

**FLORIDA BOARD OF GOVERNORS
NOTICE OF PROPOSED NEW REGULATION**

DATE: September 2, 2021

REGULATION NUMBER AND TITLE: 9.012, Foreign Influence

SUMMARY: New Regulation 9.012 is being created to implement House Bill 7017. The regulation provides for universities, university direct support organizations, and entities with governing boards listed in subpart B of part II of chapter 1004, Florida Statutes, to report gifts of \$50,000 or more to the Board of Governors on a semi-annual basis. The regulation establishes a Research Integrity Office at each university and provides for the screening of defined categories of individuals who will be employed in research or research-related positions at a university or at certain entities listed in subparts A and B of part II of chapter 1004, as well as an approval and monitoring program for employment-related international travel. Finally, the regulation prohibits international cultural agreements with seven foreign countries of concern that restrict freedom of contract, cede control of curriculum, or promote an agenda detrimental to the security interests of the United States.

FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.

AUTHORITY TO PROPOSE REGULATION(S): Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

THE BOARD OF GOVERNORS' OFFICIAL INITIATING THE PROPOSED REGULATION: Vikki Shirley, General Counsel

COMMENTS REGARDING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation on which you are commenting:

General Counsel, Board of Governors, State University System, 325 W. Gaines Street, Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or generalcounsel@flbog.edu

9.012 Foreign Influence

(1) Definitions

- (a) "Affiliate organization" means any entity under the control of or established for the benefit of an organization required to report under this regulation, including a direct support organization;
- (b) "Contract" means 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, and any purchase, lease, or barter of property or services from a foreign country of concern as defined in this regulation;
- (c) "Direct-support organization" has the same meaning as provided in section 1004.28(1)(a), Florida Statutes;
- (d) "Foreign country of concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicholas Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such foreign country of concern;
- (e) "Foreign government" means the government of any country, nation, or group of nations, or a province or other political subdivision of any country or nation, other than the government of the United State or the government of a state or political subdivision, including any agent of such foreign government;
- (f) "Foreign source" means any of the following:
 - 1. A foreign government or an agency of a foreign government;
 - 2. A legal entity, government or otherwise, created solely under the laws of a foreign state or states;
 - 3. An individual who is not a citizen or a national of the United States or a territory or protectorate of the United States; and
 - 4. An agent, including a subsidiary or an affiliate of a foreign legal entity, acting on behalf of a foreign source.
- (g) "Gift" means any contract, gift, grant, endowment, award, or donation of money or property of any kind, or any combination thereof, including a conditional or an unconditional pledge of such contract, gift, grant, endowment, award, or donation;
- (h) "Grant" means a transfer of money for a specified purpose, including a conditional gift;
- (i) "Institution of higher education" means a state university, an entity listed in subpart B of part II of chapter 1004, Florida Statutes, that has its own governing board, or an affiliate organization of such university or entity;
- (j) "Pledge" means a promise, an agreement, or an expressed intention to give a gift.

(2) Gift Reporting

Each institution of higher education shall report gifts valued at \$50,000 or more received from a foreign source directly or indirectly during the fiscal year. If a foreign source provides more than one gift in a single fiscal year and the total value of those gifts is \$50,000 or more, all gifts received from that foreign source must be reported. The semi-annual reporting requirement must be made each January 31st and July 31st to the Board of Governors in a manner prescribed by the Chancellor.

(3) Research Integrity Office

Each institution of higher education must designate a Research Integrity Office.

(4) Screening Foreign Researchers

- (a) The screening requirements in this subparagraph are applicable to state universities and entities in subparts A and B of part II, chapter 1004, Florida Statutes, that receive state appropriations or state tax revenue and have a research budget of \$10 million or more (“screening entities”).
- (b) Each screening entity must screen applicants who are citizens of a foreign country and who are not permanent residents of the United States, or who are citizens or permanent residents of the United States who have any affiliation with an institution or program, or at least 1 year of prior employment or training, excepting employment or training by an agency of the United States government, in a foreign country of concern, who are seeking the following positions:
 - 1. Employment in research or research-related support positions, including graduate and undergraduate students seeking such positions; or
 - 2. Employment as a visiting researcher.
- (c) Each Research Integrity Office shall take reasonable steps to verify all attendance, employment, publications, and contributions listed in the application required prior to any interview or offer of a position to the applicant. Screening entities may also direct the Research Integrity Office to approve applicants for hire based on a risk-based determination considering the nature of the research and the background and ongoing affiliations of the applicant.
- (d) Screening requirements must be completed before granting such individual any access to research data or activities or other sensitive data.
- (e) An applicant who must be screened under this regulation may not be employed in any research or research-related support position if he or she fails to disclose a substantial educational, employment, or

research-related activity or publication or presentation at the time of submitting the application required, unless the department head, or a designee, certifies in writing the substance of the nondisclosure and the reasons for disregarding such failure to disclose.

- (f) The Research Integrity Office must report to the nearest Federal Bureau of Investigation field office, and to any law enforcement agency designated by the Governor or Board of Governors, the identity of any applicant who was rejected for employment based on the scrutiny required by this regulation or other risk-based screening.

(5) Foreign Travel by Research Institutions

- (a) By January 1, 2022, each screening entity as defined in subparagraph (4)(a) above must establish an international travel approval and monitoring program. The program must require the following:
 1. Preapproval and screening by the Research Integrity Office for any employment-related foreign travel and employment-related foreign activities engaged in by all faculty, researchers, and research department staff.
 2. Preapproval by the Research Integrity Office must be conditioned upon the applicant's review and written or electronic acknowledgement of guidance published by the employing entity.
 3. Preapproval must be based on the binding commitment of the individual traveler not to violate the entity's limitation on travel and activities abroad and to obey all applicable federal laws.
 4. Records associated with foreign travel subject to this regulation shall be retained by the university for at least 3 years or any longer period of time required by any other applicable state or federal law.
 5. Each screening entity must provide annually to the Board of Governors, or to the governing board of the applicable screening entity for entities listed in subparts A and B of part II of chapter 1004, a report of foreign travel to countries of concern listing individual travelers, foreign locations visited, and foreign institutions visited, by July 31st in a manner prescribed by the Chancellor.

(6) University Audit Resources

- (a) By July 1, 2025, the chief audit executive for the screening entities defined in subparagraph (4)(a) above, must perform an operational audit of the entities' compliance with the university foreign researchers and travel screening requirements.

(7) International Cultural Agreements

- (a) No state university, including any entity under the control of or established for the benefit of a state university (“state university”), may participate in any agreement with or accept any grant from a foreign country of concern, or an entity controlled by a foreign country of concern, which;
 - 1. constrains the freedom of contract of such public entity;
 - 2. allows the curriculum or values of a program in the state to be directed or controlled by the foreign country of concern; or
 - 3. promotes an agenda detrimental to the safety or security of the United States or its residents.
- (b) Prior to the execution of any cultural exchange agreement with a foreign country of concern, the substance of the agreement shall be shared with federal agencies concerned with protecting national security or enforcing trade sanctions, embargoes, or other restrictions under federal law. If such federal agency provides information suggesting that such agreement promotes an agenda detrimental to the safety or security of the United States or its residents, the state university may not enter into the agreement.
- (c) State universities may not accept anything of value conditioned upon participation in a program or other endeavor to promote the language or culture of a foreign country of concern.

Authority: Section (7)(c), Art. IX, Fla. Const., Sections 288.860, 1010.25, 1010.35, 1010.36; History: New _____.