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American Physical Society

October 25, 2021

The Honorable Eric S. Lander, PhD
President's Science Advisor and
Director of the Office of Science and Technology Policy
Executive Office of the President
Eisenhower Executive Office Building
1650 Pennsylvania Avenue NW
Washington, DC 20504

Dear Director Lander,

On behalf of the American Physical Society (APS) – the nation's largest physics membership organization representing more than 50,000 members across academia, national laboratories and the private sector – I would like to thank you for seeking input from the scientific community as you and your colleagues develop implementation guidance for National Security Presidential Memo 33 (NSPM-33). Engaging the community in this important process will help the US federal government develop research security policies that both protect our nation against evident security risks and maintain an openness that promotes the reciprocal exchange of information, which is essential to the success of the US scientific enterprise.

APS supports the guiding principles outlined in your August 10th blog post titled "Clear Rules for Research Security and Researcher Responsibility," which will guide the implementation of NSPM-33. We agree that the United States must continue its commitment to open science while also protecting itself against attempts by foreign entities to illicitly appropriate, acquire or steal US-based science and technology; that researchers need clear and consistent disclosure policies and processes; and that any policy must be implemented fairly and not fuel xenophobia or prejudice. During the last several years, APS has promoted these principles to both policymakers and our membership through various communications, including the [2020 APS Board Statement on Open Science and a Recommitment to Research Principles](#) and our [recent letter](#) calling for a reformulation of the China Initiative.

As you and your colleagues develop implementation guidance for NSPM-33, we respectfully offer the following recommendations that would help strengthen the critical partnership between the federal government and the research community:

- **Clear and Consistent Disclosure Guidelines:** OSTP should encourage federal agencies to appropriately harmonize their conflict of interest (COI) and conflict of commitment (COC) disclosure requirements, which will reduce the administrative burden of reporting on researchers. Disclosure requirements – as well as policies and sanctions for non-compliance – should be clarified and standardized across agencies. These policies should be communicated clearly to all federally funded researchers and associated staff, including principal investigators, university administrators, and grant personnel.
- **Provide Researchers Window to Catch Up:** University researchers who previously did not disclose foreign support appropriately should be provided a limited period to correct any unintentional errors and administrative oversights. To incentivize self-disclosure, the federal government should assure researchers that cases of non-disclosure will be handled on an individual basis and that inadvertent and/or administrative errors will not be treated as criminal activity. Breaches of scientific integrity should be addressed by the funding agency, the researcher’s home institution and their professional affiliated organizations, while the Department of Justice focuses on instances of malign intent to hide foreign support or engage in espionage.
- **Mitigate Against Profiling & Attract Global Talent:** The new policies must be applied uniformly and consistently, irrespective of a person’s identity or origin. Additionally, these policies should not discourage – or create new, unnecessary barriers – for international students who want to study and/or work in the United States.
- **Continue to Engage Community:** Given the scope of this effort, OSTP and federal agencies should continue to engage with the research community as implementation discussions continue and individual agency plans move forward.
- **Make a Clear Recommitment to Open Science:** The Biden Administration should reaffirm Presidential National Security Decision Directive 189 (NSDD-189), which states that fundamental research is defined as research that is meant to be published in the open literature and that the products of fundamental research should remain unrestricted “to the maximum extent possible.” If control of particular fundamental research is required for national security, the mechanism is classification. Open exchange of information is essential for progress in fundamental science and has been critical to US leadership in science. While some areas of research must employ controls, the benefits of openness in research and the inclusion of talented foreign researchers dictate against broad federal measures that would wall off areas of fundamental research. The federal government must therefore make this clear recommitment to open science.

Thank you for considering our recommendations. We greatly appreciate the efforts-to-date by OSTP and NSTC, in particular the work of the JCORE Subcommittee on Research Security. We look forward to working together to thoughtfully protect our nation against evident security risks while maintaining our open, collaborative environment for science. If you have questions or would like to further discuss this issue, please do not hesitate to contact APS Director of Government Affairs Mark Elsesser (elsesser@aps.org; 202.662.8710).

Sincerely,



Sylvester James Gates, Jr.
President, American Physical Society