

PUBLICATION

Criminal Investigations into Chinese Recruitment of Professors and Researchers: The "Thousand Talents" Program

February 26, 2020

Over the past few years, the Federal Bureau of Investigation and other agencies have been actively investigating issues related to China's "Thousand Talents" program. The investigations seek, in part, to determine whether this program has resulted in illegal procurements of intellectual property from the United States. The program encourages the Chinese recruitment of researchers and professors in the United States. To be clear, there is nothing illegal per se about research coordination with other countries, but it is easy for institutions and researchers to make mistakes relating to disclosure obligations, as occurred in the case of the Moffitt Cancer Research Center in Tampa, discussed below.

In November 2019, John Brown, Assistant Director in the Counterintelligence Division of the FBI, testified at a hearing before a committee of the United States Senate, regarding the "Thousand Talents Plan." According to Assistant Director Brown, it is not illegal to participate in such a program. However, in the past few months, professors have been investigated for criminal activity, and researchers have been discharged from their positions, over the alleged mishandling or non-disclosure of the receipt of foreign funds from this program and similar programs. Other institutions are at risk of losing grant funds from federal and state agencies for receiving funds from foreign governments for joint research projects.

A recent investigation focused on the Moffitt Cancer Research Center in Tampa, Florida. According to a Select Committee report now pending before the Florida Legislature and Speaker Jose Oliva, it did not violate Moffitt's policies for individuals to participate in the Talents programs. However, certain policies in applicable NIH regulations required timely disclosure or advance approval to participate in such programs. In the case of the Moffitt Center, a professor named Dr. Wei allegedly assisted other researchers in opening bank accounts in China to receive funding, which was not disclosed or pre-approved. As a result, Moffitt completed an internal investigation, which led to the CEO and several scientists being forced to resign from Moffitt. The Center's namesake, former Florida House Speaker H. Lee Moffitt, commented: "This great institution did its job We listened to the warnings from NIH, conducted a proactive review, and took strong action when it was needed."

In a similar scenario, four University of Florida medical school researchers were found to have foreign interactions that violated university rules. Although no criminal charges have been filed in the case to date, these researchers resigned or were terminated. The university set up a website to ensure the proper disclosure requirements for researchers as a result. President Fuchs commented: "Any faculty member who fails to disclose their participation in a foreign talents program is subject to discipline, including termination for cause."

As noted above, Speaker Oliva has now launched additional investigations into other institutions. A report from the Select Committee is linked [here](#). According to the Florida legislative committee and a United States Senate report included within the Select Committee materials, the stakes are high. According to Assistant Director Brown, the receipt of foreign money for research under the wrong conditions can constitute criminal activity, including potential charges of economic espionage, theft of trade secrets, and grant fraud.

In another recent case, criminal charges were brought against a distinguished Harvard professor for making a false statement to an FBI agent, regarding his relationship with a Chinese Talents organization. Specifically, on January 28, 2020, the United States Department of Justice reported that criminal charges had been filed

against the Chair of Harvard University's Chemistry and Chemical Biology Department. Dr. Charles Lieber was charged with one count of making a false statement to law enforcement. According to the law enforcement affidavit filed to support his arrest, Dr. Lieber had received more than \$15 million in grants from National Institutes of Health (NIH) and the Department of Defense.

To respond to these potential threats, an organization has been created to periodically meet at FBI headquarters to discuss these issues. The organization is known as the National Security Higher Education Advisory Board (NSHEAB), which is made up of university presidents and others. It is advisable for universities and research institutions to maintain strict internal compliance programs, which include policies on the receipt of foreign money and titles. To stay on the safe side of the law, any institution with researchers and professors obtaining significant grants and conducting work in China should have effective compliance programs in place and consult with outside counsel when necessary to address specific issues. Currently, the NIH is directing questions to its Division of Grants Compliance Oversight and has also encouraged institutions to work directly with their local FBI offices.

To be clear, there are many federal laws that need to be examined in order to keep research facilities and faculty in compliance and, more importantly, protected from criminal investigations. This alert only is intended to be a thumbnail picture of the current landscape of concerns.