

September 21, 2023

The Honorable Mike Rogers  
Chairman  
Armed Services Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Adam Smith  
Ranking Member  
Armed Services Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Jack Reed  
Chairman  
Armed Services Committee  
U.S. Senate  
Washington, DC 20510

The Honorable Roger Wicker  
Ranking Member  
Armed Services Committee  
U.S. Senate  
Washington, DC 20510

Dear Chair Rogers, Ranking Member Smith, Chair Reed, and Ranking Member Wicker,

The American Council on Education and the undersigned higher education associations write to offer comments on the National Defense Authorization Act (NDAA) for Fiscal Year 2024 (H.R.2670, S.2226) as the Senate and House engage in conference on this important annual bill. As our institutions continue to work with Congress, the administration, and other policymakers regarding ways to address national security concerns around global partnerships, we wish to express concerns specifically with Section 214 “Certain Disclosure Requirements for University Research Funded by the Department of Defense” and Section 809 “Research, Development, Testing, and Evaluation Contract Cost Sharing” in H.R.2670, and urge Congress to strike those provisions in the conference process. In addition, we also support the priorities shared by the Association of American Universities and the Association of Public and Land-grant Universities in their letter<sup>1</sup> regarding priorities in the conference on additional research security provisions.

Our associations and our member institutions have proactively engaged for several years with policymakers to address national security concerns around research and global partnerships. This includes engaging with both the Trump and Biden administrations in the development and implementation of NSPM-33, the “National Security Strategy for U.S. Government-Supported Research and Development.” Much of that work has focused on transparency regarding foreign funding for our institutions and researchers, standardization of reporting requirements across the federal research agencies, and incorporating new training for faculty and researchers supported by federal funding. While we continue to work to implement these new requirements, Section 214 would go beyond them and require researchers to post sensitive, personal information online for unclear purposes.

Section 214 would require institutions to disclose personal information on a public website for DOD-funded researchers, including the date and place of birth; country of citizenship; immigration status; education background; professional and employment background; all previous and concurrent research, academic, or corporate relationships; past and current

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<sup>1</sup> September 17, 2023 letter: <https://www.aplu.org/wp-content/uploads/FY24-NDAA-Conference-Letter-9-18-23-1.pdf>

affiliations with foreign government; involvement in any foreign talent programs; membership of all academic and professional associations; and a list of all publications. Section 214 would also require DOD to make this personal information of each researcher publicly available on a government website. In addition, for the purposes of this section, the language defines a covered researcher as “any person who has access to research information under a covered research program, including the principal investigator and any graduate students, post-doctoral fellows, or visiting scholars participating in such program.”

The creation of the list described in this section would be deeply problematic, creating harm without addressing any specific national security concern that is not already being addressed under new disclosure rules for DOD-funded researchers. This new required reporting and publication of personal information would be a deep intrusion into the lives of faculty, researchers, and students aspiring to conduct research in the national interest. It could also create the potential for harassment of researchers, given so much personal information would be readily available. The publication of such a list would also have negative unintended consequences. For example, the creation of such a list could have a chilling effect by dissuading institutions from applying for DOD funding, shrinking the pool of applicants and weakening DOD-funded research. We strongly urge the conferees to strike Section 214 in the conference.

Section 809 would require a cost share of not less than 25 percent from a non-federal cost share for awards funded under DOD research, development, testing, and evaluation. This would be incredibly costly for both large and small institutions and have a significant negative impact on emerging research institutions’ ability to successfully compete for DOD awards. The cost share requirement would be directly counter to the recent programs created by Congress in support of increasing the ability of emerging research institutions, Historically Black Colleges and Universities (HBCUs), and Minority-Serving Institutions (MSIs) to successfully compete for DOD funds, including Section 223 in the FY 2023 NDAA, which established a pilot program at DOD to “build the capacity of eligible institutions to achieve very high research activity status.” A 25 percent cost share requirement would likely make this new program unattainable for most, if not all, of the institutions targeted by the provision. This large cost share requirement would also be extremely problematic for larger institutions who will not easily be able to find industry partners to support the foundational research they conduct on behalf of DOD. Without such support, many large institutions are also likely to choose not to conduct basic and applied research critical to advancing DOD’s key scientific and technological objectives.

A 2022 report from the National Academies of Sciences, Engineering, and Medicine on defense research capacity at HBCUs and MSIs noted “the more than 400 public and private HBCUs, Tribal Colleges and Universities, Hispanic-Serving Institutions, and other two- and four-year MSIs are positioned to make strong and uniquely important contributions to the defense research enterprise, offering DOD an opportunity to widen its talent pool and diversify STEM research and ultimately strengthen its ability to support national security.”<sup>2</sup> The 25 percent cost share requirement would also work against the goal of strengthening the DOD research and development workforce across the higher education pipeline. Because of this, and the fact

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<sup>2</sup> <https://nap.nationalacademies.org/catalog/26399/defense-research-capacity-at-historically-black-colleges-and-universities-and-other-minority-institutions>

that this requirement would be counter to programs recently created by Congress, we ask that this section in H.R.2670 be struck from the final bill in conference.

We appreciate Congress' bipartisan work in addressing support for DOD research and national security concerns impacting our institutions. We look forward to continuing to work with you on these important issues.

Sincerely,



Ted Mitchell  
President

On behalf of:

American Association of Colleges and Universities  
American Association of Colleges of Nursing  
American Association of Collegiate Registrars and Admissions Officers  
American Association of State Colleges and Universities  
American Council on Education  
American Dental Education Association  
Association of American Universities  
Association of Governing Boards of Universities and Colleges  
Association of Jesuit Colleges and Universities  
Association of Public and Land-grant Universities  
Association of Research Libraries  
Campus Compact  
Career Education Colleges and Universities  
Coalition of Urban and Metropolitan Universities  
Council for Christian Colleges & Universities  
Council of Graduate Schools  
Council on Social Work Education  
EDUCAUSE  
National Association of College and University Business Officers  
National Association of Diversity Officers in Higher Education  
National Association of Independent Colleges and Universities