



# Conflicts of Interest

## **COI SUBCOMMITTEE MEETING**

*Foreign Influence & COI*

***September 24, 2019***

***Co-Chairs: Diane Dean/NIH & Mary Lee/Stanford***



# AGENDA

- 1. Business Matters*
- 2. What we voted to work on this next year*
- 3. Overview of Foreign Influence*
- 4. Foreign Influence & Conflicts of Interest*



# COI Subcommittee Business Matters

1. Meeting notes?
2. Listserv sign up
3. Attendees today?
4. Monthly discussion - collect best practices for disclosure and review COI relating to Foreign Influence (perhaps by time zone)

ex. Does your institution ask about honorary appointments at foreign institutions? Does your institution ask directly whether the researcher is part of a Foreign Talent Recruitment Program?



## Conflicts of Interest

At May 2019 Subcommittee Meeting, voted as follows:

- Institutional COI Working Group – No Votes
- Best Practices for – notification of prime of subrecipient FCOI – and subrecipients FCOI using university policy – including monitoring – 8 votes
- COI and Foreign Influence (including Conflict of Commitment) – 17 votes



## FDP Foreign Influence Working Group

### Cross-committee Foreign Influence Working Group

Co-Chairs: Pamela Webb & Jim Luther

Faculty: Michelle Masucci & Robert Nobles

Reps from the programmatic committee, as well as reps from Export Controls and COI; plus At-Large reps.



# Overview of Foreign Influence

## **Timeline and Resource documents:**

<https://doresearch.stanford.edu/research-scholarship/academic-integrity-and-undue-foreign-interference>

NIH/NSF: Focusing on COI, Other Support/Current & Pending Support, Foreign Component.

DOD: Pilot program pre-vets PIs at pre-proposal stage.

DOE: DOE Order 486.1 applies to DOE employees, Lab M&O contractors, subcontractors who work on lab site. DOE is now flowing down similar requirements through grants/contracts.



# Conflicts of Interest

## **Definition of Foreign Government Talent Recruitment Program:**

In general, such programs include any foreign-state-sponsored attempt to acquire U.S. scientific-funded research or technology through foreign government-run or funded recruitment programs that target scientists, engineers, academics, researchers, and entrepreneurs of all nationalities working or educated in the United States. These recruitment programs are often part of broader whole-of-government strategies to reduce costs associated with basic research while focusing investment on military development or dominance in emerging technology sectors. *DOE O 486.1 (7g)*.



# Conflicts of Interest

- 60 institutions have received inquiry letters from NIH, and counting . . .
- Vast majority of NIH inquiries to date have focused on support from PRC governmental, academic, and foundation entities (per a well-known law firm)
- C9 institutions





# Overview of Foreign Influence-COI today

## COI REQUIREMENTS

### NIH

Same as before; disclose per 42 CFR Part 50, Subpart F, Objectivity of Research.

As per [NOT-OD-18-160](#) (3/2019), disclosure requirement includes financial interests received from a foreign entity.

\*If your institution's COI policy is stricter than Subpart F, then NIH will require your institution to provide reports per your policies.

### NSF

Same as before. PAPPG VII.A.2.e: Conflicts of Interest that cannot be satisfactorily managed, reduced or eliminated and research that proceeds without the imposition of conditions or restrictions when a conflict of interest exists – See Chapter IX.A.

See 7/11/2019 NSF Director letter: silent as to COI disclosures, so no change to status quo.

Per new policy to be issued, NSF personnel and IPAs may not participate in foreign government talent recruitment programs.

### DOD

Same as before; that is, no regulation or policy statement. Institutions must carefully read the Call Documents and Grant or Contract terms.

### DOE

New: DOE Order 486.1 applies to DOE employees, contractor employees of GOCO national labs, subcontractors who work on-site. Affected personnel may not participate in a foreign government talent recruitment program.

New: DOE is flowing down similar language in grants / contracts to academic research institutions.



# Challenges

1. Temporal factor. Not illegal to participate in a foreign government talent recruitment program. However, researchers may be subject to prosecution for failure to disclose receipt of foreign government funding while participating in federally funded research or for stealing IP created by taxpayer-funded research.
2. Information access. Institutions likely have no access to classified information on foreign government talent programs or on individuals of interest.
3. Goldilocks problem. COI disclosures are likely not asking whether the researcher is part of a foreign government talent recruitment program (COC – appointments outside institution; COI – outside consulting). But if we add a direct question, PHS may require us to report that.
4. One legal entity, different offices. COI program and sponsored research offices may need to check financial interest disclosures or travel disclosures against Other Support and Foreign Component.



## Discussion / Use Cases?

1. What are your practices on Disclosure, Review, Reporting, and Coordination with non-COI institutional offices?
2. Identify effective practices on issues arising with compliance requirements.
3. What gets reported as COI/COC at your institution?
4. Does your institution require disclosure of honorary appointments at foreign institutions? (sl.7\*)
5. Do you include all foreign appointments, foreign consulting, or other foreign activities or just those related to your investigator's institutional appointment?



## Discussion / Use Cases?

6. How do you handle part-time appointments (if permitted)?
7. Do you have University employees deployed to foreign locations?
8. Does COI/COC data get shared with your sponsored projects office (beyond mandatory PHS FCOI reporting)? If so, how and when does that happen?
9. Are you seeing the need to revise your existing data system or business practices due to the proposed NSF rules and the new NIH guide notice?



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## ***Subcommittee Wrap-Up***

Please sign up for (1) Subcommittee Listserv and (2) participation in FI-COI benchmarking monthly calls.

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