

1. INTRODUCTION

In accordance with federal and other sponsor regulations and requirements, this policy restricts covered personnel who receive or who wish to receive federal funding from engaging in any activities associated with Malign Foreign Talent Programs which may pose a threat to national security, intellectual property rights, academic integrity, and ethical conduct.

2. POLICY STATEMENT

2.1. Prohibition

Covered Personnel may not participate in any Malign Foreign Talent Recruitment Programs. This includes but is not limited to recruitment, collaboration, funding, or participation in exchange programs with entities identified as part of such programs.

2.2. Disclosure Requirement

Covered Personnel must disclose participation in foreign talent recruitment programs as well as any external engagements, collaborations, or affiliations that could potentially be associated with Malign Foreign Talent Recruitment Programs to the University. Covered personnel must certify, with any proposal submitted, that they are not a party to a Malign Foreign Talent Recruitment Program. The University must certify to federal funding agencies that Covered Personnel are not a party to a Malign Foreign Talent Recruitment Program, therefore honest and accurate disclosure of these relationships is essential.

2.3. Vigilance

Covered Personnel are required to understand the relationships that they enter into and to maintain current disclosures with the University as required under this policy. The University will also work to identify and monitor activities that may indicate involvement of covered personnel in Malign Foreign Talent Recruitment Programs..

2.4. Consequences of Violation

Violation of this policy by Covered Personnel may result in the loss of their current federal research funding and prohibition of their ability to apply for and obtain federal funding in the future.

3. SCOPE

This policy applies to all covered personnel employed by the University of Notre Dame who have federal funding for research or who wish to apply for federal research funding.

4. DEFINITIONS

Covered Personnel means -

A principal investigator, co-principal investigator, senior/key personnel or other individual who contributes in a substantive, meaningful way to the scientific development or execution of a research and development proposal proposed to be carried out with a research and development award from a Federal agency and is designated by the Federal research agency as a covered individual.

A Malign Foreign Talent Recruitment Program means -

A. Any program, position, or activity that includes compensation in the form of cash, in-kind compensation, including research funding, promised future compensation, complimentary foreign travel, things of non de minimis value, honorific titles, career advancement opportunities, or other types of remuneration or consideration directly provided by a foreign country at any level (national, provincial, or local) or their designee, or an entity based in, funded by, or affiliated with a foreign country, whether or not directly sponsored by the foreign country, to the targeted individual, whether directly or indirectly stated in the arrangement, contract, or other documentation at issue, in exchange for the individual—

(i) engaging in the unauthorized transfer of intellectual property, materials, data products, or other nonpublic information owned by a United States entity or developed with a Federal research and development award to the government of a foreign country or an entity based in, funded by, or affiliated with a foreign country regardless of whether that government or entity provided support for the development of the intellectual property, materials, or data products;

(ii) being required to recruit trainees or researchers to enroll in such program, position, or activity;

(iii) establishing a laboratory or company, accepting a faculty position, or undertaking any other employment or appointment in a foreign country or with an entity based in, funded by, or affiliated with a foreign country if such activities are in violation of the standard terms and conditions of a Federal research and development award;

(iv) being unable to terminate the foreign talent recruitment program contract or agreement except in extraordinary circumstances;

(v) through funding or effort related to the foreign talent recruitment program, being limited in the capacity to carry out a research and development award, or required to engage in work that would result in substantial overlap or duplication with a Federal research and development award;

(vi) being required to apply for and successfully receive funding from the sponsoring foreign government's funding agencies with the sponsoring foreign organization as the recipient;

(vii) being required to omit acknowledgment of the recipient organization with which the individual is affiliated, or the Federal research agency sponsoring the research and development award, contrary to the institutional policies or standard terms and conditions of the Federal research and development award;

(viii) being required to not disclose to the Federal research agency or employing organization, the participation of such individual in such program, position, or activity; or

(ix) having a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the Federal research and development award. **And**

(B) A program that is sponsored by— (i) a foreign country of concern or an entity based in a foreign country of concern, whether or not directly sponsored by the foreign country of concern; (ii) an academic institution on the list developed under § 1286(c)(8) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. § 2358 note; Public Law 115–232); or (iii) a foreign talent recruitment program on the list developed under § 1286(c)(9) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. § 2358 note; Public Law 115–232).

The following are **not** considered malign foreign talent recruitment programs **unless** such activities are *funded, organized, or managed by an academic institution or a foreign talent recruitment program on the lists developed under paragraphs (8) and (9) of section 1286(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 4001 note; Public Law 115–232)*:

(i) making scholarly presentations and publishing written materials regarding scientific information not otherwise controlled under current law;

(ii) participation in international conferences or other inter- national exchanges, research projects or programs that involve open and reciprocal exchange of scientific information, and which are aimed at advancing international scientific understanding and not otherwise controlled under current law; and

(iii) advising a foreign student enrolled at an institution of higher education or writing a recommendation for such a student, at such student’s request.

5. RESPONSIBILITIES

Responsible Party	List of Responsibilities
Covered Personnel	1. Promptly disclose any external engagements or affiliations in the University’s Novelution Current and Pending System.

	<p>2. Familiarize themselves with this policy and ensure compliance with its provisions.</p> <p>3. Certify in Cayuse and on their Biosketch, with each new proposal, that they are not a party to a malign foreign talent recruitment program.</p>
Deans/Department Chairs	1. Department chairs and deans are responsible for familiarizing themselves with this policy and enforcing this policy within their respective departments and ensuring that faculty members are aware of their obligations under it.
Notre Dame Research Authorities	1. Notre Dame Research authorities are responsible for reviewing potential violations of this policy and taking appropriate actions in accordance with institutional policies and procedures as well as federal sponsor regulations and requirements.

6. POLICY ENFORCEMENT

Violations	<p>It is an explicit violation of this policy to do any of the following:</p> <ul style="list-style-type: none"> ● Fail to disclose external engagements or affiliations within the University’s Current and Pending Support Software (Novelution) ● Personally enter into an agreement that prohibits disclosure of the relationship to the University as employer.
Enforcement	<p>Notre Dame Research will review suspected violations, and may recommend disciplinary action in accordance with University codes of conduct, policies, or applicable laws. Sanctions may include one or more of the following:</p> <ul style="list-style-type: none"> ● suspension or termination of access; ● loss of federal funding and/or research program; ● disciplinary action up to and including termination of employment; ● civil or criminal penalties.
Reporting Violations	Suspected violations may be reported to Notre Dame Research Compliance at compliance@nd.edu or 574-631-6229.

7. RELATED DOCUMENTS

A list of any related documents, including Notre Dame policy documents and any external legal or regulatory documents that provide additional information about the policy. Provide live Web site links to documents where possible.

CHIPS and Science Act of 2022, page 299 <https://www.congress.gov/117/bills/hr4346/BILLS-117hr4346enr.pdf>

National Science Foundation PAPPG 24-1 <https://new.nsf.gov/policies/pappg/24-1/summary-changes>

Department of Defense
Policy for Risk-based
Security Reviews of
Fundamental Research

<https://media.defense.gov/2023/Jun/29/2003251160/-1/-1/1/COUNTERING-UNWANTED-INFLUENCE-IN-DEPARTMENT-FUNDED-RESEARCH-AT-INSTITUTIONS-OF-HIGHER-EDUCATION.PDF>

8. CONTACTS

Includes the office or position (not individual name) to contact for policy clarification, along with others who can provide information about the subject matter of the policy.

Subject	Office or Position	Telephone Number	Office Email or URL
Policy Clarification	Notre Dame Research Policy	(574) 631-6229	Compliance@nd.edu
Web Address for this Policy		Research.nd.edu	