

Research Integrity & Undue Foreign Influence

Restrictions Placed on Certain Students and Researchers from the People's Republic of China

In the wake of recent enforcement actions against individuals suspected of academic espionage, President Trump and members of Congress have taken steps to restrict entry into the United States by certain Chinese nationals seeking to study or conduct research at U.S. institutions. In light of such actions, research institutions with Chinese graduate students in particularly sensitive fields should keep a close eye on further announcements from the State Department, Department of Homeland Security, and White House. These fields include: quantum computing, big data, semiconductors, 5G, advanced nuclear technology, aerospace technology, and AI.

- ▶ On May 29th, the President issued a proclamation that suspends the entry of certain Chinese nationals into the United States but does not revoke existing visas.
 - This suspension goes into effect on June 1, 2020 and applies to Chinese nationals who (i) seek to enter the United States under an F or J visa in order to study or conduct research at the graduate or post-graduate level and either (ii) receive funding from or (iii) are employed by or study or research with (or in the past were employed by, studied, or researched with) Chinese entities that support China's "military-civil fusion strategy."
 - According to the U.S. Department of State, the term "military-civil fusion strategy" means actions by or at the behest of the Chinese government to acquire and divert foreign technologies—specifically critical and emerging technologies—to incorporate into and advance China's military capabilities. *See* <https://www.state.gov/remarks-and-releases-bureau-of-international-security-and-nonproliferation/mcf-and-the-prc/>
 - The proclamation leaves it to the Secretary of State to identify the persons who meet the above criteria. It also instructs the Secretary of State to consider whether the President should revoke visas for such Chinese nationals who are currently in the United States.
 - It also requires the Secretaries of State and Homeland Security to recommend additional measures to further "mitigate the risk" of China's acquisition of sensitive technologies and intellectual property within 60 days of the proclamation's effective date.
 - The proclamation exempts students pursuing undergraduate studies and does not apply to lawful permanent residents. It also does not apply to a non-citizen:
 - who is the spouse of a United States citizen or lawful permanent resident;
 - who is a member of the United States Armed Forces or who is the spouse or child of a member of the Armed Forces;
 - whose travel is within the scope of section 11 of the United Nations Headquarters Agreement or who would otherwise be allowed entry pursuant to United States obligations under applicable international agreements;
 - who studies or conducts research in a field involving information that would not contribute to China's military-civil fusion strategy, as determined by the Secretaries of State and Homeland Security;
 - whose entry would further important U.S. law enforcement objectives, as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees, based on recommendation of the Attorney General or his designee; or
 - whose entry would be in the national interest, as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees.
 - The proclamation does not limit the ability of an individual to apply for asylum, refugee status, withholding of removal, or protection under the Convention Against Torture.
 - The May 29th proclamation document can be found here: <https://www.whitehouse.gov/presidential-actions/proclamation-suspension-entry-nonimmigrants-certain-students-researchers-peoples-republic-china/>

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Legislation introduced by Senators Tom Cotton and Marsha Blackburn and Representative David Kustoff would, if passed, limit the ability of Chinese nationals to pursue graduate or post-graduate studies in STEM fields in the U.S. and prohibit the use of federal funding for STEM field research where a researcher is a participant in a Chinese foreign talent recruitment program.

- The SECURE CAMPUS Act would prohibit Chinese nationals and participants in China's foreign talent recruitment programs from receiving or working on federal R&D grants in STEM fields and mandate that participants in China's foreign talent recruitment programs register under the Foreign Agent Registration Act (FARA).
- Under the proposed legislation, universities, laboratories, and research institutions receiving federal funding would be required to attest that they will not knowingly employ participants in China's foreign talent recruitment programs.
- The act would also expand the definition of "economic espionage" under U.S. law to reflect the range of institutions (including academic institutions) that the Chinese government uses to acquire technology from the United States.
- The legislation would also require the Secretary of State develop and publish a list of China's foreign talent recruitment programs.
- Senator Cotton's press release about the proposed legislation can be found here: https://www.cotton.senate.gov/?p=press_release&id=1371