

116TH CONGRESS
2D SESSION

H. R. 8346

To protect federally funded academic research from undue foreign influences and threats by better informing the academic and research communities about such influences and threats, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2020

Mr. RESCENTHALER (for himself, Mr. TRONE, and Ms. HOULAHAN) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Armed Services, Intelligence (Permanent Select), Foreign Affairs, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect federally funded academic research from undue foreign influences and threats by better informing the academic and research communities about such influences and threats, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Academic Research
5 Protection Act”.

1 **SEC. 2. DESIGNATION OF ACADEMIC LIAISON TO PROTECT**
2 **AGAINST EMERGING THREATS.**

3 (a) IN GENERAL.—Not later than 180 days after the
4 date of the enactment of this Act, the Secretary of De-
5 fense, acting through the Under Secretary of Defense for
6 Research and Engineering, shall take the following ac-
7 tions:

8 (1) Designate an official serving within the Of-
9 fice of the Under Secretary of Defense for Research
10 and Engineering to work with the academic and re-
11 search communities to protect academic research
12 funded by the Department of Defense from undue
13 foreign influences and threats.

14 (2) Set forth the responsibilities of the official
15 designated under paragraph (1), including—

16 (A) serving as the liaison of the Depart-
17 ment of Defense with the academic and re-
18 search communities;

19 (B) carrying out initiatives of the Depart-
20 ment related to the protection of academic re-
21 search funded by the Department from undue
22 foreign influences and threats, including the ini-
23 tiative established under section 1286 of the
24 National Defense Authorization Act for Fiscal
25 Year 2019 (10 U.S.C. 2358 note);

1 (C) not less frequently than once a year,
2 conducting outreach and education activities for
3 the academic and research community about
4 undue foreign influences and threats to aca-
5 demic research that is funded by the Depart-
6 ment;

7 (D) coordinating and aligning the policies
8 relating to academic research security of—

9 (i) the elements of the Department
10 specified in section 111(b) of title 10,
11 United States Code;

12 (ii) the intelligence community;

13 (iii) Federal science agencies;

14 (iv) the Office of Science and Tech-
15 nology Policy; and

16 (v) Federal regulatory agencies; and

17 (E) working with the intelligence commu-
18 nity to the maximum extent practicable to share
19 with the academic and research communities, at
20 least annually, unclassified information, includ-
21 ing counterintelligence information, on threats
22 from undue foreign influences.

23 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion shall be construed as authorizing the official des-
25 ignated under subsection (a)(1) to classify academic re-

1 search in a manner that is inconsistent with the policies
2 of the Department of Defense or the National Security
3 Decision Directive Numbered 189 of September 21, 1985,
4 titled “National Policy on the Transfer of Scientific, Tech-
5 nical and Engineering Information”, or any successor di-
6 rective.

7 **SEC. 3. NATIONAL COMMISSION ON ACADEMIC RESEARCH**
8 **PROTECTION.**

9 (a) ESTABLISHMENT.—There is established in the ex-
10 ecutive branch an independent commission, to be known
11 as the “National Commission on Academic Research Pro-
12 tection” (in this section referred to as the “Commission”),
13 to address concerns related to undue foreign influence at
14 institutions of higher education conducting federally fund-
15 ed research and development.

16 (b) TREATMENT.—The Commission shall be consid-
17 ered an independent establishment (as defined in section
18 104 of title 5, United States Code).

19 (c) MEMBERSHIP.—

20 (1) COMPOSITION.—The Commission shall be
21 composed of 30 members, as follows:

22 (A) The Director of the Office of Science
23 and Technology.

24 (B) The National Security Advisor (or a
25 designee).

1 (C) The Director of National Intelligence
2 (or a designee).

3 (D) The Director of the National Science
4 Foundation (or a designee).

5 (E) The Secretary of Commerce (or a des-
6 ignee).

7 (F) The Secretary of State (or a designee).

8 (G) The Secretary of Defense (or a des-
9 ignee).

10 (H) The Secretary of Homeland Security
11 (or a designee).

12 (I) The Secretary of Health and Human
13 Services (or a designee).

14 (J) The Secretary of Energy (or a des-
15 ignee).

16 (K) The Secretary of Education (or a des-
17 ignee).

18 (L) The Secretary of Agriculture (or a des-
19 ignee).

20 (M) The Administrator of the National
21 Aeronautics and Space Administration (or a
22 designee).

23 (N) The Archivist of the National Archives
24 and Records Administration (or a designee).

25 (O) The Attorney General (or a designee).

1 (P) Twelve individuals who are employed
2 by institutions of higher education and have
3 demonstrated expertise relevant to the duties of
4 the Commission described in subsection (e).

5 (Q) Three individuals who have expertise
6 relevant to the duties of the Commission de-
7 scribed in subsection (e) and are each employed
8 by a different organization that represents in-
9 stitutions of higher education conducting feder-
10 ally funded research and development and that
11 focuses, at least in part, on academic research
12 and development of security policy.

13 (2) APPOINTMENTS.—

14 (A) HOUSE OF REPRESENTATIVES AP-
15 POINTMENTS.—

16 (i) IN GENERAL.—The Speaker of the
17 House of Representatives and the minority
18 leader of the House of Representatives
19 shall jointly appoint 6 of the members de-
20 scribed in paragraph (1)(P).

21 (ii) CONSULTATION.—The Speaker of
22 the House of Representatives and the mi-
23 nority leader of the House of Representa-
24 tives shall make the appointments de-
25 scribed in clause (i) in consultation with

1 the Chairman and Ranking Member of
2 each of—

3 (I) the Committee on Agriculture
4 of the House of Representatives;

5 (II) the Committee on Appropria-
6 tions of the House of Representatives;

7 (III) the Committee on Armed
8 Services of the House of Representa-
9 tives;

10 (IV) the Committee on Education
11 and Labor of the House of Represent-
12 atives;

13 (V) the Committee on Energy
14 and Commerce of the House of Rep-
15 resentatives;

16 (VI) the Committee on Foreign
17 Affairs of the House of Representa-
18 tives;

19 (VII) the Committee on Home-
20 land Security of the House of Rep-
21 resentatives;

22 (VIII) the Committee on the Ju-
23 diciary of the House of Representa-
24 tives;

1 (IX) the Committee on Science,
2 Space, and Technology of the House
3 of Representatives; and

4 (X) the Permanent Select Com-
5 mittee on Intelligence of the House of
6 Representatives.

7 (B) SENATE APPOINTMENTS.—

8 (i) IN GENERAL.—The majority leader
9 of the Senate and the minority leader of
10 the Senate shall jointly appoint 6 of the
11 members described in paragraph (1)(P).

12 (ii) CONSULTATION.—The majority
13 leader of the Senate and the minority lead-
14 er of the Senate shall make the appoint-
15 ments described in clause (i) in consulta-
16 tion with the Chairman and Ranking Mem-
17 ber of each of—

18 (I) the Committee on Agri-
19 culture, Nutrition, and Forestry of
20 the Senate;

21 (II) the Committee on Appropria-
22 tions of the Senate;

23 (III) the Committee on Armed
24 Services of the Senate;

1 (IV) the Committee on Com-
2 merce, Science, and Transportation of
3 the Senate;

4 (V) the Committee on Foreign
5 Relations of the Senate;

6 (VI) the Committee on Health,
7 Education, Labor, and Pensions of
8 the Senate;

9 (VII) the Committee on Home-
10 land Security and Governmental Af-
11 fairs of the Senate;

12 (VIII) the Committee on the Ju-
13 diciary of the Senate; and

14 (IX) the Select Committee on In-
15 telligence of the Senate.

16 (C) JOINT CONGRESSIONAL APPOINT-
17 MENTS.—The Speaker of the House of Rep-
18 resentatives, the minority leader of the House
19 of Representatives, the majority leader of the
20 Senate, and the minority leader of the Senate
21 shall jointly appoint the members described in
22 paragraph (1)(Q).

23 (D) CLEARANCE.—To be eligible to be ap-
24 pointed as a member of, or employed by, the
25 Commission, an individual must possess a secu-

1 rity clearance that the Secretary of Defense de-
2 termines sufficient to afford such individual ac-
3 cess to the information necessary to carry out
4 the responsibilities of a member or the position
5 in which such individual will be employed, as
6 applicable.

7 (3) TERMS.—Each member appointed under
8 paragraph (2) shall be appointed to a term of 4
9 years.

10 (4) VACANCIES.—A vacancy in the Commission
11 shall not affect its powers and shall be filled in the
12 same manner as the original appointment was made.

13 (5) OFFICERS.—

14 (A) CHAIR.—The members shall elect by
15 majority vote one of the members described in
16 subparagraphs (P) or (Q) of paragraph (1) to
17 serve as the Chair.

18 (B) VICE CHAIR.—The members shall elect
19 by majority vote one of the members described
20 in subparagraphs (A) through (O) of paragraph
21 (1) to serve as the Vice Chair.

22 (d) SUBCOMMITTEES.—The Chair, in consultation
23 with the Vice Chair, may establish subcommittees to focus
24 on particular topics that are of interest to the Commis-
25 sion.

1 (e) DUTIES.—The responsibilities of the Commission
2 shall include the following:

3 (1) The Commission shall serve as the forum
4 for communication between institutions of higher
5 education, Federal law enforcement agencies, Fed-
6 eral counterintelligence agencies, and the intelligence
7 community regarding undue foreign influence on,
8 and threats to, federally funded academic research
9 and development.

10 (2) Not later than six months after the date of
11 the enactment of this Act, and not less than once
12 every six months thereafter, the Commission shall
13 meet to review the intelligence regarding—

14 (A) undue foreign influence on, and
15 threats to, federally funded academic research
16 and development;

17 (B) efforts by foreign entities to recruit
18 students or employees of institutions of higher
19 education;

20 (C) specific technologies relevant to institu-
21 tions of higher education that foreign entities
22 may seek to exploit; and

23 (D) national security and research security
24 issues related to foreign students attending in-

1 stitutions of higher education in the United
2 States.

3 (3) The Commission shall develop, and update
4 as warranted, methods for educating the academic
5 community in the United States, including faculty
6 and researchers, in an unclassified manner about
7 undue foreign influence on, and threats to, federally
8 funded academic research and development.

9 (4) The Commission shall develop, and update
10 as warranted, recommendations to facilitate the co-
11 ordination of Federal agency outreach, education,
12 disclosure, and regulatory efforts which affect feder-
13 ally funded research and development at institutions
14 of higher education.

15 (5) Not later than one year after the date of
16 the enactment of this Act, and annually thereafter,
17 the Commission shall review the adequacy of Federal
18 disclosure policies for federally funded academic re-
19 search and development for protecting such research
20 and development from undue foreign influence and
21 threats.

22 (6) Not later than one year after the date of
23 the enactment of this Act, and annually thereafter,
24 the Commission shall review the adequacy of Federal
25 export control regulations for protecting federally

1 funded academic research and development that is
2 subject to such regulations from undue foreign influ-
3 ence and threats.

4 (7) Not later than one year after the date of
5 the enactment of this Act, and annually thereafter,
6 the Commission shall submit to the President and
7 Congress in an unclassified form, but which may
8 contain a classified annex, a report containing rec-
9 ommendations on protecting federally funded aca-
10 demic research from undue foreign influence and
11 threats while maintaining an open and collaborative
12 research environment at institutions of higher edu-
13 cation.

14 (8) Not later than 30 days after the date on
15 which the Commission submits a report under para-
16 graph (7), the Commission shall make such report
17 publicly available in an unclassified form.

18 (9) Any other matters that the Commission de-
19 termines to be relevant to protecting federally fund-
20 ed academic research and development from undue
21 foreign influence and threats.

22 (f) OBTAINING OFFICIAL DATA.—On request of the
23 Chair, made in consultation with the Vice Chair, any head
24 of a Federal agency shall furnish directly to the Commis-

1 sion any information necessary to enable the Commission
2 to carry out this section.

3 (g) AUTHORIZATION OF APPROPRIATIONS.—For fis-
4 cal year 2021 and for each fiscal year thereafter, there
5 is authorized to be appropriated \$5,000,000, to remain
6 available until expended, for the Commission to carry out
7 its duties.

8 (h) TERMINATION.—The Commission shall terminate
9 on the date that is 10 years after the date on which the
10 Commission conducts the initial meeting described in sub-
11 section (e)(2).

12 **SEC. 4. INITIATIVES TO PROTECT ACADEMIC RESEARCH**
13 **FROM FOREIGN THREATS.**

14 (a) INFORMATION SHARING WITH INSTITUTIONS OF
15 HIGHER EDUCATION.—

16 (1) IN GENERAL.—Not later than the date that
17 is 180 days after the date of the enactment of this
18 section, the Director of National Intelligence, in con-
19 sultation with the National Commission on Academic
20 Research Protection, shall establish an unclassified
21 online clearinghouse to consolidate and make pub-
22 licly available—

23 (A) open source intelligence relating to for-
24 eign threats to institutions of higher education

1 or the faculty thereof, academic researchers,
2 and academic scholars; and

3 (B) guidance and other publications re-
4 garding the foreign threats described in sub-
5 paragraph (A) that are issued by Federal agen-
6 cies.

7 (2) INTELLIGENCE CLASSIFICATION.—Intel-
8 ligence routinely classified or restricted above the
9 level of controlled unclassified information may not
10 be made available through the clearinghouse de-
11 scribed in paragraph (1).

12 (b) INTERNATIONAL TRAFFIC IN ARMS REGULATION
13 GUIDANCE.—Beginning not later than the date that is
14 180 days after the date of the enactment of this section,
15 the Secretary of State, in coordination with the Secretary
16 of Commerce, and in consultation with the National Com-
17 mission on Academic Research Protection and the Export
18 Enforcement Coordination Center, shall—

19 (1) develop, issue, and regularly update export
20 control guidance for institutions of higher education
21 on compliance with the International Traffic in
22 Arms Regulations, including guidance, support docu-
23 mentation, and training materials encouraging and
24 assisting such institutions to perform periodic inter-

1 nal assessments of the risk of not complying with
2 such regulations; and

3 (2) at least annually, conduct outreach activi-
4 ties exclusively for the academic community that
5 promote understanding and compliance with the
6 International Traffic Arms Regulations.

7 (c) EXPORT ADMINISTRATION REGULATION GUID-
8 ANCE.—Beginning not later than the date that is 180 days
9 after the date of the enactment of this section, the Sec-
10 retary of Commerce, in coordination with the Secretary
11 of State, and in consultation with the National Commis-
12 sion on Academic Research Protection and the Export En-
13 forcement Coordination Center, shall—

14 (1) develop, issue, and regularly update export
15 control guidance for institutions of higher education
16 on compliance with the Export Administration Regu-
17 lations, including guidance, support documentation,
18 and training materials encouraging and assisting
19 such institutions to perform periodic internal assess-
20 ments of the risk of not complying with such regula-
21 tions; and

22 (2) at least annually, conduct outreach activi-
23 ties exclusively for the academic community that
24 promote understanding and compliance with the Ex-
25 port Administration Regulations.

1 (d) FEDERAL BUREAU OF INVESTIGATION INFORMA-
2 TION OUTREACH.—

3 (1) IN GENERAL.—Not later than the date that
4 is 180 days after the date of the enactment of this
5 section, the Director of the Federal Bureau of Inves-
6 tigation, in consultation with the National Commis-
7 sion on Academic Research Protection, shall develop
8 and implement in the headquarters and all of the
9 field offices of the Bureau an outreach strategy to
10 inform institutions of higher education about the
11 availability of information on threats against such
12 institutions, including information about threats to
13 federally funded research and development carried
14 out by such institutions.

15 (2) REPORT.—Not later than one year after the
16 date of the enactment of this section, and annually
17 thereafter, the Director of the Federal Bureau of In-
18 vestigation shall issue, and make publicly available
19 on a website, a report on the outreach strategy de-
20 scribed in paragraph (1).

21 **SEC. 5. DEFINITIONS.**

22 In this Act:

23 (1) EXPORT ADMINISTRATION REGULATIONS.—
24 The term “Export Administration Regulations”
25 means those regulations contained in parts 730

1 through 774 of title 15, Code of Federal Regulations
2 (or successor regulations).

3 (2) EXPORT ENFORCEMENT COORDINATION
4 CENTER.—The term “Export Enforcement Coordi-
5 nation Center” means the organization established
6 under Executive Order 13558, titled “Export En-
7 forcement Coordination Center” (75 Fed. Reg.
8 69573).

9 (3) FEDERAL AGENCY.—The term “Federal
10 agency” has the meaning given the term “agency”
11 in section 551 of title 5, United States Code.

12 (4) FEDERAL REGULATORY AGENCIES.—The
13 term “Federal regulatory agencies” means the De-
14 partment of Defense, the Department of Commerce,
15 the Department of State, the Department of Justice,
16 the Department of Energy, the Department of the
17 Treasury, the Department of Homeland Security,
18 and the National Archives and Records Administra-
19 tion.

20 (5) FEDERAL SCIENCE AGENCIES.—The term
21 “Federal science agencies” means each Federal
22 agency that obligated or expended not less than
23 \$100,000,000 in the previous fiscal year for research
24 and development.

1 (6) INSTITUTION OF HIGHER EDUCATION.—The
2 term “institution of higher education” has the
3 meaning given such term in section 101 of the High-
4 er Education Act of 1965 (20 U.S.C. 1001).

5 (7) INTELLIGENCE COMMUNITY.—The term
6 “intelligence community” has the meaning given
7 such term in section 3 of the National Security Act
8 of 1947 (50 U.S.C. 3003).

9 (8) INTERNATIONAL TRAFFIC IN ARMS REGULA-
10 TIONS.—The term “International Traffic in Arms
11 Regulations” means those regulations contained in
12 parts 120 through 130 of title 22, Code of Federal
13 Regulations (or successor regulations).

○