

# Interim Rule R7-001A: Prohibition of Participation in Malign Foreign Talent Recruitment Programs

Revision 0. Effective date: June 12, 2024

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## I. Purpose and Scope

### A. Purpose.

In accordance with the CHIPS and Science Act of 2022 and federal research agency requirements, this rule prohibits Covered Individuals from being a party to a Malign Foreign Talent Recruitment Program.

### B. Scope.

This rule applies to all University academic units and “Covered Individuals”.

## II. Definitions

The definitions provided in Policy 7-001 apply for this rule. In addition, the terms below apply for the limited purpose of this rule.

A. “Malign Foreign Talent Recruitment Programs” or “MFTRP”, per the CHIPS and Science Act of 2022, means:

1. 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:
  - a. 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;
  - b. being required to recruit trainees or researchers to enroll in such program, position, or activity;
  - c. 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;
  - d. being unable to terminate the foreign talent recruitment program contract or agreement except in extraordinary circumstances;

- e. 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;
  - f. 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;
  - g. being required to omit acknowledgment of the recipient institution 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;
  - h. being required to not disclose to the Federal research agency or employing institution the participation of such individual in such program, position, or activity; or
  - i. having a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the Federal research and development award; and
2. a program that is sponsored by:
- a. 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; or
  - b. an academic institution on the list developed under section 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
  - c. a foreign talent recruitment program on the list developed under section 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).

[Lists referenced in items B. (ii) and (iii) are available in Part 3 of the Department of Defense (DoD) document Countering Unwanted Foreign Influence in Department-funded Research at Institutions of Higher Education]

- B. “Covered Individual” means an individual who:
1. contributes in a substantive, meaningful way to the scientific development or execution of a research and development project proposed to be carried out with a research and development award from a Federal research agency; and
  2. is designated as a Covered Individual by the Federal research agency concerned.
- C. “Foreign Country of Concern” means the People’s Republic of China, the Democratic People’s Republic of Korea, the Russian Federation, the Islamic Republic of Iran, or any other country determined to be a country of concern by the Secretary of State.

### **III. Rule**

- A. A Covered Individual may not participate in a Malign Foreign Talent Recruitment Program.
- B. A Covered Individual shall comply with all sponsor policies regarding certification and/or disclosure of participation in foreign talent recruitment programs.
- C. All Covered Individuals listed on a proposal to a federal agency must completely and accurately disclose all affiliations with foreign government sponsored talent recruitment programs and foreign entities. Fraudulent statements (including intentional omissions) in violation of this policy may result in criminal, civil, administrative or University penalties.
- D. A Covered Individual may be subject to discipline through appropriated University regulations for violating this Rule.

*Sections IV- VII are for user information and are not subject to the approval of the Academic Senate or the Board of Trustees. The Institutional Policy Committee, the Policy Owner, or the Policy Officer may update these sections at any time.*

#### **IV. Policies/ Rules, Procedures, Guidelines, Forms and other Related Resources**

##### A. Policies/ Rules.

1. Policy 7-001: Policy for Research Misconduct

##### B. Procedures, Guidelines, and Forms. [ reserved ]

##### C. Other Related Resources.

1. Research Security: Malign Foreign Talent Recruitment

<https://osp.utah.edu/policies/research-security/malign-foreign-talent-recruitment-programs.php>

#### **V. References**

- A. Chips and Science Act of 2022, 42 U.S.C. Sec. 19231 and 19232

#### **VI. Contacts**

The designated contact officials for this Regulation are

- A. Policy Owner(s) (primary contact person for questions and advice): Director of the Office of Sponsored Projects

- B. Policy Officer(s): Vice President for Research

See Rule 1-001 for information about the roles and authority of policy owners and policy officers.

#### **VII. History**

Revision History.

- A. Current version. Revision 0.

1. Approved by as an interim rule by President Randall June 12, 2024 with effective date of June 12, 2024.
  2. Legislative History
- B. Previous versions.
- C. Renumbering
1. Not Applicable