

RÉSUMÉ DIGEST

ACT 767 (SB 473)

2022 Regular Session

Milligan

New law shall be known as the "Higher Education Foreign Security Act of 2022".

New law provides for reporting of gifts and contracts funded from foreign sources, screening of foreign researchers, and travel involving institutions of higher education.

New law defines certain terms including "affiliate organization", "foreign country of concern", and "foreign source".

New law requires each institution of higher education and its affiliate organizations to report any gift received directly or indirectly from a foreign source having a value of \$50,000 or more in a fiscal year and that the report include all gifts valued at \$50,000 or more. New law provides that the report be made to the following:

- (1) The institution's board of supervisors and an annual summary to the Board of Regents.
- (2) Unless already reported to the institution's board of supervisors, an annual summary of the gifts shall be filed with the Board of Regents for any institution of higher education or an affiliate organization of the institution.

New law requires that the report include the amount of the gift and the date received; if the gift is a contract, its start and end date; name of the foreign source and country of principal residence or domicile; and a copy of the agreement between the foreign source and the institution.

New law, beginning July 1, 2024, requires the internal auditor of the Board of Regents to annually audit a random sample of at least five percent of the total number of gifts and provides for audits upon request by the governor or the presiding officers of the legislature.

New law subjects an institution of higher education to a civil penalty of 105% of the amount of undisclosed gifts if it knowingly, willfully, or negligently fails to disclose the information required in new law.

New law requires that every person seeking employment in an institution of higher education that receives state appropriations and has an annual research budget of \$10 million or more, in a research or research-related support position, or applying as a graduate student for a research or research-related support position, or for a position as a visiting researcher be screened prior to being offered a position of employment to determine the following:

- (1) Whether the person is a citizen of a foreign country and not a permanent resident of the United States.
- (2) Whether the person is a citizen or permanent resident of the United States who has any affiliation with an institution or program in a foreign country of concern.
- (3) Whether the person has at least one year of prior employment or training in a foreign country of concern, except for employment or training by an agency of the United States government.

New law requires foreign applicants to provide a copy of their current passport and the most recently submitted Online Nonimmigrant Visa Application, DS-160.

New law requires every applicant to submit a complete resume and curriculum vitae, including every institution of higher education attended; all previous employment since the applicant's eighteenth birthday; a list of all published material for which the applicant received credit as an author, a researcher, or otherwise or to which the applicant contributed significant research, writing, or editorial support; a list of the applicant's current and pending research funding, and its amount, from any source, including the applicant's role on the project, and a brief description of the research; and a full disclosure of non-university professional activities, including any affiliation with an institution or program in a foreign

country of concern. If an applicant has been continually employed or enrolled in a postsecondary education institution in the United States for 20 years or more, the resume may but does not have to, include employment history before the most recent twenty year period.

New law requires review and verification of all materials submitted as well as attendance, employment, publications, and contributions listed in the application prior to any offer of a position to the applicant. Provides that verification steps may include the following:

- (1) Searching public databases for research publications and presentations.
- (2) Searching public conflict of interest records to identify any research publication or presentation that may have been omitted from the application.
- (3) Contacting employers from the previous 10 years to verify employment.
- (4) Contacting all institutions of higher education attended to verify enrollment and educational progress.
- (5) Searching public listings of persons subject to sanctions or restrictions under federal law.
- (6) Requesting further investigation, including but not limited to a second background check performed by the Federal Bureau of Investigation, the La. State Police, or other qualified local law enforcement agency, if any of the individual's information provided on the Form DS-160 raises any security concerns for the institution about the individual's relationship with a foreign country of concern.

New law authorizes each institution to direct the approval of an applicant for hire based on a risk-based determination considering the nature of the research and the background and ongoing affiliations of the applicant.

New law requires, by July 1, 2023, each institution receiving state appropriations and with a research budget of \$10 million or more to establish an international travel approval and monitoring program. New law requires preapproval and screening by the institution for any employment-related foreign travel and employment-related foreign activities engaged in by all faculty, researchers, and research department staff. New law provides that preapproval be based on the applicant's review and acknowledgment of guidance from the institution which relates to countries under sanctions or other restrictions imposed by the state or federal government, including any federal license requirement; customs rules; export controls; restrictions on taking institution property, including intellectual property, abroad; restrictions on presentations, teaching, and interactions with foreign colleagues; and other subjects important to the research and academic integrity of the institution.

New law requires any person subject to new law traveling abroad representing their institution, upon return, to report any gifts of funds, or promises to pay by a foreign country of concern or any entity representing the interests of a foreign country of concern.

New law requires each institution to maintain records of all foreign travel requests and approvals; expenses reimbursed by the institution during travel, including for transportation, food, and lodging; and payments and honoraria received during the travel and activities, including for transportation, food, and lodging; keep records of the purpose of the travel and any records related to the foreign activity review. Requires retention of records for at least three years or any longer period of time required by any law.

New law requires an annual report of foreign travel to countries of concern listing individual travelers, foreign locations visited, and foreign institutions visited to the college or university's board of supervisors.

New law requires office of legislative auditor to perform an operational audit on implementation of new law by July 1, 2025.

Effective July 1, 2023.

(Adds R.S. 17:1826.1 - 1826.4)

