



September 18, 2023

The Honorable Jack Reed  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, D.C. 20510

The Honorable Mike Rogers  
Chairman  
Committee on Armed Services  
House of Representatives  
Washington, D.C. 20515

The Honorable Roger Wicker  
Ranking Member  
Committee on Armed Services  
United States Senate  
Washington, D.C. 20510

The Honorable Adam Smith  
Ranking Member  
Committee on Armed Services  
House of Representatives  
Washington, D.C. 20515

Dear Chairman Reed, Ranking Member Wicker, Chairman Rogers, and Ranking Member Smith:

On behalf of the Association of American Universities (AAU) and the Association of Public and Land-grant Universities (APLU), associations whose combined membership includes more than 250 of our nation's top research universities, we appreciate the opportunity to provide feedback as the House and Senate work to reconcile differences between fiscal year 2024 (FY24) National Defense Authorization Act (NDAA) measures S. 2226 and H.R. 2670 through your respective chambers. Universities are critical partners in generating the discoveries that sustain the American national security innovation base. The research conducted at U.S. universities is foundational to the technological developments that equip the warfighter, protect the homeland, and help us outpace our adversaries. This government-university partnership in science and technology is what sets the United States apart from strategic competitors and has been central to making the U.S. research enterprise the envy of the world. As you work to reconcile your respective versions of this year's defense authorization bill, we urge you to enact policies that will support and protect this critical partnership and reject those that undermine the United States' ability to out-innovate our competitors. Specifically, we ask that you:

**Reject Harmful New DOD Cost-Sharing Requirements for Universities**

Unfortunately, [Section 809](#) of the House-passed bill is an example of a provision that will undermine our competitiveness and national security. If enacted, it would impose a cost-sharing requirement of at least 25% on *all* of the Defense Department's research, development, testing, and evaluation contracts, including on fundamental research conducted by colleges and universities.

This mandate would make the cost of doing business so prohibitive for universities – especially for smaller and emerging research institutions – that many will be unable or unwilling to participate in DOD programs. In fact, the primary reason that the National Science Foundation eliminated mandatory cost sharing from some programs was to remove barriers to participation in research and training. Additionally, colleges and universities contribute significant institutional resources to the federally sponsored basic research enterprise, including through the building of research infrastructure, and supporting the training and development of students, postdocs, and early-stage researchers. Additional mandatory cost sharing would greatly hamper universities’ ability to conduct defense-related basic research and train the next generation of DOD scientists and engineers in STEM fields critical to our national defense. It would also reduce the flexibility institutions need to strategically invest their own resources in support of the research ecosystem, including exploring and developing new and emerging fields of science and technology. **We urge you to strike House Section 809 from the final conference agreement.**

### **Eliminate Problematic New Disclosures and Select Other Mistargeted Research Security Provisions**

Universities take seriously the national security threats posed by malign foreign entities. The university community worked with members of Congress to craft multiple provisions to address this important issue in last year’s CHIPS and Science Act. In fact, the CHIPS and Science Act contained almost 20 new research security regulations that are now being implemented. These new requirements include mandatory research security training for all federal research award applicants, new prohibitions on participation in malign foreign talent recruitment programs, and new reporting requirements for institutions receiving certain gifts or contracts from “countries of concern.”

Additionally, in June, DOD released its new [Policy on Risk-Based Security Reviews of Fundamental Research](#) and a [list](#) of foreign entities confirmed as engaging in problematic activity, as required in Section 1286 of the FY19 NDAA. On top of these regulatory changes, the university community is awaiting final regulations from the administration as outlined in [National Security Presidential Memorandum 33 implementation guidance](#) to unify disclosure forms across federal agencies and to implement “research security” plans for institutions receiving over \$50 million in federal research funding. We urge Congress to see that these new regulations are fully in place before adding additional regulations.

We are concerned that the language contained in the specific provisions outlined below would create conflicting, unnecessary, and, in some cases, counterproductive new research security requirements that would harm, as opposed to help, the advancement of American science in support of our national security interests.

### **Section 214**

We urge you to reject [Section 214](#) of the House bill, which would impose sweeping new disclosure requirements on top of those already required by law on all research and other personnel, including students, involved in defense-sponsored fundamental research projects. Section 223 of the FY21 NDAA already requires that:

- (a) each covered individual listed on an application disclose the amount, type, and source of all current and pending research support received by, or expected to be received by, the individual as of the time of the disclosure;
- (b) certify that the disclosure is current, accurate, and complete; and
- (c) agree to update disclosures at the department's request. The FY21 NDAA also calls for consistency across federal agencies.

The NSF, on behalf of the National Science and Technology Council's (NSTC) Research Security Subcommittee, has just closed [public comments](#) on a unified public disclosure form and instructions. Section 214 would expand disclosures for U.S. citizens and noncitizens alike to include personal information such as date and place of birth, immigration status, and past educational, employment, and personal affiliations. Two presidential administrations have worked through an extensive interagency process to identify the information necessary to protect U.S.-funded research and to standardize these requirements across the federal government; a new disclosure form is on the verge of being approved. Congress should not add new requirements now that would create different disclosure requirements for DOD and sow confusion for researchers.

Equally concerning, this personal information, which would be required at the time of application, would be made available on a publicly accessible federal website, regardless of whether the proposals are ultimately funded by DOD. The end result would be that DOD would take the exhaustive personal identifying information of our nation's preeminent researchers – tagged with all of their research publications, employment history, and areas of expertise – and put it online for anyone, including our adversaries, to access. Not only could this run afoul of civil liberty protections and nondiscrimination laws, this cavalier treatment of personal information of the current and next generation of DOD-funded researchers would create a disincentive for them to participate in future DOD-funded projects. The provision lacks a clear national security purpose and could potentially hand our competitors a playbook for the very information they might be seeking. **We strongly urge this highly problematic language to be rejected during conference.**

### **Sections 229, 1307, 1308 in H.R. 2670 and 1395 in S. 2226**

There are several other provisions– particularly sections 229, 1307, 1308 in the House bill, and 1395 in the Senate bill – that would modify prior years' language establishing and amending the "Initiative to Support Protection of National Security Researchers from Undue Influence and Other Security Threats" (Section 1286 of the FY19 NDAA, as amended). We believe they are unnecessary in light of actions recently taken by DOD to address research security concerns,

including the [release](#) of its “1286 list” in late June. In addition, the Under Secretary of Defense for Research & Engineering signed a Policy on Risk-Based Security Reviews of Fundamental Research in accordance with NSPM-33. This policy includes a Decision Matrix to Inform Fundamental Research Proposal Mitigation Decisions (“the risk matrix”) as well as a comprehensive list of definitions.

Given DOD’s actions to ensure the risks relating to sponsored research are effectively mitigated, combined with other recently enacted research security legislation, we urge Congress to refrain from making further changes to the 1286 list at this time. DOD’s newly released policy from less than two months ago has not had sufficient time to be implemented, tested, and effectively carried out. Imposing new requirements or expanding restrictions to entities beyond those on the current 1286 list at this time will disrupt the training of faculty, students, and staff, while creating confusion and undermining efforts to support full compliance. Rather than moving the goal posts with the creation of numerous new entities lists, the U.S. government should focus on effective implementation and harmonization of its research security framework. **We oppose House Sections 229, 1307, 1308, and Senate Section 1395, as drafted. At minimum, we urge you to reconcile these sections with each other and align them with the new 1286 list and decision matrix from DOD.**

### **Recognize the Importance of Scientific Openness to Our Global Competitiveness and National Security**

As Congress seeks to regulate advanced technologies and outbound investments as well as impose requirements related to the publication and dissemination of research results, it is important to consider that the majority of university-based research is conducted with knowledge advancement and public good as the primary goals. Locking down all university research behind closed doors and restricting access to knowledge will not protect the United States; it will instead isolate our nation and hamper our ability to collaborate with others in important areas of scientific research.

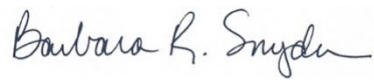
AAU and APLU members remain committed to bolstering the security of university research without sacrificing the open exchange of ideas and the spirit of collaboration required for the advancement of science. [Section 1085](#) of the Senate bill would impose new notification requirements for the establishment of joint ventures or contractual commitments involving a covered foreign entity to jointly research and develop new innovation in advanced semiconductors and microelectronics, artificial intelligence, quantum information science and technology, hypersonics, satellite-based communications, and networked laser scanning systems with dual-use applications, creating another layer and channel of control on university research. This will be in addition to export controls and U.S. sanction restrictions and will add to the complexity of compliance challenges in this well-regulated area.

**We request that Section 1085 be aligned such that it does not conflict with the recently released executive order and accompanying advanced notice of proposed rulemaking issued by the Treasury Department on Addressing United States Investments in Certain National**

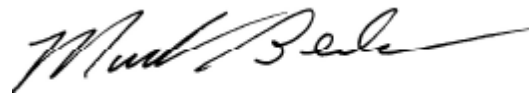
**Security Technologies and Products in Countries of Concern. Particular alignment is needed as it relates to exemptions for university-to-university research collaborations that do not clearly meet definitional elements of the ANRPM. Also, consistent with the ANPRM, we support language making clear that any notification requirement under Section 1085 applies prospectively.**

As negotiations continue toward a final conference agreement, we thank you for taking our above recommendations into consideration. Please do not hesitate to contact AAU Associate Vice President for Government Relations & Public Policy [Hanan Saab](#) or APLU Associate Vice President for Research Advocacy & Policy [Deborah Altenburg](#) if we can be of any assistance as you work to finalize the FY24 National Defense Authorization Act.

Sincerely,



Barbara R. Snyder  
President  
Association of American Universities



Mark Becker  
President  
Association of Public and Land-grant Universities