

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

DATE: June 23, 2023

REGULATION NUMBER AND TITLE: 9.012, Foreign Influence

SUMMARY:

Board of Governors Regulation 9.012, Foreign Influence, governs institutions' responsibilities regarding relationships with foreign entities.

The proposed amendment aligns the regulation with Senate Bill 846, which was signed into law on May 8, 2023. The bill provides new requirements regarding grants, agreements, partnerships, and gifts between State University System institutions and foreign countries of concern. The legislation also specifies new reporting requirements for state universities.

The proposed amendment to Regulation 9.012 adds definitions for agreements, foreign principals, and partnerships to align with the revised statute. The proposed amendment prohibits an institution from soliciting or accepting a gift from a college or university based in a foreign country of concern. The proposed amendment also prohibits grants, agreements, or partnerships with such entities without Board approval, outlines the procedure for requesting approval, and provides sanctions. It also outlines reporting requirements for universities to provide data to the Board regarding grant programs, agreements, partnerships, and contracts with foreign countries of concern and any office, campus, or physical location in a foreign country of concern.

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: Dr. Christy England, Vice Chancellor, Academic and Student Affairs

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, 200 W. College Avenue, Suite 216, 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 States or the government of a state or political subdivision, including any agent of such foreign government;
- (f) "Foreign principal" means any of the following.
 - 1. The government or an official of the government of a foreign country of concern;
 - 2. A political party or a member of a political party in a foreign country of concern. The term "political party" means an organization or a combination of individuals whose aim or purpose is, or who are engaged in any activity devoted in whole or in part to, the establishment, administration, control, or acquisition of administration or control of a government of a foreign country of concern or a subdivision thereof, or the furtherance or influencing of the political or public interest, policies, or relations of a government of a foreign country of concern or a subdivision thereof;
 - 3. A partnership, an association, a corporation, an organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, or a subsidiary thereof; or
 - 4. Any person who is domiciled in a foreign country of concern and is not a citizen or lawful permanent resident of the United States;
- (g) (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.
- (h) (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) "Partnership" means a faculty or student exchange program, a study abroad program, an articulation program, a recruiting program, or a dual degree program;
- (k) ~~(j)~~ "Pledge" means a promise, an agreement, or an expressed intention to give a gift.

(2) Gifts from Foreign Countries of Concern

The university, or any employee or representative of the university, may not solicit or accept any gift as defined in section 286.101, Florida Statutes, in its official capacity, including any physical object, loan, reward, promise of future employment, favor, or service, from a college or university based in a foreign country of concern or from a foreign principal.

(3) ~~(2)~~ Gift Reporting

Each institution of higher education shall report gifts, as defined in section 1010.25, Florida Statutes, 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.

(4) ~~(3)~~ Research Integrity Office

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

(5) ~~(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 4 one 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.
- (6) ~~(5)~~ Foreign Travel by Research Institutions
- (a) By January 1, 2022, each screening entity as defined in subparagraph ~~(5)(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~~ three 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.
- (7) ~~(6)~~ University Audit Resources

- (a) By July 1, 2025, the chief audit executive for the screening entities defined in subparagraph ~~(5)(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.~~

(8) International Cultural Agreements

For purposes of this section only, "Agreement" means a written statement of mutual interest in academic or research collaboration.

- (a) Beginning July 1, 2023, a state university, including any entity under the control of or established for the benefit of a state university, authorized to expend state-appropriated funds may not accept any grant from or participate in any new or renewed agreement with any college or university based in a foreign country of concern, or with any foreign principal without approval from the Board of Governors.
- (b) Beginning December 1, 2023, a state university, including any entity under the control of or established for the benefit of a state university, authorized to expend state-appropriated funds may not participate in any new or renewed partnership with any college or university based in a foreign country of concern, or with any foreign principal without approval from the Board of Governors.
- (c) A university may, with approval from the Board of Governors, enter into a new or renewed partnership or agreement with a college or university based in a foreign country of concern, or with a foreign principal, if such partnership or agreement is deemed by the Board to be valuable to students and the state university and is not detrimental to the safety or security of the United States or its residents. A university is not permitted to enter into a new or renewed

agreement or partnership until final approval by the Board of Governors. The new or renewed partnership or agreement being considered for approval by the Board of Governors must be consistent with relevant portions of section 288.860, Florida Statutes. To request approval from the Board of Governors, each university board of trustees must submit a request to the Board office with the following information.

- (1) Entity with which the university is entering into an agreement or partnership
 - (2) Location of the entity reported in (8)(c)(1)
 - (3) Expected start and end date of the agreement or partnership
 - (4) Purpose and benefits of the agreement or partnership
 - (5) Any identified risks of the agreement or partnership
 - (6) Projected number of students, faculty, and university staff participating in the agreement or partnership
 - (7) Estimated budget and source of funds to support the agreement or partnership
 - (8) Other information as requested by the Chancellor
- (d) Upon review of the request submitted by the university boards of trustees in (8)(c), the Board may grant approval for the new or renewed partnerships or agreements deemed to be valuable to students and the state university so long as the partnerships or agreements are not detrimental to the safety or security of the United States or its residents. If a university enters or renews a partnership or an agreement with a college or university based in a foreign country of concern or with a foreign principal without the approval of the Board, the Board may withhold additional performance funding to the university.
- (e) Prior approval from the Board is not required for partnerships established through approved programs operated by organizations of the federal government.

(9) Foreign Country of Concern Reporting Requirements

Beginning in 2024 and annually thereafter, each state university board of trustees must submit a report to the Board of Governors for approval relating to all grant programs, agreements, partnerships, and contracts between the state university and any colleges and universities based in a foreign country of concern and foreign principals. At a minimum, the report must include the following information for the previous fiscal year.

- (a) Data reflecting any grant program, agreement, partnership, or contract between the state university and any university or college that is based in a foreign country of concern or a foreign principal.
- (b) Data reflecting any office, campus, or physical location used or maintained by the state university in a foreign country of concern or with a foreign principal.
- (c) The date on which any such grant program, agreement, partnership, or contract reported pursuant to (9)(a) is expected to terminate.

Authority: Section (7)(c), Art. IX, Fla. Const., Sections 286.101, 288.860, 1010.25, 1010.35, 1010.36, Florida Statutes; History—New 11-04-2021, Amended XX-XX-23.