

November 9, 2021

Dr. Eric Lander
President's Science Advisor and
Director of the Office of Science and Technology Policy
Eisenhower Executive Office Building
17th Street and Pennsylvania Avenue
NW Washington, DC 20504

Dear Dr. Lander,

The Asian American Scholar Forum ([AASF](https://aasforum.org/)) is a non-profit, non-political organization representing a community of Asian American scholars who are united in our commitments to promote academic belonging, openness, freedom, and equality for all. Since AASF's establishment in February 2021, we have been organizing educational webinars to raise awareness on issues that matter to the academic community and to the general public. The webinar series is co-sponsored by 2 Asian American organizations and 11 Asian American scholar associations, representing over 7,000 Asian American scholars.

We, the members of AASF, would like to express our appreciation for the efforts of your office to engage with the science community regarding the implementation of National Security Presidential Memorandum-33 (NSPM-33), "Presidential Memorandum on United States Government Support Research and Development National Security Policy." In response to your call, we are submitting the following comments to OSTP's implementation guidance for NSPM-33.

As Nobel Laureate Steven Chu eloquently stated in his recent speech at the University of Chicago's President Inauguration ceremony: "We are a country of immigrants, we are at a crossroads in this country. ...What makes America great and prosperous is that we are a free country. Universities all have an important task in front of them to make sure we discuss and share ideas openly." As also stated in a recent article "America on Edge: Settling for Second Place?" [1] by Norman Augustine and Neal Lane: "The United States cannot afford to be complacent about the advancements in science and technology that are needed to power the economy, defend the nation, maintain public health, and combat climate change." Specifically, Augustine and Lane emphasized "The nation's entire scientific and technological enterprise would barely function today were it not for immigrants, especially the large number coming from Asia."

Open science and academic freedom are the strengths and drivers of technology leadership and innovation of the United States. The vast majority of research done at universities is basic in nature. Open discussions and idea-sharing are hallmarks of

American universities. We share our discoveries and our thoughts with the rest of the world; this is the essence of “open science”, sharing and disseminating scientific results more widely and equitably. Yet, a selected group of scientists, working on these basic scientific areas, and in the spirit of “open science”, have been singled out for their failure to comply with university or government regulations.

Therefore, we believe that OSTP’s implementation for NSPM-33, in the three major areas, must take cognizance of the following points:

A. Disclosure Policy — ensuring that federally-funded researchers provide their funding agencies and research organizations with appropriate information concerning external involvements that may bear on potential conflicts of interest and commitment.

- We recommend that OSTP uphold the basic principles behind NSDD-189 [2] regarding the commitment to openness for basic and scientific research.
- We believe that the conflict of interest disclosure requirement from the government funding agencies should be clearly defined. As stated in your article on August 10th, “for researchers to fulfill their responsibility to disclose, the federal government needs to be clear about what should be disclosed and how”. Far-ranging, but vague statements to avoid “any collaborations with Country A” are not helpful, nor credible.
- Academic or scientific advisory boards have long played an important role in facilitating and augmenting open science research and education. Service on an international academic scientific advisory board or on the board of a technical society, not carrying any financial interests or significant financial commitments, should not be considered as conflicts of interest.
- Reviews of scientific proposals and papers, and editorial services for journals are also important responsibilities that sustain an open science research community, and should not be included as conflicts of interest.
- International visiting scholars and students are also an important vehicle to initiate and enhance open science collaborations. Accepting and advising university approved visiting scholars and students should not be included as conflicts of interest.

B. Oversight and Enforcement — ensuring that federal agencies have clear and appropriate policies concerning consequences for violations of disclosure requirements and interagency sharing of information about such violations.

- We believe it is best for our country and the world to promote and strengthen open and basic science at a global level. The policies of various universities and

U.S. funding agencies have, in the past, worked on building international ties, and encouraging research collaborations of a global scope. For example, the NSF established and maintained an office in Beijing until February 2018, in order to further interactions with the NSF of China. That policy has now changed, but we believe it to be unfair and inconsistent behavior to punish those who had earlier embraced particular collaborations at a time when such collaborations were encouraged. In particular, ***we suggest that OSTP recommend the government stop prosecuting innocent American scientists for research collaborations with Chinese research institutions undertaken during the times when such activities were encouraged or during the times the rules prohibiting such collaborations were not clearly stated. We suggest that a clear timeline should be established, before which date the government will not prosecute researchers involved in US-China collaborations*** (We suggest that the word “Amnesty” *not be used* for such a program. “Amnesty” has the connotations of a *pardon* for actions that are wrongful in nature. We do not believe that seeking collaborations to augment open science is a wrongful action.).

- We recommend that OSTP develop guidance for all research institutions that receive federal grants in which it specifies clear ground rules
 1. for due process to researchers in COI program management,
 2. about how to differentiate negligent errors from fraud in researchers’ COI reports, and,
 3. requiring each institution to bear responsibilities for its approved federal grant applications if their researchers have fully disclosed their foreign collaborative activities to the institution.

We agree with your statements of August 10th, 2021 that “The vast majority of scientific researchers want to do the right thing.” Our suggested guidance is in keeping with this spirit: there is enormous harm that results from conflating administrative errors and unintended omissions with malicious intent to engage in technical espionage for a foreign government. Yet this latter is the impression that is being given to U.S. scientists of Asian descent.

- We recommend that OSTP develop an effective channel and a program to educate our congressional policymakers, the DOJ, and the general public about routine academic activities in a US academic institution. These activities include writing recommendation letters for international students, serving on advisory boards of peer international institutions, and reviewing grant proposals for international funding agencies. Such activities should *not* be considered criminal activities as appeared to be the case in the criminal complaint by the FBI [3]. The recommended program can potentially reduce the high false positive rate of government’s prosecutions [4, 5, 6], and begin to mitigate the

profoundly damaging consequences of such investigations and wrongful prosecutions to professional careers and personal lives [7].

- The NSPM-33 implementation guidance requires the understanding and agreement of the administration, staff and researchers at each institution. It is therefore important to strongly encourage opportunities for discussion among all groups within an organization, as well as effective training for all entities. For example, researchers should respect the constraints and responsibilities of staff with regard to disclosure; similarly, staff should understand the nature of commonly-practiced scientific exchange. Discussions and training sessions should be carried out under conditions of respect for all individuals. When possible, prior discussions of implicit bias and possible racial profiling should be undertaken.

C. Research Security Programs — ensuring that research organizations that receive substantial federal R&D funding (greater than \$50 million annually) maintain appropriate research security programs.

We agree about the importance of putting a research security program in place. We believe that the clarity of the attendant rules is the foundation of such a program. We recommend OSTP develop a guidance endorsed by the White House:

- All government funded research projects are clearly specified in open, (export) controlled and classified categories, with clearly-defined policies for each category. Many funding agencies have been revising their specific policies over the past three years, but these policies do not appear to be uniform nor consistent. Such variance and inconsistency leads to greater confusion and apparent lack of compliance.
- We recommend that foreign graduate students not be excluded from engagement in government-funded open, basic research.
- We recommend that researchers have the freedom to initiate and participate in international collaborations relating to and strengthening open science research. Once disclosed, such activities should not be punished, curtailed, nor discriminated against during the research grant review and approval processes.
- The government funding agencies should make the best efforts to attract and retain the best talents in the world with different types of research grant programs.

The open nature of academic research is essential to its success [8]. International collaboration is critical to the health of American science and technology. We hope that US universities continue to be the best places for international talents; this has been the foundation of the American leadership in science and technology in the world.

Sincerely,



Yasheng Huang, President



Kai Li, Vice President

On Behalf of Members of the Asian American Scholar Forum,
<https://aasforum.org/members/>

- [1] [America on Edge: Settling Second Place?](#) By Norman R. Augustine and Neal Lane. *Issues in Science and Technology*, October 23, 2021.
- [2] [NSDD 189 National Policy on Transfer of Scientific, Technical and Engineering Information](#), 1985.
- [3] [Criminal complaint](#). HSI Special Agent Matthew **McCarthy**, Jan. 13, 2021.
- [4] [U.S. Drops Visa Fraud Cases Against Five Chinese Researchers](#). Wall Street Journal, July 23, 2021.
- [5] [China Initiative aims to stop economic espionage. Is targeting academics over grant fraud ‘overkill?’](#) Washington Post, September 15, 2021.
- [6] [Federal Judge Acquits Professor Accused of Hiding China Ties](#), Wall Street Journal. September 9, 2021.
- [7] [Anti-Asian Atmosphere Chills Chinese Scientists Working in the U.S.](#) Bloomberg BusinessWeek. April 26, 2021.
- [8] [What Fear of China is Doing to American Science](#). Rory Truex. The Atlantic. February 16, 2021.