that academic freedom is protected. (See example [here](#).) We therefore recommend that all MOUs and contracts with foreign governments, persons, companies, universities, or other institutions be made public. In addition, all international MOUs should contain a clause stating that “if any activities carried out under this agreement are deemed to violate either partner’s standards of academic freedom, academic integrity, or academic rigor, the agreement may be terminated without notice or penalty.”
- ***Carry out a comprehensive review of all new and existing partnerships:*** The Hague Center for Strategic Studies (HCSS) has produced a useful [checklist](#) of 10 questions to consider regarding potential or actual cooperation with foreign universities or other research institutions. The checklist encourages institutions entering into a partnership agreement to understand potential risks, who can access and use the findings of the joint research, and whether the data management of the project meets the required standards for your institution. The HCSS report notes that, “[b]etween the lines of the formulated and agreed objectives, there may also be other, implicit objectives. An agreement that leaves room for interpretation can cause friction at a later stage.”

Colleges and universities should carefully consider the background of prospective international partners to determine whether they are involved in national surveillance operations, in the detention or mandatory “training” of ethnic or religious groups, or in other activities that violate the principles of American higher education. MIT has recently announced a new review process for some international collaborations. This includes projects funded by people or entities from China, Russia, and Saudi Arabia, or projects which involve MIT faculty, staff, or students conducting work in these countries. Details on that new review process can be found [here](#).

- ***Identify in advance and in detail what each party will receive as part of the partnership:*** Numerous reports from think tanks and congressional offices have

cited the lack of reciprocity from China in these partnership agreements and the belief that they have become a one-way street that solely benefits China. For example, while China has created over a hundred CIs in the U.S., the U.S. State Department has been blocked from establishing similar “American Cultural Centers” within China. A recent Senate Permanent Subcommittee on Investigations [staff report](#) on China’s impact on the U.S. education system also cited a need for reciprocity, stating in the Executive Summary that, “Schools in the United States—from kindergarten to college—have provided a level of access to the Chinese government that the Chinese government has refused to provide to the United States.” There are also examples of China laying claim to research findings or setting the agenda because all of the funding is coming from Chinese sources. If a proposed activity with a foreign partner does not clearly advance the research or teaching agenda of the American partner, institutions may want to reconsider the value of the project.

- ***Understand the role of the foreign government:*** Some foreign governments play a major role not only as a financier but also in directly or (more often) indirectly shaping the partnership’s form and content. Recent concerns have been raised about partnerships with Huawei, a quasi-private company with deep ties to the Chinese government. A June 2018 [letter](#) from Sen. Marco Rubio (R-FL), Rep. Jim Banks (R-IN), and other bipartisan members of Congress to Secretary of Education Betsy DeVos stated that they believe partnerships between U.S. universities and Huawei “may pose a significant threat to national security.”

Compliance Issues

- ***Sec. 117 Foreign gift and contract reporting:*** Institutions should ensure they are in compliance with existing reporting requirements, especially the U.S. Department of Education’s (ED) Sec. 117 Foreign Gift and Contract reporting requirements. The current law requires all institutions of higher education to biannually report funding provided by a foreign entity valued at more than \$250,000. Further guidance from ED is coming. In the meantime, we encourage you to err on the side of transparency. More information can be found [here](#).
- ***Visa compliance:*** The Senate Permanent Subcommittee on Investigations [report](#) also found that since 2017, the State Department issued four Letters of Concern to U.S. schools for inappropriately using J-1 visas related to CIs. The State Department also revoked 32 visas for CI exchange visitors following reviews at two of the schools that received letters. Institutions should review visa applicability and ensure visiting scholars are abiding by the purpose of their visas.
- ***Disclosure of foreign support:*** Federal science agencies, including NIH and the National Science Foundation (NSF), are working to remind researchers of the information that must be disclosed on grant applications, including all financial resources available in direct support of an individual’s research endeavors. This includes funding from Chinese talent recruitment programs. NIH, NSF, and DOD have been [recently asked by Senator Chuck Grassley](#) (R-IA) for an accounting of how foreign support is reported on grant proposals.

Campus Policies

- **Create an awareness campaign on campus:** A [December 2018 report](#) from the NIH Advisory Committee to the Director's Working Group for Foreign Influences on Research Integrity includes recommendations for institutions to address concerns with foreign influences. Those recommendations include creating a broad education campaign for researchers about the need to report foreign support as part of the disclosure process for federal funding, as well as international affiliations, international collaborations, and financial interests to the home recipient organization. Several campuses have already developed and shared messages reminding the campus community of existing policies. Click [here](#) and [here](#) for two examples from Penn State and the University of Illinois at Chicago. And last fall MIT sent a campus wide [letter](#) regarding the growing issues poised by China to research and the academic enterprise.
- **Travel policies and briefings:** Institutions should consider initiating pre-travel briefings for faculty and staff traveling to select countries as representatives of the university. As part of the travel briefings, faculty and staff should be reminded to use precautions when traveling with personal or university computers, phones, or other electronics. Institutions should provide loaner computers and electronic equipment to faculty and staff traveling to those countries. Consider creating policies, such as [this](#), regarding IT when traveling in specific country.
- **Hosting foreign visitors and scholars at labs:** The NIH Advisory Committee's [December 2018 report](#) urges entities such as higher education institutions to consider developing guidelines or considerations for securely hosting visiting foreign scholars or students. It is important to discuss how to safely host such visits because they can be "potential entry points for unwanted information gathering," the report states. A 2015 FBI [report](#) also notes that foreign tour groups and delegations could pose security risks. Among the risk factors that it cites as examples of when individuals might be trying to obtain valuable and restricted information are when visitors express unusual interest in and ask questions of individual employees, take unauthorized photographs, and wander away from the group, pretending to get lost. Institutions should consider reviewing policies around the hosting of foreign visitors and scholars and their vetting procedures for delegations from foreign governments, as well as consider holding discussions with visiting scholars regarding project ownership and appropriate data exchange.
- **Work with other institutions and associations to understand best practices and proactively address concerns:** The higher education community continues to work to proactively address these security concerns as they arise. As part of those efforts, the [Academic Security and Counter-Exploitation Working Group](#) was established in consultation with federal officials to tap the expertise of universities to help address the threat foreign adversaries pose to U.S. academic institutions. The group initially consisted of universities that conduct classified research on campus and focused on specific procedures and activities to protect information. It has since been expanded to deal with broader policy issues related to universities and security concerns.

- ***Enforce existing policies:*** Most importantly, ensure that policies are widely understood and actionable. Institutions of higher education should commit to enforcing their policies vigorously.