House Bill 7017: An Act Relating to Foreign Influence

Compliance & Submission Guidance

October 12, 2021
Introduction

During the 2021 Legislative Session, the Florida Legislature passed House Bill 7017, which now requires greater disclosure of foreign support for public entities, scrutiny of grant applicants and vendors of goods and services with certain foreign connections, and thorough scrutiny of foreign applicants for research positions and of foreign travel and activities of employees of major research institutions.

Specifically, the bill created five new laws related to the following:

- International Cultural Agreements,
- Foreign Gift Reporting,
- Screening Foreign Researchers,
- Foreign Travel; Research Institutions and
- Foreign Gifts and Contracts (for State Agencies).

The provisions of the bill took effect July 1, 2021.

Foreign Influence Legislation

International Cultural Agreements

Overview

Section 288.860, Florida Statutes, prohibits state agencies, political subdivisions, public schools, state colleges, or state universities authorized to expend state appropriated funds or levy ad valorem taxes from participating 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 constrains the freedom of contract of the public entity; allows the curriculum or values of a program in the state to be directed or controlled by the foreign country of concern; or promotes an agenda detrimental to the safety or security of the United States or its residents.

Any cultural exchange agreements with a foreign country of concern must be shared with certain federal agencies so those agencies can determine whether such an agreement promotes an agenda detrimental to the safety or security of the United States or its residents. If the federal agency suggests the agreement is detrimental as described, then the public entity may not enter into the agreement.

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1 For more detailed information, please refer to the bill’s history on The Florida Senate’s webpage as well as the Senate Committee on Education’s bill summary.

2 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 Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such foreign country of concern.
This new law also prohibits state agencies, political subdivisions, public schools, state colleges, or state universities from accepting anything of value conditioned upon participation in a program or other endeavor to promote the language or culture of a foreign country of concern.

Filing Specifications
Universities should select federal agencies deemed appropriate based on the type or purpose of cultural agreement.

Foreign Gift Reporting
Overview
Section 1010.25, Florida Statutes, requires institutions of higher education\(^3\) to disclose gifts with a value of $50,000 or more received during a fiscal year to the Board of Governors on a semi-annual basis. The reporting requirement applies to affiliate organizations as well as direct-support organizations. Gifts are defined as, “Any contract, gift, grant, endowment, award, or donation of money or property of any kind, or any combination thereof, including a conditional or unconditional pledge of such contract, gift, grant, endowment, award, or donation.” The law further specifies that “pledge” means a promise, an agreement, or an expressed intention to give a gift. Contract is defined as, “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 section 286.101(1)(b) [Florida Statutes].” This definition of contracts does not exclude contracts for procurement.

The new law specifies the type of information that must be disclosed, which includes information about the source, value, timing, purpose, and any conditions or restrictions of the gift. There are exemptions to the disclosure requirements for information that is deemed confidential or exempt by state or federal law.

Oversight and accountability was built into the law through the following provisions:

- Recurring inspection or audit requirements by the Board of Governors Inspector General;
- Enforcement and sanctions by the Board of Governors or other external parties for noncompliance;
- Civil penalties for noncompliance; and
- Rewards for those who make a report of undisclosed foreign gifts.

\(^3\) The bill defined institution of higher education as, “a state university, an entity listed in subpart B of Part II of Chapter 1004 that has its own governing board, ... or an affiliate organization of an institution of higher education.” Affiliate organizations were defined as, “any entity under the control of or established for the benefit of an organization required to report under this section, including a direct support organization.” A direct-support organization is noted as having the same meaning as provided in sections 1004.28(1)(a), 1004.70(1)(a), and 1004.71(1)(a), Florida Statutes.
Filing Specifications

Foreign gift reporting will be submitted through a Board Office Application (Foreign Influence Gift Reporting System) currently under development. Additional information and training on this application is anticipated to begin in December 2021 and will be coordinated through each institution’s Data Administrator and Chief Compliance Officer.

Submissions are required to be made semi-annually by January 31 (for gifts subject to reporting for July 1st through December 31st of the previous year) and by July 31st (for gifts subject to reporting for January 1st through June 30th of same year).

If a foreign source provides more than one gift directly or indirectly to an institution of higher education 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. These multiple gifts should be reported in the period in which the total value meets the reporting threshold. For example, if a foreign source provides a gift during July 1st through December 31st that is less than $50,000, it does not need to be reported by January 31st. If a subsequent gift is provided by that same foreign source between January 1st and June 30th that increases the total gift amount to $50,000 or more, both gifts should be included in the report made by July 31st.

Each university will upload a data file, using a summary spreadsheet provided by the Board Office, and attach a copy of the corresponding gift agreement or contract for each gift listed on the spreadsheet. Additionally, the following organizations must coordinate the submission of their foreign gift reporting through the university designated below:

- Shands Teaching Hospital and Clinics – University of Florida;
- Consortium for Medical Marijuana Clinical Outcomes Research – University of Florida;
- H. Lee Moffitt Cancer Center and Research Institute - University of South Florida; and
- Florida Institute for Human and Machine Cognition (IHMC) – University of West Florida.

Audit Requirements

Beginning July 1, 2022, annual audits or inspections by the Board of Governors’ Office of Inspector General and Director of Compliance (OIGC) must be conducted to determine the institution of higher education’s compliance with the foreign gift reporting requirements. Any questions or requests for additional information will be coordinated by the OIGC with each university Chief Compliance Officer.
Screening Foreign Researchers

Overview

Section 1010.35, Florida Statutes, requires institutions of higher education to screen certain applicants seeking employment in research or research-related support positions. Applicable applicants must submit:

- Complete copy of the applicant’s passport and most recently submitted Online Nonimmigrant Visa Application, DS-160;
- Complete resume and curriculum vitae, including every institution of higher education attended;
- All previous employment since the applicant’s 18th birthday;
- A list of all published material for which the applicant received credit as an author, a researcher, or otherwise or to which the applicant contributed significant research, writing, or editorial support;
- A list of the applicant’s current and pending research funding from any source, including funder, amount, applicant’s role in the project, and brief description of the research; and
- A full disclosure of non-university professional activities, including any affiliation with an institution or program in a foreign country of concern.

For applicants who have been continually employed or enrolled in a postsecondary education institution in the United States for 20 years or more, the resume may, but need not, include employment history before the most recent 20 years.

The president or chief administrative officer of the state university or applicable entity is required to designate a research integrity office to review all materials required and take reasonable steps to verify submitted information.

Reasonable steps include:

- Searching public databases for research publications and presentations and public conflict of interest records to identify any research publication or presentation that may have been omitted from the applications;
- Contacting all employers of the most recent 10 years to verify employment;
- Contacting all institutions of higher education attended to verify enrollment and educational progress;
- Searching public listings of persons subject to sanctions or restrictions under federal law;
- Submitting the applicant name and other identifying information to the Federal Bureau of Investigations or any federal agency reasonably willing to scrutinize such applicant for national security or counterespionage purposes; and
- Any other steps deemed appropriate to the office.
The state university or applicable entity may also direct the 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.

Background screening requirements must be completed before interviewing or offering any position to an individual subject to this legislation in any research or research-related support position and before granting such individual any access to research data or activities or other sensitive data.

No applicant subject to this screening may be employed in any research or research-related 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 stance of the nondisclosure and the reasons for disregarding such failure to disclose. A copy of the certification must be kept in the investigative file of the research integrity office and must be submitted to the nearest Federal Bureau of Investigation field office.

Filing Specifications

The research integrity office must report to the nearest Federal Bureau of Investigation field office the identity of the applicant who was rejected for employment based on Section 1010.35, Florida Statutes.

Audit Requirements

Section 1010.35, Florida Statutes, requires an operational audit regarding the implementation of the screening requirements for research-related positions. By July 1, 2025, Board of Governors Regulation 9.012 requires each chief audit executive for the screening entities to perform an operational audit of the entities’ compliance with the university foreign researchers and screening requirements. Audits should be submitted to the Board of Governors, through the Office of Inspector General and Director of Compliance.

Foreign Travel and Research Institutions

Overview

Section 1010.36, Florida Statutes, establishes requirements related to international travel for state universities, as well as entities listed in subparts A and B of part II of Chapter 1004\(^4\), that receive state appropriations or state tax revenue and have a research budget of at least $10 million. Universities and entities who meet the specified criteria

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\(^4\) Subpart A of Part II of Chapter 1004 is available at: [http://leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=1000-1099/1004/1004PARTIIAContentsIndex.html](http://leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=1000-1099/1004/1004PARTIIAContentsIndex.html)

are required to establish an approval and monitoring program for international travel by January 1, 2022.

The established program must require the research integrity office, established under section 1010.35, Florida Statutes, to preapprove and screen any employment-related foreign travel and employment-related foreign activities engaged in by all faculty, researchers, and research department staff. These requirements are supplemental to any other existing travel approval processes already in place at the university or entity. The law specifies that the research integrity office’s preapproval must be based on the applicant’s review and acknowledgement of the university’s or entity’s guidance related to countries under sanctions or other restrictions of the state or the United States government, as well as the individual traveler’s binding commitment to comply with the university’s or entity’s limitations on travel and activities abroad and obey all applicable federal laws.

Universities and entities subject to this law are required to maintain certain records related to the foreign travel for at least three (3) years or longer if otherwise required by any state or federal laws. Those records include:

- All foreign travel requests and approvals;
- Expenses reimbursed during the travel (i.e., travel, food, and lodging);
- Payments and honoraria received during the travel and activities;
- The purpose of the travel; and
- Any records related to the foreign activity review.

To hold universities and entities accountable to the requirements of this law, they are required to provide an annual report of foreign travel to countries of concern to the Board of Governors, or other appropriate governing board. Additionally, the law mandates that an operational audit regarding the universities’ or entities’ implementation of this law be performed by July 1, 2025.

**Filing Specifications**

Section 1010.36(4), Florida Statutes, requires an annual report of foreign travel to countries of concern to the Board of Governors. This reporting will be submitted through the Board of Governors, Data Request System and will occur each July 31st, beginning in 2022. Such listing must include the names of individual travelers, foreign locations visited, and foreign institutions visited during the preceding state fiscal year.

**Audit Requirements**

By July 1, 2025, Board of Governors Regulation 9.012 requires each chief audit executive for the screening entities to perform an operational audit of the entities’ compliance with

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6 Guidance should include information such as federal license requirements; customs rules; export controls; restrictions on taking the university or entity’s tangible or intellectual property abroad; any restrictions on presentations, teaching, and interactions with foreign colleagues; and any other subjects important to the research and academic integrity of the university or entity.
their respective foreign travel and approval program. Audits should be submitted to the Board of Governors, through the Office of Inspector General and Director of Compliance.

Foreign Gifts and Contracts

Overview

Section 286.101, Florida Statutes, requires state agencies and political subdivisions to report to the Department of Financial Services (DFS) any direct or indirect gift or grant with a value of $50,000 or more that was received from any foreign source. Within 30 days after receiving the gift or grant, they are required to report the date and amount of the gift or grant, and the name and country of residence or domicile of the foreign source. Gift or grant disclosures to the DFS are not required by a state university or other entity if those disclosures are subject to the reporting requirements under section 1010.25, Florida Statutes.

This section also requires entities applying to a state agency or political subdivision for a grant or proposing a contract valued at $100,000 or more to disclose to that state agency or political subdivision any current or prior interest of, contract with, or any grant or gift received from a foreign country of concern if the interest, contract, grant, or gift had a value of $50,000 or more and was received or in force at any time during the previous five (5) years. The disclosures must include identifying information for the disclosing entity, the involved foreign country of concern, and information about the gift or contract involved.

There are certain exemptions to the entities' disclosure requirements. They are not required to disclose proposals related to the sale of commodities through the online procurement program established pursuant to section 287.057(22), Florida Statutes, or the sale of commodities to a state university pursuant to Board of Governors Regulation 18.001. Applications or proposals from an entity that discloses foreign gifts or grants under sections 286.101(2) or 1010.25, Florida Statutes, or applications or proposals from a foreign source that would be disclosed under sections 286.101(2) or 1010.25, Florida Statutes, are both exempt from this requirement. Lastly, entities do not have to disclose applications or proposals from a public or non-profit research institution with respect to federally funded research.

The entity applying for the grant or proposing the contract must provide copies of their disclosure(s) to the DFS within one (1) year before applying for the grant or proposing the contract.

Filing Specifications

Any disclosures subject to this reporting requirement that must be made to the DFS should be made in accordance with instructions provided by the DFS. State universities may want to consider providing guidance on required disclosures, as well as instructions on how to make such disclosures, to those entities who may apply for grants or propose contracts valued at $100,000 or more with the university.
### Appendix A

**Summary Table of Reporting Requirements**

<table>
<thead>
<tr>
<th>Reporting Party</th>
<th>Reported Information</th>
<th>Recipient</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutions of Higher Education</td>
<td>Foreign Gifts of $50,000 or more</td>
<td>Board of Governors or the Department of Education, as applicable</td>
<td>Semiannually by January 31&lt;sup&gt;st&lt;/sup&gt; and July 31&lt;sup&gt;st&lt;/sup&gt;</td>
</tr>
<tr>
<td>State Universities</td>
<td>International Cultural Agreements</td>
<td>Federal agencies concerned with protecting national security or enforcing trade sanctions, embargoes, or other restrictions under federal law</td>
<td>Prior to the execution of the agreement</td>
</tr>
<tr>
<td>Research Integrity Office</td>
<td>Identity of any applicant rejected for employment based on the employment screening requirements</td>
<td>Nearest FBI field office and any law enforcement agency designated by the Governor</td>
<td>As identified</td>
</tr>
<tr>
<td>State universities or entities listed in subpart A or B of Part II of Chapter 1004 that: 1 - receives state appropriations or state tax revenue; AND 2 - has a research budget of $10 million or more</td>
<td>Foreign travel to countries of concern</td>
<td>Board of Governors or the governing board of the applicable entity</td>
<td>Annually by July 31&lt;sup&gt;st&lt;/sup&gt;</td>
</tr>
</tbody>
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